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# CMS Guide to Pensions

March 2018

# Introduction

Over the last years, the economies of the majority of many (European) countries have grown, with unemployment numbers at an all-time low. New industries and new ways of providing services, have introduced a new type of 'worker'. Governments and trade unions seem to struggle in determining the status of such workers and to what extent they should be treated in a similar way to 'regular' employees. One element of reward is pension. Assets held by pension funds in Europe have been estimated to exceed EUR 7tn.

Some countries have increased their pension age gradually, pushing back the date on which one can start to enjoy retirement. With an ageing world population, it is not surprising to see that pension funds seek for opportunities to stretch the available pension funds over a longer period of retirement. As a result, we have seen an increase in Defined Contribution plans (DC) at the expense of Defined Benefit plans (DB).

One group that has not generally benefitted from the economic growth is the younger generation. Their position on the employment market is not always stable and for a variety of reasons their pension entitlements remain at a low level. No solution has yet been found to address this difference. One thing unchanged over the last years is that many countries are looking closely at methods of ensuring that pension systems remain sustainable and people receive a reasonable retirement income.

With economies and the definition of work changing, we hope that in a couple of years from now we can look back and conclude that economies have found a way to increase solidarity between generations and create growth in pension assets by focusing on sustainable investments. For now we wish you an interesting read in the fourth edition of our International Guide to Pensions. CMS has significant international pensions expertise. We can provide a deep local understanding of pensions issues and the challenges faced by providers and employers across 34 jurisdictions. We also have the international organisation to provide cross-border and multi-jurisdictional advice where required. We have over 70 offices in Western, Central and Eastern Europe and beyond.

**Katja van Kranenburg-Hanspians**



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# Algeria

## **Give a brief overview of the types of pension provision**

### General

Algeria has a mandatory basic public pension scheme.

Another type of pension system is provided by the optional social mutual regime contained in Law 15-02 dated 4 January 2015, ("Law 15-02").

## **What are the main types of pension provision?**

Article 16 of Law 15-02 provides that a complementary pension entitles an individual to a supplementary retirement pension, which will start from the scheme retirement age of employees who have at least 15 years of contributions to the social mutual.

The supplementary pension, provided for in article 16, must be financed by a supplementary pension fund created by the social mutual in accordance with the provisions of this law (art 17).

## **Is pension provision mandatory?**

The social mutual can include in its articles of association some optional benefits, provided against contributions or specific financial participation, which concern access to the complementary retirement as defined in Law 15-02. The general benefits of the social mutual include individual and collective benefits. (art 6 and 9 of Law 15-02).

The benefits of the social mutual are not mandatory.

## **Any restrictions in relation to who can establish a plan?**

All employers must be affiliated to the public regime.

Regarding the social mutual, it is defined as a legal entity under private law with non-lucrative purpose, regulated by Law 15-02 and its articles of association. Concerning the persons who can establish it, please refer to the answer below.

## **Are there restrictions on who can operate a plan?**

The persons who can constitute, operate or manage a social mutual must comply with the following conditions: (art 37 of Law 15-02)

- 19 years old and more,
- be Algerian,
- enjoy their civil and civic rights;
- not having been convicted of crime and/or offence incompatible with the field of activity of a social mutual.

**Is there a mandatory level of contributions?**

As provided in article 23 of Law 15-02, access to the supplementary retirement scheme for employed persons provided for in Article 21 shall give rise to contributions to be paid by the beneficiaries and the concerned employers.

The supplementary pension contributions of self-employed workers are the sole responsibility of the beneficiaries.

The overall rates of contribution to the supplementary pension is fixed by the articles of association of the social mutual. These are as follows:

- a rate of 3% on the basis or the portion of the base of the social security contribution whose amount is less than three times the national minimum wage guaranteed (SNMG);
- a rate between 3.1% and 4% on the portion of the social security contribution base whose amount is between three and less than five times the SNMG;
- a rate between 4.1% and 5% on the portion of the social security contribution base whose amount is between five and less than ten times the SNMG;
- a rate between 5.1% and 6% on the portion of the social security contribution base whose amount is between ten and less than fifteen times the SNMG;
- a rate between 6.1% and 7% on the portion of the social security contribution that is equal to or greater than fifteen times the SNMG.

