Brussels, 15 November 2010

CEEP response to the Green Paper towards adequate, sustainable and safe European pension systems, COM (2010) 365 final

Executive summary

- The Open Method of Coordination fits the diversity of pension systems in Europe. The method enables the exchange of best practices.

- Fixing European standards for minimum pensions or investment decisions does not correspond to this diversity and might jeopardize those agreements by social partners or governments already made to enhance the sustainability of their pensions. It might even increase pensions costs which is undesirable. It is far better to let Member States in the first pillar and social partners in the second pillar establish the balance between risk, security and affordability.

- The extent to which these entities succeed in enhancing sustainability should be monitored on a European level, both for funded and unfunded systems. And the Commission is free to stimulate instititutional developments that enable Member States to establish mechanisms that increase sustainability (e.g. ring fenced reserves for pensions).

- The Commission should guard against developments where internal market regulation endangers the subsidiarity of social partners to institutionalise their sustainable pension provisions in the second pillar. There should be no unfortunate leak between the second and the third pillar, where the latter lacks transparency in terms of administrative costs and reasonable profits. Again increasing pension costs will not help sustainability.

- The Europe 2020 strategy focuses on sustainable and adequate pensions by raising pensionable age, integrating longevity, and creating incentives to remain active in the labour market.
  Any European strategy must build on strengthening and supporting the agreements of the social partners on pension provision. CEEP strongly supports the sustainability and adequacy of the first and second pillars that must remain the main pension systems in Europe.

Introduction

The EU Commission has, for many years, wished to regulate pensions systems at EU level. A very long list of pensions reports have been produced in connection with this wish. The latest paper is a customary Green Paper towards adequate, sustainable and safe European pension systems and this paper must be assessed in the light of the many reports and proposals in the past.

The main intention of the report is to launch a European debate through extensive and early consultation on the key challenges facing pension systems and how the EU can support adequate, secure and sustainable pensions. CEEP welcomes this debate at the EU level.

General Remarks

The Green Paper is useful and timely as it highlights the importance of pensions in a wider social context. Adequacy of pension is an important element of social protection and it is strongly linked to economic sustainability. The demographics of an ageing population and the challenges this poses necessitate an innovative approach.
However, CEEP reiterates that Member States and social partners are responsible for determining national pensions systems. Labour market pensions are one aspect of welfare systems that have developed over a long time. Any one-size fits all approach is not appropriate or possible and CEEP welcomes the recognition of this in the introduction to the Green Paper. Any such ambition could lead to complications when one takes into account the relationship between the taxation and pension systems for individuals, particularly as they can be very different in the Member States. And employers often regard their contribution to pensions as "employers-tax".

It is obvious that national pension systems have developed differently over time. Any reform of pension schemes must recognise the complex nature of pension systems, which developed over time in a range of inter-dependent policy areas and in various welfare state traditions. As stated in CEEP's "Guidelines for Pension Policy" (2004), CEEP is in favour of the Commission's invitation to the Member States to develop clear strategies for ensuring the adequacy of their pension systems without destabilising public finances or overburdening the economy. The specificities of occupational pension systems in the EU member states have to be respected and understood as an enrichment of the pension sector in Europe. One has to be aware that occupational pension entitlements have a voluntary character in many Member States. The EU has to respect the diversity of pension systems in general and the variety of occupational pension systems in particular.

The Open Method of Coordination (OMC) is best suited for this purpose, relying as it does on national subsidiarity, co-operation between Member States, exchange of good practice and benchmarking of standards. OMC enables Member States to co-operate closely, yet recognises their diversity and avoids forced harmonisation. It allows for a concerted EU approach while leaving legal competence and authority with the individual Member States. CEEP's view is that this is a way of working best suited to an area such as pensions which is reserved to national governments and where there is great diversity between the level and type of provision in different Member States.

Answer to the specific questions

Question 1:

A) How can the EU support Member States' efforts to strengthen the adequacy of pension systems?
B) Should the EU seek to define better what adequate retirement income might entail?

Answer 1:

A) If the EU wants to further adequacy and sustainability in the field of pensions, the following things should be given serious consideration:

   the present three pillar system;
   1) mandatory pensions or social security pensions;
   2) occupational supplementary pensions;
   3) additional products acquired by individuals on the free market.

