Employment & Labour - Austria

Changes to pension system promise flexibility and protection

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Signed into law in 1990, the Company Pension Act and the Pension Fund Act sought to provide a sound legal basis for the pension system's so-called 'second pillar' (the other pillars being the mandatory state pension and employee-funded pension plans).

Among other things, the Company Pension Act sets out:

- three types of pension system:
  - the insurance model;
  - the defined benefit scheme; and
  - the defined contribution scheme in the form of a pension fund;
- the narrowly defined circumstances in which an employer is permitted to revoke or suspend pension entitlements and payments; and
- provisions on maximum vesting periods and the portability of accrued pension rights to a new employer.

While the Pension Fund Act is based on a strict and somewhat formalistic framework for investment decisions by pension funds and close monitoring by the Financial Services Authority, the current financial crisis and similar economic downturns in the past have made the deficiencies of the existing legal framework more than evident.

Over the years, a considerable number of employees with defined benefit pensions transferred their accrued pension rights to defined contribution models administered by pension funds with the then-justified expectation of higher returns on their employers' contributions. However, in hindsight this expectation proved overly optimistic and, in the wake of the financial crisis, deferred and active members of pension funds lost in excess of 50% of their accrued pension entitlements.

The amendment of the Pension Fund Act, signed into law in 2012, aims to mitigate potential negative effects on occupational pensions through the following mechanisms:

- Introduction of a 'safety pension' - deferred and active members of a pension fund can now change the investment strategy of their individual retirement account once they have reached pensionable age. Members who are 55 or over can opt for the 'safety pension' up to retirement and are guaranteed that the pension at retirement will not decrease. In addition, the safety pension is indexed. Certain exceptions apply: the model applies only for defined contributions without minimum return guarantee and supplementary funding obligations.
- Introduction of a lifecycle model - the needs and personal preferences of investing largely depend on a member's age and the often corresponding willingness to carry risk. A matching strategy will identify those needs and structure investment portfolios accordingly. Consequently, members can now switch up to three times from a more 'conservative' to a more 'dynamic' investment strategy.
- Investment costs - administrative and investment costs also account for lower returns during economic downturns. Consequently, the new law provides that in the event of a negative performance of the pension fund, only 50% of the administrative and investment costs can be charged to its members. The balance can be charged only once the expected return is achieved, spread over a period of up to 10 years.
- Switching between different systems - deferred members will be given the option to transfer their accrued entitlements from one occupational pension model to the other, so that they can change from an employer-funded pension fund to an employer-funded insurance model, provided that their employer is funding different systems.
- Information rights - retirees will be represented on the pension fund's supervisory board, and it is now mandatory for the administrators of pension funds to provide

their members with a transparent report that compares administrative fees and achieved investment results with those of their peers.

It remains to be seen whether the amended Pension Fund Act can restore confidence in an occupational retirement scheme that has been lost over the years due to financial crises current and past, incorrect investment decisions and lax oversight.

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