Please note that the retirement rate included in the social security of the general regime which amounts to 18.25% (11% consists of the employer portion, 6.75% consists of the employee portion and 0.5% which is the fund of oeuvres sociales portion). (Last split provided by the executive decree n° 15-236 dated 3 September 2015).

**Are there any funding requirements?**

Among other provisions, each year of contribution to the supplementary pension must be equal to 0.625% of the average monthly salary or the basis of assessment of the calculation of the retirement pension of the general social security scheme. (art 25 of Law 15-02).

Periods assimilated to periods of work under the pension legislation of the general social security scheme shall be considered as maintaining periods under the complementary pension.

The rights to supplementary retirement pensions opened under several social mutuals (by virtue of the provisions of paragraph 4 of Article 21) can be combined with the retirement pension under the general social security scheme (art 25 of the Law 15-02).

The resources of the supplementary pension fund may only be invested in the value of the public purse or bonds issued or guaranteed by the State.

The supplementary pension fund must be subject to separate financial and accounting management from that of the other benefits of the social insurance company (art 19 of Law 15-02).

Please note that the social mutual must hold suitable insurance cover with an approved insurance company. The cover must maintain the rights of the supplementary pension scheme members or reimburse up-to-date contributions to members who do not fulfil the conditions of entitlement to a supplementary pension, in the event of dissolution or in situations where the social mutual stops payment (art 20 of Law 15-02).

#### **What age are benefits taken?**

Supplementary retirement gives rise to a retirement pension starting from the scheme retirement age for any member employee who has at least 15 years of contributions to the social mutual. (art 16 of Law 15-02).

Article 26 of Law 15-02 provides that members of the supplementary pension of the social mutual which, at the legal age of the liquidation of the supplementary pension rights do not meet the number of minimum years of contributions provided for in Article 16, may be validated by the missing years of contributions against the payment of exclusive repurchase contributions up to a maximum of five years. The basis for calculating the redemption contributions provided for is the last social security contribution base of the worker before retirement. The procedures for validating the years of missing contributions provided for above, are defined by the articles of association of the social mutual.

Article 27 of the same law provides that payment of supplementary retirement pensions must be made according to the same periods and the same system as those laid down for the retirement of the general social security scheme. Besides, the rules applicable in the event of the death of the social insured member of the social mutual supplementary pension, are those applicable in the matter of retirement of the general social security scheme, including reversion.

Please note also that access to the supplementary pension of a social mutual may be subscribed without obligation to join the general scheme or other benefits of the facultative scheme of this social mutual. (art 21 of Law 15-02). However article 24 of the said law provides that the supplementary retirement pension can't be subject to liquidation and payment only from the liquidation of the pension plan of the general social security regime.

Adherence to the supplementary pension can be done either individually or collectively.

**Who bears the costs of private pension provision?**

The contribution rate for the supplementary pension of employed persons provided for above shall be divided equally between the employer and the worker. (art 23 of Law 15-02)

Supplementary pension contributions are deductible from taxable income. (art 23 of Law 15-02).

Please note that for self-employed activity the contribution is borne by the self-employed person.

## Tax Regime

**Any registration requirements for tax purposes?**

There are no specific registration requirements for tax purposes.

**Is tax paid on contributions?**

Employer contribution to the complementary pension can be deducted from the taxable income of the business. Employee contributions can be deducted from the taxable income of the employee.

**Are investment returns taxed?**

No.

**Are benefits taxed?**

Yes. Pension benefits are subject to personal income tax.

**Other incentives to contribute to plans?**

No.

**Limits on benefits or contributions?**

No.

## Regulatory Framework

**Who is the regulator and what are its powers?**

Article 88 of Law 15-02 provides that the Minister responsible for social security exercises control over the conditions of application of the said law. It is provided that in the same article that the procedures for applying this control are laid down by regulation.