   The experience in Member States is that the second pillar supplement is an important and, often, the most important part of old age provision. Social partners manage best to create reserves and realize yields that have proven to be sustainable. The activities by social partners merit protection, and they should not be forced to entrust their savings to entities that may charge high costs that may not be transparent. Nor should it be possible that their savings be "temporarily" alienated for other purposes by the state, the enterprise or whatever. The sovereignty of social partners should be enshrined in EU-legislation and policy and it should be left to them to ensure adequacy and sustainability. Subsidiarity should apply to social partner's pensions, prevailing over internal market considerations.

   It follows from the abovementioned that full transparency on pension costs is of the utmost importance. Unfunded pensions liabilities should be shown in accounting disclosures (i.e. an accounting reserve/financing capacity should be shown) and should be covered by any requirements aimed at ensuring consistent disclosure of Government liabilities. The absence of transparency could potentially create problems in terms of sustainability if it resulted in a failure to make savings and pay adequate contributions.

   The created reserves for pensions should be ring fenced. If national politicians or shareholders/managers can get hold of the money for "urgent alternatives" they will, and the adequacy and sustainability of pensions is endangered. The money might not come back during the lifetime of the beneficiaries. Money set aside by contributions of employers and employees for old age is already "earned" income of which the payment is delayed. This is an acquired unalienable right. Of course investment risks may lead to reduced rights but not the inappropriate use of social partners' funding.

The EU could develop further the comparative national studies of pensions that have been undertaken in the past. In this way Member States can see how adequate, secure and sustainable pensions have been achieved in some Member States. A key element of EU membership is that each Member State can demonstrate financial viability, and there is the temptation to regard pensions as an area which can, if necessary, be "raided" in order to achieve solvency. Support at EU level for the maintenance of adequate levels of pension provision should be an element of any robust long term EU-wide economic planning.

B) No EU-definition of adequate retirement provision at EU-level is needed because there are too many differences in pension design in each of the countries due to cultural and historical reasons and conceptually different approaches. Additionally, living standards within each of the single countries are different. It must be remembered that pensions are products of long-term developments over the last century or even centuries. Moreover, pensions are only one element of the overall "package" which constitutes retirement income and which may include access to other benefits, for example cheap or free access to transport, healthcare, cultural and recreational facilities etc. It might be feasible to suggest that all Member States should define an adequate national level of income in retirement, but it is for each Member State to decide what that level should be.

The EU cannot define an adequate level of pension on a European level, as payment cannot be ensured on that level, nor is it possible to force similar economic reference models upon Member States for this purpose. This is true for both the first and second pillar.

The only minimalistic principle that could be required of Member States is that, insofar as the first pillar provision for the state-pension is insufficient as a minimum-standard of living for a particular country (as defined by that country), the second pillar should at least have to make up for the difference between the national minimum standard and state pension for all workers.

Question 2:
Is the existing pension framework at the EU level sufficient to ensure sustainable public finance?

Answer 2:
The question seems misleading in its formulation. Public finance is a concept that goes a lot further than just pensions and covers other fields such as tax revenues, trade balance, education, unemployment, health care, defence and other spending.

We have assumed, therefore, that the question relates to whether the existing pensions framework at the EU level is sufficient to ensure sustainable *pension* finances and the role pension finances have to play in contributing towards sustainable public finances.

Clearly, with an ageing population across the EU it is important that pension costs are affordable and sustainable. Developments to encourage longer working (see answers to questions 3 and 4 below) will assist in meeting this objective as will developments within the EU to spread risk e.g. by moving to hybrid schemes, or moving from final salary to career average scheme, establishing cash balance schemes, allowing for longevity adjustments, changing accrual rates and contributions, adjusting the normal pension age, and/or applying conditional indexation (see answer to question 9). Member States and employers should be left to find their own solutions. A one size fits all approach is not appropriate, however it is important that Member States and social partners indeed do succeed in establishing a balance between risk, security and affordability. For this a uniform applicable calculation tool, irrespective of funded or unfunded situations, might be necessary to acquire knowledge in order to achieve full transparency about liabilities and obligations. The Stability and Growth Pact (SGP), being a possible important European tool for sustainable pensions and public finance, might not stand up to careful scrutiny when assessed on the points of debt and sustainable pension systems.

Question 3:

A) How can higher effective retirement ages best be achieved and how could increases in pensionable ages contribute?
B) Should automatic adjustment mechanisms related to demographic changes be introduced in pension systems in order to balance the time spent in work and in retirement?
C) What role could the EU level play in this regard?

