PensionsEurope Overview: Cross-border Pension Funds

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Pension systems vary across EU Member States: some Member States rely on a first pillar that provides a basic pension benefit, while others have income-related systems with higher replacement rates. Alongside the design of the first pillar, second pillar provision varies as well. National social, labour and tax law defines the role occupational pensions play in the overall pension system, and regulation supports these goals set for occupational pensions.

Because of these differences in regulation, national social, labour and tax law there have traditionally been very few pension schemes which operate across borders. In 2003, the European authorities sought to facilitate a cross-border approach to occupational pensions with the IORP Directive[1] that set out broad principles to establish cross-border pension funds for occupational retirement provision.

As of 31 Dec 2016, 83 IORP cross-border pension funds managing €63 billion were in place, with 73 of them being active across borders.[2] While the assets covered by cross-border IORPs only represent a small portion of total IORPs, EIOPA recently noted that more IORPs are expanding their cross-border activities in additional host countries. EIOPA also noted that the number of cross-border IORPs established by service providers to attract multiple unconnected employers is rising.

Despite this relatively small number at present, cross-border provision is an important objective of the European Commission. It was an important part of the revision of the IORP Directive which was completed at the end of 2016. Recital 12 of the IORP II Directive states: "In particular, facilitating the cross-border activity of IORPs and the cross-border transfer of pension schemes by clarifying the relevant procedures and removing unnecessary obstacles could have a positive impact on the undertakings concerned and their employees, in whichever Member State they work, through the centralisation of the management of the retirement services provided". To help IORPs benefit from this positive impact, the provisions in Art. 11 (Cross-border activities and procedures) were clarified and Art. 12 (Cross-border transfers) newly inserted (see also Recitals 35-37).

In addition, on 28th Nov 2018, the Board of Supervisors of EIOPA BoS published the Decision on the cross-border collaboration of national competent authorities (NCAs) with respect to the IORP II Directive. This Decision replaces the former Budapest Protocol which had to be revised as a result of the new IORP II Directive, with effect from 13 January 2019. The overall objective of the Decision is to strengthen, normalize and facilitate the cross-border collaboration between NCAs on IORPs cross-border activities and cross-border transfers, as described by the IORP II Directive.

It also promotes greater transparency towards IORPs to be duly informed by the NCAs about their expectations, such as the justification and decision linked with the provision information to the NCAs. For further clarity of the procedures to be followed for the cross-border activities, the appendices to the Decision include useful information material, such as templates, flow charts and examples of cross-border activities.

[1] Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of Institutions for Occupational Retirement Provision, Official Journal L 235, 23/09/2003 P. 0010 - 0021.

[2] EIOPA 2017 Market development report on occupational pensions and cross-border IORPs 30 Jan 2018.

Following the deadline for transposing the Directive into national law (13 January 2019), this paper describes what a cross-border pension fund looks like, how it works and what its advantages and disadvantages are.

What is a cross-border occupational pension fund?

Multinational corporations, with separate local DC occupational pension arrangements across a number of countries in Europe, have to operate under different social & labor laws and tax regulations. These corporations also have to comply in particular with stricter requirements on professional qualifications and experience for pension board members / trustees and with the new European General Data Protection Regulation (GDPR) [1]. Thus, multinationals often have to face complexity and potential legal risks and also have a desire to better manage costs and improve governance by centralizing these functions rather than having them managed locally.

Cross-border occupational pension funds can offer a more efficient framework for the cross-border management and administration of DC schemes, but at the same time, those who put them in place need to address a number of issues.

The legal framework: following on from the first Directive, IORP II [2] has been published in December 2016 and should have been transposed by Member States by January 13th 2019. This updated directive reinforces the existing operating rules of the IORPs to ensure the application of the "prudent person rule" and harmonize the cross-border procedures between the Member States of the European Union.