**How does it receive information?**

The social mutual is required, as per article 89 of Law 15-02, to send annually to the Minister of Social Security:

- documents relating to the membership of the employees of the acceding members confirmed by the employers or representative organisations of adherent members;
- the budget of the social mutual;
- the financial statements provided for by Law n° 07-11 of 25 November 2007 related to the financial accounting system;
- the financial statements provided for by the law referred to above of, the previous year of the supplementary retirement fund;
- copy of the insurance contract provided for in article 20 of Law 15-02;
- the report of the statutory auditor for the past financial year;
- the report of the control commission;
- the annual report of the management of the social mutual duly signed by the chairman of the board of directors.

The same article 89 provides that the reports and financial statements provided for in the above paragraph, as well as the minutes of the general meeting, must be sent by the chairman of the board of directors of the social mutual, under his responsibility, to the Minister responsible for social security, before the end of the first half of the year following the end of the financial year.

It is worth mentioning that the social mutual must designate a statutory auditor who will have to audit and control the financial and accounting of the social mutual.

**Any supervision of failed or insolvent schemes?**

Article 90 of Law 15-02 provides that in the event of a finding of non-compliance with the provisions of Article 60 of the said law or of a serious irregularity in the management of the social mutuality, the competent public authority may convene, after formal notice of the social mutual, an extraordinary general meeting, with a view to taking adequate measures.

Failing this, the competent public authority may appoint a temporary administrator whose duties are laid down by regulation.

Where the social mutual is the subject of legal proceedings, the competent jurisdiction regularly seized may appoint an administrator in accordance with the legislation and regulations in force.

**Requirements in relation to discrimination?**

## Legislative Framework

Generally, Algerian laws prohibit discrimination. There are no specific provisions related to the prohibition of discrimination in pensions. It is however worth mentioning that the age of entitlement to pension is different between men 60 and women 55 and also between employees and self-employed persons 65 for men and 60 for women).

**Rights for early leavers?**

In the general social security regime, article 2 of Law 16-15 amending and supplementing Article 6 of Law 83-12 related to retirement provides that a worker who claims to be in receipt of a retirement pension must meet the following two conditions:

- be at least 60 years old. However, a working woman may be admitted, at her request, to retire from the age of 55 years;
- have worked for at least 15 years.

In order to qualify for the retirement pension, the employee must have actually worked for at least seven and a half years and paid social security contributions.

Please note that the worker occupying a workstation with a high degree of hardship may benefit from the retirement pension before the age laid down in Article 6 referred to above, after a minimum period of time in this post.

The list of posts and the corresponding ages and the minimum period spent in these posts, referred to above, shall be fixed by regulation.

There is also a transitional age derogation, indeed article 7 of the Law 16-15, referred to above provides that for a transitional period of two years, the benefit of the retirement pension may be granted with immediate enjoyment when the employee has completed an actual working time resulting in payment of contributions equal to 32 years, at least, and meets or exceeds the minimum age set out below:

- 58 years of age in 2017;
- 59 years of age in 2018.

Admission to retirement in the cases provided for above occurs at the exclusive request of the employee.

The age requirement set forth in Article 2 of Law 16-15 described above is applicable from 1 January 2019 for workers covered by Article 7 of Law 16-15.

**Member involvement?**

Article 31 of Law 15-02 provides that the social mutual may be formed notably between salaried workers of public institutions and administrations and public or private establishments and companies as well as between persons exercising for their own account.

Membership may be collective by an employer or a trade union or professional organisation, following a collective agreement obtained in accordance with the legislation in force. The collective membership must be confirmed by individual membership.

Article 33 of the same law provides that the social mutual must have a minimum membership of (5,000) members to ensure the continuity and viability of its members. The social mutual must also maintain a minimum of (5) contributing members for a beneficiary of a supplementary retirement pension under the supplementary retirement fund.

**Scope for cross-border activity?**

Except in case of a treaty between Algeria and a foreign country providing for mutual validity of periods of contributions, the periods worked abroad are not charged in the social security calculation.

**Are there restrictions on switching plans?**

Please note that article 22 of Law 15-02 provides that an employee who ceases his professional activity in an institution, an organisation or a company whose personnel is a member of the supplementary pension of a social mutual and who will work for another institution, body or company or who exercises for his own account, can remain a member of the supplementary pension of the same social mutual by paying the full amount of the relevant contribution on the basis of the salary or income received in respect of his new professional activity, in accordance with the legislation in force.