Answer 3:

A) The best way is via the OMC. Whilst raising pension ages will result in more people working longer - because they need the income from employment until they reach the age at which they qualify for a retirement pension – compensations must be set up. In order to encourage older workers to stay on at work, there must be incentives which make this option attractive to them. For example, applying an actuarial increase to benefits drawn later than normal pension age and an actuarial reduction to benefits drawn earlier than normal pension age. Flexible solutions should also be considered such as the option to partially retire by working shorter hours or moving to a lower graded job whilst drawing the accrued pension. Pension schemes could be redesigned to ensure they do not penalise those who choose to work longer but on lower pay (for example, by basing benefits on the best years or average earnings, rather than the final salary). Health care and accident prevention also have a role to play when it comes to the question of keeping elderly workers in the labour market, otherwise people may simply continue to retire earlier on grounds of ill-health or reduced capability. Employers need to recognise that workers with a wealth of experience and expertise may still have a lot to offer even though they may no longer have the physical strength or stamina to perform tasks they performed when they were younger, and their roles should be adapted to take account of this.

   CEEP published in co-operation with the EC a report “Valuing Age” a few years ago. It also included a manual, based on good practices in Member States and CEEPenterprises/members of mutual interest companies and workers. There were among other things solutions where aged or “experienced” workers could act as mentors for young colleagues or “beginners”.

B) Member States should consider the development of automatic adjustment mechanisms to cope with demographic and economic developments, as some countries already have done, and through OMC other countries can learn from this.

C) The EU can help by recommending Member States to distribute reliable pension information to the scheme membership. This recommendation on disclosure could form part of a code of good practice, ensuring workers are better informed and do not have unrealistic ideas about future pension levels. It is important to affect the attitude of elderly workers in the workplace. The sharing of best practice initiatives such as partial retirement, together with economic incentives, should be encouraged. OMC is again here the answer.

Question 4:
How can the implementation of the Europe 2020 strategy be used to promote longer employment, its benefits to business and to address age discrimination in the labour market?

Answer 4:
The Europe 2020 strategy, especially the guidelines on promoting social inclusion and combating poverty, includes targets directly relevant to pensions policy. In particular, the target that 75% of the population aged 20-64 should be in employment (the current level is 69%), coupled with a reduction of 25% in the proportion of the population living in poverty.

Combating poverty and social exclusion across the generations requires an approach which encourages older people to continue to contribute their valuable skills to society and at the same time defer their dependence on publicly-funded pensions (“active aging”). This should not however be at the expense of increasing unemployment among young people, but should operate by spreading employment opportunities more equally across all age groups. Shorter working hours and more family-friendly working practices (work-life balance) would also help to achieve these aims for both younger and older age groups. It should be recognised that the amount of people that can be retained on the labour market by adding to more years to the formal pensions retirement age is limited to the amount that can be gained by increasing the employment rate for elderly workers (age 55 to 64).

In connection with the estimation of the available workforce, Member States and the employers should focus more on qualifications and skills rather than age. This is in line with the Europe 2020 strategy’s emphasis on the acquisition of lifelong skills and learning. They should consider the need to adapt job roles and employment conditions to accommodate older workers by concentrating on the skills they have to offer and designing jobs which do not make unreasonable requirements in terms of health, mobility and dexterity such as physical exertion or long hours spent travelling or standing. More flexible working patterns, an emphasis on health and safety and on promoting health and wellbeing can all contribute to higher participation in employment among older workers. CEEP does not find that there is a need for a common standard on pension levels in relation to the Europe 2020 strategy, but focusing on achieving the 2020 targets on employment participation and poverty reduction should in itself help to promote greater future sustainability of pension provision.

Question 5:
In which way should the IORP directive be amended to improve the conditions for cross-border activity?

Answer 5:
CEEP don't find any need for modification of the Directive at the moment. This has to await the fuller development of means to foster the mobility of workers in the single market which will then need thorough evaluation. However, the governance of pension systems can be improved through OMC.

Question 6:
What should be the scope of schemes covered by EU level action on removing obstacles for mobility?

Answer 6:
The removal of obstacles for mobility in the area of pensions was the central thrust of the Commission's 2005 proposal for a Directive on improving the portability of supplementary pensions rights (Com (2005) 507 final). The main problems would be solved if agreement could be reached in Council on the timely acquisition of pension rights and their subsequent preservation (indexation). However, CEEP reiterates the views it offered when responding to the proposal for a Directive.

The problem with portability (transfer) of supplementary pension rights remains the same: it is technically difficult, potentially burdensome and open to abuse. The transfer of supplementary pensions should be fostered at national and EU level (through OMC).
The establishment of a network between countries whereby transfer of pensions rights is possible could be a way forward.
The Commission is very much aware of the above issues - see accompanying documents to the green paper SEC (2010) 830 final p.5.