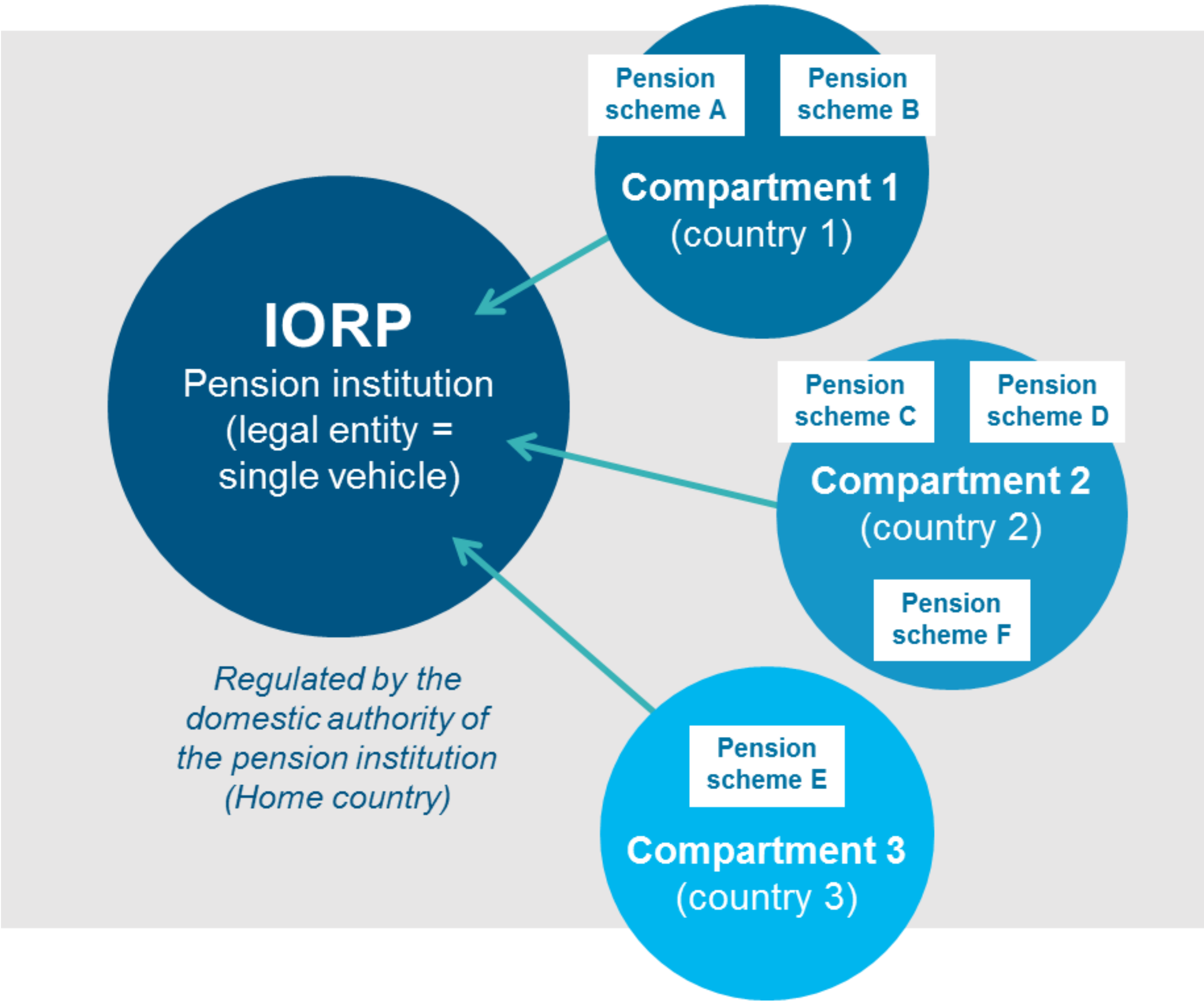
Furthermore, the IORP II Directive sets new obligations, characterized by more stringent and transparent information requirements and by prescribing new prudential supervision rules. It sets common standards that better protect occupational pension scheme members and beneficiaries by introducing new requirements for cross-border schemes, governance, risk evaluation, communication to beneficiaries and responsible investments.

[1] Regulation (EU) 2016/679

[2] Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (Text with EEA relevance), Official Journal L 354, 23/12/2016, P. 37–85

How does a cross-border occupational pension fund practically work?

Within the IORP Directive framework, companies can create an occupational pension fund in a Member State Home country that can incorporate pension schemes in different Member State Host countries. The National Competent Authority of each Host country provides the Home country with details of its social and labour laws and any other applicable requirements.



In the Figure above, each compartment:

• Reviewed, agreed and supervised by the Home country and reviewed and accessed by the local authority (Host country) to be compliant with local Social and Labour Laws as well as local information requirements (enforcement towards pension fund by Home country authority), tax & retirement regulations
• Includes pension schemes (one per local employer)

What are the main pros and cons of a cross-border occupational pension fund?

The establishment of a cross-border occupational pension fund can **provide several advantages** for multinational companies. These will differ from company to company in terms of relevance and importance:

- **Greater control over costs and improved efficiencies by headquarters**: with one single cross-border pension fund, total charges can be much less than managing, locally, several pension schemes primarily due to the economies of scale. This can reduce the overall costs of running the scheme for the multinational company and lower charges can result in better outcomes for members. This can also be true for corporations using a "multi-employer cross-border IORP" that manages the pension schemes of several unrelated employers and shares, in particular, legal monitoring of each IORP's compartment.
- **Better monitoring**: the company has a genuine centralized oversight of its local plans allowing a constant and complete follow-up of all of them.
- **More robust legal compliance:** a centralized plan may be better resourced and advised than multiple individual arrangements, meaning that risk and compliance matters are better managed. Legally compliant pension fund arrangements help to protect the participating employers from risk.
- **Stronger governance**: the company will benefit from having centralised governance of the cross-border pension fund. The investment policy set-up by the headquarter could more easily be harmonized among all subsidiaries, although it will still have to comply with the local social and labour laws, information requirements, tax laws and, under IORP II, investment rules[1].
- **Easier mobility**: when an employee transfers from one European country to another one within the same company, he/she remains within the same occupational pension fund and can have a consolidated view of all his / her local pension schemes.