# Austria

## **Give a brief overview of the types of pension provision**

### General

Austria has a three pillar system. The first pillar is paid by the state and financed by all working employees through the payment of social security contributions calculated on their salaries. The second pillar is made up of occupational pension plans and the third pillar is private personal pension arrangements.

## **What are the main types of pension provision?**

### Structure of private pension provision

Occupational pension plans can be established on a collective basis (as a rule for pension plans using a pension fund either for all workers or for specific categories) or on an individual basis (for one or more individual workers by individual contract). Both types are typically established through individual contracts with pension funds. Plans may be either defined benefit or defined contribution. Nowadays defined contribution plans are the norm.

## **Is pension provision mandatory?**

There is no general requirement to provide supplementary pension benefits to employees. However, if a pension plan is introduced on a collective basis (e.g. as a result of collective bargaining or a works agreement), employers must contribute to it.

## **Any restrictions in relation to who can establish a plan?**

A pension contract is a contract under private law and is based on a works agreement between the works council and the owner of an establishment. It may exceptionally be agreed on an individual basis. Employees are usually bound by the terms of the general plan offered by their employer. Employers may also be bound by collective agreements, requiring them to offer or contribute to a specific plan.

## **Are there restrictions on who can operate a plan?**

Yes. Only pension funds and certain insurance companies may act as a pension provider and must be approved by the Austrian Financial Markets Supervisory Authority ('FMA').

## **Is there a mandatory level of contributions?**

No.

## **Are there any funding requirements?**

Contributions should at least cover all of the costs and obligations of the fund. An employer will be under a contractual obligation to pay its agreed level of contributions.

**What age are benefits taken?** Usually benefits are taken at the statutory retirement pension age. In any case the equal treatment directive applies accordingly.

**Who bears the costs of private pension provision?** It depends on the terms of the plan and can be either the employers or the employees or both. Typically the employers bear all of the costs.

## Tax Regime

**Any registration requirements for tax purposes?** No.

**Is tax paid on contributions?** Yes. However, there are limited tax exemptions which apply for so long as contributions are paid by the employer.

**Are investment returns taxed?** No.

**Are benefits taxed?** Yes, but pensions derived from certain tax free contributions will also be tax free.

**Other incentives to contribute to plans?** No.

**Limits on benefits or contributions?** No.

## Regulatory Framework

**Who is the regulator and what are its powers?** The FMA reviews how pension providers behave in the financial markets as how they act towards their members. Reviewing the plans, policies and solvency of pension providers is the FMA's main task. The FMA has extensive powers and may, for instance, approve the business plan of each pension fund and check the annual financial statements of the pension providers.

## Legislative Framework

### **Requirements in relation to discrimination?**

Yes. There is extensive legislation prohibiting discrimination for reasons of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation. Also the Act on Temporary Agency Work forbids any discrimination regarding temporary agency workers in the user undertaking if the workers have been working with the user undertaking for more than four years.

### **Rights for early leavers?**

Yes. After the expiration of an agreed qualifying period (up to a maximum of five years), an employee's deferred benefits become fully vested.

### **Member involvement?**

Yes. Representatives of employees are present on the boards of occupational pension funds but not of those of insurance companies acting as pension providers.

### **Scope for cross-border activity?**

Yes, but there are legal restrictions, including a requirement to obtain a licence from the FMA.

### **Are there restrictions on switching plans?**

Yes. There are restrictions on members switching between plans. If an employer wishes to move members without their consent or without the consent of the works council, there are further restrictions. The general principle is that an employee's acquired pension rights must be preserved unless the transfer is made on certain specific grounds.

# Belgium

## **Give a brief overview of the types of pension provision**

### General

Belgium has a three pillar system. The first pillar is a pension paid by the state and financed by all working employees through the payment of social security contributions calculated on their salaries. The second pillar is made up of occupational pension plans. The third pillar consists of personal pension arrangements.

## **What are the main types of pension provision?**

### Structure of private pension provision

Occupational pension plans can be established at either industry or company level. These plans can provide benefits on a collective basis (for all workers) or for specific categories of worker. Most existing occupational pension plans are at company level. Benefits provided under the plans may be either defined benefit or defined contribution.