Question 7:
Should the EU look again at the issue of transfers or would minimum standards on acquisition and preservation plus a tracking service for all types of pension rights be a better solution?

Answer 7
Migrant workers should acquire the same pension rights as colleagues in the country in which they are working, whereas their old rights should be safeguarded according to the rules of the country in which those rights were accrued.

Progress in the field of cross-border mobility in Europe remains important for future growth, despite of all the recent setbacks. Social partners feel a responsibility for that. The coordination of the Social Securities in Europe has been reached in 1971 and modified in 2009 through the OMC. The process could be the same for pensions.

CEEP supports the idea that the active population has to be informed about the level of their accrued pension rights especially in order to realize whether any supplementary efforts are necessary to obtain an adequate pension level. CEEP, however, would like to emphasise that any tracking service has to consider the question of legal liability of the pension provider in case of incorrect information. This question arises especially in the case of projected pensions levels, if the projected pension level does not correspond to the later attributed pension. One solution could be a restriction to information only on the current situation. CEEP is furthermore of the opinion that once transferability is more widespread, a tracking service will be of less importance.

CEEP, however, is not sure whether such a tracking service can presently be established for all types of pension rights at EU-level, as suggested in the Green Paper. In any case, an EU-wide tracking service should not lead to the establishment of a new EU-authority that collects data from all EU-citizens. CEEP believes that an efficient tracking service can better be established by using the already existing and future developing national-level structures.

Therefore, CEEP advocates a step-by-step approach that firstly foresees the promotion of a tracking system at national levels. CEEP would like to point out that some Member States currently face problems in even introducing such a service at national level. The Commission could assist Member States by offering a common internet platform with links to other European pension systems. At a later step, it could be developed similar to the Swedish and Danish systems www.minpension.se/www.minpension.dk that already foresees such a service for all kinds of pension rights acquired within Sweden and Denmark. An alternative approach could be that every Member State could designate one national body to be responsible for identifying, on request, the relevant pension institutions in its country that hold a person's pension rights.

Question 8:

A) Does current EU legislation need reviewing to ensure a consistent regulation and supervision of funded (i.e. backed by a fund of assets) pension schemes and products?
B) If so, which elements?

Answer 8:

A) No; the question seems to imply that funded systems are more dangerous than unfunded systems and therefore need more supervision than unfunded systems. This

is not the case. Not even a different form of monitoring of funded and unfunded systems is deemed desirable.
CEEP is of the opinion that adjustment of the EU legislation – if needed – could only be oriented to transparency and governance for funded and unfunded systems. The freedom of member states, based on the subsidiarity principle, led to an enormous diversity in the field of pensions. Further harmonisation by regulatory activities or supervision is not feasible, but could also endanger consistent choices made by social partners on a national level.

B) -

Question 9:
How could European regulation or code of good practice help Member States achieve a better balance for pension savers and pension providers between risks, security and affordability?

Answer 9:
A European code of good practice could share best practice in designing schemes in such a way as to provide a "safety net" or minimum guarantee for pension savers whilst ensuring that schemes remain financially viable (collective risk sharing). It should promote consumer representation on regulatory/supervisory bodies. Such European regulation could also encourage more up to date protection of collective agreements between social partners on pensions issues.

A European code of best practice could also include administration cost in both pensions pillar 1 (public pensions) and pensions pillar 3 (individual pensions saving on the private market).

The best way to obtain efficient governance is to involve representatives of contributors and foster collective agreements on pension with social partners which foresee transparency in governance.

Question 10:
What should an equivalent solvency regime for pensions fund look like?

Answer 10:
This aspect has to wait for the results of the work done with the financial sector on the Solvency II Directive.

Although the Green Paper includes some useful caveats on the distinctive nature of pensions, the suggestion that there should be a revised solvency regime for pension schemes which applies insurance style funding rules to pension schemes by drawing on the insurance sector's Solvency II regime is not appropriate. Such an approach threatens a major increase in funding costs for pension schemes and employers, increasing cost but without improving security for members in schemes which have a government guarantee. Increasing costs would militate against the objective of increasing the adequacy of pensions benefits. Pension schemes are not the same as insurance schemes. Insurance schemes can face large unexpected demands on their capital (say, following a natural disaster) whereas pension schemes pay out over time in a fairly predictable way. Given the fairly predictable pension scheme cash flow and the fact that as public sector employers we cannot become insolvent, the proposals for a Solvency II approach would not be appropriate.