But multinational corporations have also to **handle several main issues**:

- **Dealing with legal and administrative burdens:** implementing a cross-border occupational pension fund, fully operational in several European countries, requires the right legal vehicle structure and sponsors have to deal with the National Competent Authority of both the Home and Host countries. This involves a large amount of time, money and expertise that only few large corporations or large experienced retirement specialists can afford.
- **Keeping local specificities:** Cross-border schemes still have to respect the local regulation. This requires a flexible and modular approach as well as an open architecture to provide a full customization.
- **Transferring the administration of local pension schemes to a single centralised provider:** to fully benefit from the cross-border framework, it is better to use a centralized administrative platform to well integrate and efficiently monitor local pension schemes.
- **Securing smooth implementation:** This requires provision of support to all stakeholders at headquarter and each subsidiary level (HR and finance departments, plan board members, social unions, employee representatives, members) and to offer efficient communication with employees.

[1] According to the IORP II Directive, the ongoing supervision of IORPs carrying out a cross-border activity is shared as follows:
- the home competent authority shall be responsible for the prudential supervision of the IORP (Article 47(1)). The scope of the prudential supervision is defined by Article 46;
- the host competent authority shall be responsible for the supervision of the compliance of the activities of the IORP with the host Member States SLL and information requirements, when these elements directly impact the pension scheme functioning and service to the beneficiary (Article 11(10)).

Case study: how a company would implement a cross-border occupational pension fund for its employees

- **Analyze in detail all existing plans and gaps in coverage:** start with a mapping exercise as complete as possible to get a clear overview of current pension arrangements, and also any countries where there is no current provision and there is a need to extend coverage.
- **Set-up a team** involving all stakeholders. Their commitment is a success factor.
- **Get support from experienced retirement specialists** if not available internally. For multinational corporations which either can't or don't want to set up a specific plan for just themselves, they can participate in a multiple employers' IORP pension fund with their specific pension rules.
- **Take into account the timing:** the preparation for and implementation of cross-border DC pension fund can take several months as each local plan has to be assessed by the regulatory authority of both the Home and Host countries. The IORP II Directive limits the assessment process to 3 months for the Home country and to 6 weeks for the Host country[1]. The time involved should not be underestimated.
- **Analyze whether it is better to create a new pension scheme or make a cross-border transfer.**
- **Start with the most appropriate country** to learn best practices and show quick wins to other countries.
- **Provide efficient communication**: present useful and easy to understand information to plan members to help them to make investment choices appropriate to their investment risk profile and expected income needs at retirement. This could include tutorials and interactive tools with infographics and videos through a fully digital, highly secured and user-friendly platform.
- **Offer support in the local language of each country** through all channels (internet, on-line reporting, phone, chats, call backs, …)

Conclusion

A cross-border DC occupational pension fund can be an efficient and innovative solution for multinational corporations with different local pension schemes in the EU. It can be an opportunity to improve overall cost efficiency and to better monitor the different pension schemes with more centralized management and oversight. In addition, it could also help multinational corporations to allow easier mobility of their employees. However, companies putting in place cross-border schemes have to be well prepared and/or supported to handle the implementation process which can be complex and lengthy.

[1] The assessment procedures shall allow to respect the three months and 6 weeks assessment periods (Articles 12(4) and 12(9)). (Article 11 .7 and 11.8) [transfer = 8 weeks, creation = 6 weeks]

About PensionsEurope

PensionsEurope represents national associations of pension funds and similar institutions for workplace and other funded pensions. Some members operate purely individual pension schemes. PensionsEurope has **24 member associations** in 18 EU Member States and 3 other European countries[1].

PensionsEurope member organisations cover different types of workplace pensions for over **110 million people.** Through its Member Associations PensionsEurope represents more than **€ 4 trillion of assets** managed for future pension payments. In addition, many members of PensionsEurope also cover personal pensions, which are connected with an employment relation.

PensionsEurope also has **28 Corporate and Supporter Members** which are various service providers and stakeholders that work with IORPs.

PensionsEurope has established a **Central & Eastern European Countries Forum (CEEC Forum)** to discuss issues common to pension systems in that region.

PensionsEurope has established a **Multinational Advisory Group (MAG)** which delivers advice on pension issues to PensionsEurope. It provides a collective voice and information sharing for the expertise and opinions of multinationals.

What PensionsEurope stands for

- A regulatory environment encouraging workplace pension membership;
- Ensure that more and more Europeans can benefit from an adequate income in retirement;
- Policies which will enable sufficient contributions and good returns;

Our members offer

- Economies of scale in governance, administration and asset management;
- Risk pooling and often intergenerational risk-sharing;
- Often “not-for-profit” and some/all of the costs are borne by the employer;
- Members of workplace pension schemes often benefit from a contribution paid by the employer;
- Wide-scale coverage due to mandatory participation, sector-wide participation based on collective agreements and soft-compulsion elements such as auto-enrolment;
- Good governance and alignment of interest due to participation of the main stakeholders.

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[1] EU Member States: Austria, Belgium, Bulgaria, Croatia, Estonia, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Netherlands, Portugal, Romania, Spain, Sweden, UK. Non-EU Member States: Iceland, Norway, Switzerland.