## **Is pension provision mandatory?**

There is no general requirement to provide supplementary pension benefits. However, if a pension plan is introduced at an industry level, employers in that industry must contribute to it, unless they have their own alternative plan which provides benefits at least equal to those provided by the industry plan.

## **Any restrictions in relation to who can establish a plan?**

Collective plans cannot be established at company level without the consent of employee representatives where the plan will require employee contributions and require all employees to join. If the plan does not have such requirements, the employer can set it up alone. No collective plan can be established at company level if there is an existing plan at industry level, unless the company plan provides benefits at least equal to those provide by the industry plan.

## **Are there restrictions on who can operate a plan?**

Yes. Pension plans must be operated either by a recognised insurance company or a pension fund (which is a specific form of legal entity separate from the employer). Participation in pension plans operated and/or financed directly by an employer company is not permitted.

## **Is there a mandatory level of contributions?**

No. However, where a plan has been established at an industry level, employers belonging to that industry must at least contribute what is required by that plan. In other types of occupational pension plan, there will be a contractual obligation for the employer to contribute.

<b>Are there any funding requirements?</b>	Yes. Insurance companies must always hold sufficient assets in order to meet their obligations. There is also legislation requiring a minimum guaranteed return for plan beneficiaries (depending on the nature of the plan but currently between 1.75% and 3.75%) and ultimately if the guaranteed return is not met, the employer will have to make up the shortfall.
<b>What age are benefits taken?</b>	The age defined by the plan, but not before the effective date at which the worker retires (currently 65 years) or when the worker fulfils the conditions to take early retirement. Early payment of pension benefits is possible to some extent in order to purchase real estate situated inside the EEA or to build, rebuild, restore or improve such real estate.
<b>Who bears the costs of private pension provision?</b>	The employer, the employee or a combination of both, depending on the conditions of the plan.

## Tax Regime

<b>Any registration requirements for tax purposes?</b>	Insurance companies and pension funds must deliver statements stating whether the conditions for deductibility of employer contributions to the plan have been satisfied.
<b>Is tax paid on contributions?</b>	In principle, employer and employee contributions are both taxed at 4.4% (although employer contributions satisfying certain requirements can be treated as a tax deductible expense – see below). Employer contributions are also subject to social security contributions equal to 8.86%. An additional employer social contribution of 1.5% (a bill was recently introduced to set this rate at 3% as from 1 January 2018) is applicable to the contributions (employer and employee) that exceed EUR 31,836 per year (indexed amount for 2017).
<b>Are investment returns taxed?</b>	No. They are exempt from tax on condition that they are paid out to the beneficiary at the same time as (and as part of) the pension benefits.
<b>Are benefits taxed?</b>	Yes. Benefits derived from employer contributions are taxed at 16.5% when paid after age 60 (and if the employee benefits from legal pension). They are taxed at 10% if the employee remained active until 65. Benefits derived from employee contributions are taxed at 10% when paid after age 60 (if deriving from contributions paid after 1993). Benefits are also subject to municipal taxes, a public health care contribution of 3.55% and a solidarity contribution of 0–2% determined by the National Pension Office.

**Other incentives to contribute to plans?**

No.

**Limits on benefits or contributions?**

The tax deductibility of employer contributions is subject to several conditions, including a requirement that the contributions must provide a right to a pension benefit that does not exceed 80% of the employee's final gross annual remuneration.

**Who is the regulator and what are its powers?**

### Regulatory Framework

The regulator for prudential supervision of pension funds is the Financial Services & Markets Authority (FSMA). The regulator for prudential supervision of insurance companies is the National Bank of Belgium (NBB). FSMA provides supervision of compliance with employment related obligations. The FSMA and NBB have extensive powers. At any given moment, it can intervene and take any measures to safeguard the position of a pension plan's contributing members and beneficiaries, execute on-site inspections, levy fines or revoke the company's or pension fund's authorisation.

**How does it receive information?**

Extensive information obligations exist for insurance companies and pension funds. All relevant parties must inform the NBB respectively the FSMA of any event that could substantially affect the financial position of the insurance company or pension fund as well as any violation of any legislation that they are aware of.