Question 11:
Should the protection provided by EU legislation in the case of the insolvency of pension sponsoring employers be enhanced and if so how?

Answer 11:
CEEP support the idea that workers pensions, both funded and pay as you go pensions, should be protected at national level against the insolvency of their employers.

Encouraging the introduction of Pension Guarantee schemes across Member States where they think it is appropriate would be a better solution at present than introducing harmonised EU rules, given the diversity of arrangements across Member States. (Member States might for example decide this was not appropriate for members of a scheme funded by national or local government, as in the event of national insolvency the value of such a scheme would be questionable).

As for all systems with guarantee by insurance, there is the potential for abuse and poor choices ("moral hazard and adverse selection") could be problems but this seems minor compared to the benefits.

Question 12:
Is there a case for modernising the current minimum information disclosure requirements for pension products (e.g. in terms of comparability, standardisation and clarity)?

Answer 12:
Yes, there is a need for an update on current minimum information. It is the Member State's task to ensure that participants in pension funds are well informed about their rights. However for cross-border cases the situation is increasingly complex as the three different pillars in each country might already produce 9 potential changes related to different regulations in the two countries. Where the Commission manages to coordinate similar forms of information provision this is welcome, especially for those parts where the risks are carried by the migrant worker.

Question 13:
Should the EU develop a common approach for default options about participation and investment choice?

Answer 13:
There is no common approach feasible due to the diversity of pension schemes and therefore due to the different situations that might occur. However, if possible an annual EU report on the efficiency of European funded and non funded schemes could be useful to improve the knowledge of the national stakeholders of pension schemes.

Question 14:

A) Should the policy coordination framework at EU level be strengthened?
B) If so, which elements need strengthening in order to improve the design and implementation of the pension policy through an integrated approach?
C) Would the creation of a platform for monitoring all aspects of pension policy in an integrated manner be part of the way forward?

Answer 14:

A) A consultative body (advisory committee of the Pensions Forum) has been already set up and entered in force in 2007 by the Commission with regard to problems and developments at Community level affecting supplementary pensions in the framework of the free movement of workers.

   A CEIOPS, Committee of European Insurance and Occupational Pensions Supervisors has been established under the terms of the European Commission Decision 2004/6/EC of 5 November 2003, currently repealed and replaced by Decision 2009/79/EC, and is composed of high level representatives from the insurance and occupational pensions supervisory authorities of the European Union's Member States. The authorities of the European Economic Area Member States also participate in CEIOPS.

   The OMC is also used to share good practices in pension schemes. The Treaty based Social Protection Committee is a means for cooperative exchange between Member States and the European Commission in the framework of the Open Method of Co-ordination on social inclusion, health care and long-term care as well as pensions.

   The Working Group on Ageing Populations and Sustainability (AWG) of the Economy Policy Committee has been constituted to contribute to improving the quantitative assessment of the long-term sustainability of public finances and economic consequences of ageing populations of the EU Member States. This committee has also pensions expertise.

   Thus, a new coordination of the pension schemes is not yet useful. The OMC in accordance with existing committees seems to be the current best way to prepare a final report on the need or not of a more structured and centralized area, related to pensions, in order to setup some elements of common data for the future pension systems.

   These working groups could get more room to improve certain topics related to this issue.

B) -

C) -

Summary

The Open Method of Coordination fits the diversity of pension systems in Europe. The method enables the exchange of best practices.
Fixing European standards for minimum pensions or investment decisions does not correspond to this diversity and might jeopardize those agreements by social partners or governments already made to enhance the sustainability of their pensions. It might even increase pensions costs which is undesirable. It is far better to let Member States in the first pillar and social partners in the second pillar establish the balance between risk, security and affordability.
However whether these entities indeed succeed to enhance sustainability should be monitored on a European level, both for funded and unfunded systems. And the Commission is free to stimulate institutional developments that enable Member States to establish mechanism that increase sustainability (e.g. ring fenced reserves for pensions).
The Commission should guard against developments where internal market regulation endangers the subsidiarity of social partners to institutionalize their sustainable pension provisions in the second pillar. There should be no unfortunate leak between the second and the third pillar, where the latter lacks transparency in terms of administrative costs and reasonable profits. Again increasing pension costs will not help sustainability.
The Europe 2020 strategy focuses on sustainable and adequate pensions by raising pensionable age, integrating longevity, and creating incentives to remain active in the labour market.
However, any European strategy must build on strengthening and supporting the agreements of the social partners on pension provision. CEEP strongly supports the sustainability and adequacy of the first and second pillars that must remain the main pension systems in Europe.