**Any supervision of failed or insolvent schemes?**

Yes. In the case of insolvency, the NBB and the FSMA can impose a financial recovery plan on short notice, forbid parties taking certain actions that would affect the financial position of the company or the fund, or limit or deny access to the reserves linked to a certain pension scheme. In some cases, the employer can be obliged to make additional contributions.

**Requirements in relation to discrimination?****Legislative Framework**

Yes. As well as a general prohibition against discrimination on ground of sex, age, race, civil partnership, sexual preference, political or religious beliefs or disability, it is unlawful to: (a) provide a survivor's pension to either male or female beneficiaries only; (b) make participation in the plan subject to age conditions (although members may be required to be age 25 or above and within certain limits, contributions may differ according to the worker's age); (c) treat male and female beneficiaries differently (except when based upon different life expectancy); or (d) treat fulltime and part-time workers differently. Moreover, a procedure to progressively harmonize the pension plans for blue-collar workers and white-collar workers is currently in progress.

**Rights for early leavers?**

After being a member for one year, employees obtain a vested entitlement to their built-up reserves and benefits in a pension plan. When leaving the company, employees may choose to: (a) leave their accrued rights where they are and/or transfer them to an insurance contract if permitted by the plan and/or convert them into death coverage; (b) transfer them to the pension plan of their new employer; or (c) transfer them to a special category of insurance company that divides all of its profits to its members.

**Member involvement?**

When the plan is established at an industry level, employees participate in its operation through the involvement of union representatives in the organs of the pension fund.

**Scope for cross-border activity?**

Yes. Employer contributions to a pension plan operated by an insurance company or pension fund situated outside Belgium but in the EEA are tax deductible in the same way as contributions paid to companies and funds in Belgium. Tax relief also applies to employee contributions. The transfer of accrued rights to another insurance company or pension fund in the EEA is exempt from tax under certain conditions.

**Are there restrictions on switching plans?**

The procedures for setting up a plan also apply in the case of switching employees between plans. The employer must inform anybody recognised for collective bargaining prior to the switch or, if none, the workers individually. In case of a pension fund partially financed by employee contributions, employee representatives will have to agree to the switch.

# Bosnia and Herzegovina

## **Give a brief overview of the types of pension provision**

### General

The pension system in Bosnia and Herzegovina is comprised of the two independent pension systems of its two entities (Federation of Bosnia and Herzegovina and Republika Srpska). In general both pension systems are a pay-as-you-go, publicly financed systems with mandatory inclusion for all employed persons in the two entities. In the recent years voluntary pension funds have been introduced in Republika Srpska through the Law on Voluntary Pension Funds and Pension Plans (Official gazette of RS, no. 13/09) and in the Federation of Bosnia and Herzegovina through the Law on Voluntary Pension Funds (Official gazette of FBiH, no. 104/16).

## **What are the main types of pension provision?**

Within the voluntary pension funds in both entities there are two main types of pension arrangements: (a) open voluntary pension funds with no limitations on membership (except as provided by law) and (b) closed voluntary pension funds where membership is limited to specific groups (e.g. employees of specified employers).

## **Is pension provision mandatory?**

Private pension provision is not mandatory. Each individual may choose whether to become a member of a voluntary arrangement.

## **Any restrictions in relation to who can establish a plan?**

Private pension funds in both entities can be established by employers, associations of employers, professional associations and trade unions who can organise the plan and enter into a contract with one or more companies for the management of the pension funds. The companies that manage voluntary pension funds can be established by both domestic and foreign legal persons. Companies that manage pension funds have to satisfy requirements as to the amount of basic capital they have as well as minimum organisational and technical requirements.

## **Are there restrictions on who can operate a plan?**

Private pension funds can only be operated by a company that has been licensed for the management of such funds in accordance with the applicable laws in each entity.

## **Is there a mandatory level of contributions?**

No. The level of contributions required is determined by each pension fund.

**Are there any funding requirements?** Yes. In Republika Srpska the initial capital of the management company must be at least BAM 2m (approximately EUR 1m) and must be paid in total upon the establishment, at the account of a bank which operates in Republika Srpska. In the Federation of Bosnia and Herzegovina, the initial capital of the management company must be at least BAM 3m (approximately EUR 1.5m) and must be paid in total upon the establishment. In both entities, the cash part of the initial capital for establishment cannot originate from loans.

**What age are benefits taken?** In Republika Srpska, the benefits can be taken at age of 58 irrespective of the period of accumulation (paid contributions), or the age of 53 with at least 5 years of continuous accumulation. In the Federation of Bosnia and Herzegovina, the benefits can be taken at the age of 58 irrespective of the period of accumulation (paid contributions). In the case of extraordinary medical expenses or permanent incapacity for work, benefits may be taken earlier in both entities.

**Who bears the costs of private pension provision?** In both entities the costs are borne by domestic or foreign, legal or natural persons who can be members of a voluntary pension fund, an employer or a third person. Charges are regulated.

## Tax Regime

**Any registration requirements for tax purposes?** Yes, the companies managing voluntary pension funds must be registered with the relevant court registry of business entities and the competent tax office in the respective entities.

**Is tax paid on contributions?** In Republika Srpska, the applicable law provides tax reliefs for contributions made by members and employers to voluntary pension funds for the pension contributions up to BAM 1,200 per year (BAM 100 per month). In the Federation of Bosnia and Herzegovina, the applicable law does not provide any provisions regarding potential tax reliefs. Nevertheless, changes in this matter are expected as the tax legislation is currently subject to broad reforms.

**Are investment returns taxed?** In Republika Srpska, the applicable law provides tax reliefs for any amount of investment returns originating from voluntary pension funds. In the Federation of Bosnia and Herzegovina, the applicable law provides tax reliefs for investment returns originating from voluntary pension funds, but only if the applicable taxes were paid on the contributions.

**Are benefits taxed?**

As for both entities, the applicable laws provide tax reliefs for the benefits originating from voluntary pension funds for the benefits in amount up to BAM 1,200 per year. Pensions from the mandatory system are not taxed.

**Other incentives to contribute to plans?**

In Republika Srpska, there are potential tax reliefs for members of voluntary pension funds and also for employers where more than 51% of their employees are included in the pension plan or voluntary pension fund. In the Federation of Bosnia and Herzegovina, the applicable law does not provide any other incentives. Potential changes are probable in the secondary legislation.

**Limits on benefits or contributions?**

No, not in relation to voluntary pension funds.

## Regulatory Framework

**Who is the regulator and what are its powers?**

Insurance Agency of Republika Srpska and the Insurance Supervision Agency of the Federation of Bosnia and Herzegovina regulate the operation of companies that manage voluntary pension funds. They can issue and revoke licenses relating to voluntary pension funds and supervise the business and other activities of those managing voluntary pension funds.

**How does it receive information?**

Both Agencies in their respective jurisdictions have the right to inspect all documentation relating to voluntary pension funds and the companies that manage them, together with those of any legal entities that are connected to such companies through assets, management or other business relations.

**Any supervision of failed or insolvent schemes?**

Yes, there is supervision in relation to voluntary pension funds that fail or become insolvent.

## Legislative Framework

### **Requirements in relation to discrimination?**

In both entities, the companies that manage voluntary pension funds cannot directly or indirectly discriminate on grounds of gender.

### **Rights for early leavers?**

In Republika Srpska, it is possible to take benefits before the retirement age in the case of permanent disability or extraordinary cost of treatment. A member of a third pillar pension plan can continue to be a member of the same pension fund when his/her employment ends, but he/she has to conclude a new membership agreement. Alternatively, he/she can make an account transfer. In the Federation of Bosnia and Herzegovina, if a member of a voluntary fund is deceased before the retirement age, his/her benefits are distributed to the beneficiaries stated in a voluntary fund membership agreement. If the membership agreement lacks such information, the distribution of the benefits is done through an inheritance proceeding.

### **Member involvement?**

No.

### **Scope for cross-border activity?**

Yes. The applicable laws in both entities allow certain cross-border activities. Investments in funds in other countries are possible. However, the current legislation in both entities does not provide details on the scope for international activities.

### **Are there restrictions on switching plans?**

No. In both entities, individuals are free to choose to switch between plans and pension funds and are allowed to be members of more than one pension fund at the same time.

# Bulgaria

## **Give a brief overview of the types of pension provision**

### General

Bulgaria has a three pillar system. The first pillar is a mandatory pay-as-you-go scheme, operated by the state. The second pillar is mandatory supplementary pension provision and the third pillar, voluntary pension provision. Both the second and third pillars are funded and the funds raised by each individual accrue in his own account.

## **What are the main types of pension provision?**

### Structure of private pension provision

The second and third pillars are made up of private pension funds, incorporated and managed by licensed pension-provision companies. There are two types of second pillar funds: (a) universal (open) pension funds which are life time pension schemes, sponsored by both employer and employees and (b) occupational pension funds sponsored by the employer which provide early retirement benefits for those working in higher risk areas. The third, voluntary, pillar can be made up of either individual arrangements or collectively bargained agreements (occupational pension funds). Depending on the circumstances, the amounts accrued in a third pillar fund can be paid as a lump sum or pension.

## **Is pension provision mandatory?**

Participation in second pillar schemes is mandatory for all individuals born after 31 December 1959 provided that they are insured by the public social insurance (the first pillar pension fund). People working in Work Categories I and II, insured in the Pensions Fund of the public social insurance, must also be compulsorily insured by an occupational pension fund for an early-retirement pension regardless of age. Third pillar schemes are voluntary.

## **Any restrictions in relation to who can establish a plan?**

Only licensed pension-provision companies may operate supplementary pension funds. A licence entitles a company to register and manage funds. The company also needs to be authorised to manage a pension fund and the authorisation is given separately for each fund. A company may incorporate and manage both second and third pillar funds at the same time, but only one of each.

## **Are there restrictions on who can operate a plan?**

Only pension-provision companies can provide pension schemes and manage pension funds. These companies may not carry out other activities.

**Is there a mandatory level of contributions?**

Contributions to the second pillar (in relation to universal (open) funds) are made up of 2.8% from employers and 2.2% from employees. Contributions to the second pillar (in relation to occupational pension funds) are either 7% or 12%, depending on the risk category of the occupation, and are solely contributed by employers (except for seafarers who contribute the whole amount themselves). There is no mandatory level of contributions for the third pillar.

**Are there any funding requirements?**

There is a minimum capital requirement for pension-provision companies together with a requirement for maintaining reserves. There are also investment restrictions and requirements for a minimum rate of return.

**What age are benefits taken?**

Benefits from supplementary second and third pillar pension funds may currently be taken at age 64 for men and 61 for women (the same age that first pillar benefits can be taken) provided that the member has participated in the funds for a specified number of years. From 31 December 2016, the retirement age has started to gradually increase on the first day of each calendar year: (a) until 31 December 2029 by two months each year for women and from 1 January 2030, by three months each year up to age 65; and (b) until 31 December 2017 by two months for men and from 1 January 2018, by one month for each year up to age of 65. Thus, from 1 January 2018 the retirement age will be 64 and one month for men and 61 and two months for women. From 31 December 2016, the length of contributory service has also increased. It is possible to take benefits earlier in certain circumstances including permanent disability or where the plan was set up to provide early retirement benefits.

**Who bears the costs of private pension provision?**

Members.

## Tax Regime

**Any registration requirements for tax purposes?**

Pension provision companies must comply with general tax requirements.

**Is tax paid on contributions?**

In both the first and second pillar, member contributions are deductible from pre-tax income. Employer contributions are recognised expenses for corporate tax purposes.

In the third pillar, member contributions of up to 10% of the individual's taxable income are deductible from pre-tax income. Employer contributions in respect of an individual employee are deductible from the taxable base of the employee up to BGN 60 per month. Any excess amounts are taxed at 10% personal income tax.

Employer's contributions of BGN 60 per employee per month are a tax deductible expense for corporate tax purposes. However, excessive employer's contributions are subject to a 10% one-off tax on expenses.

**Are investment returns taxed?**

No.

**Are benefits taxed?**

Pension benefits in the first and second pillar are tax exempt from personal income tax. Benefits paid in the third pillar are also exempt from personal income tax except where the individual receives such benefits prior to an entitlement arising to benefits under the first pillar and has used tax relief for the contributions – in such case a 10% final tax is levied.

**Other incentives to contribute to plans?**

The income of the second and third pillar pension funds is exempt from corporate income tax. The passive income received by the second and the third pillar pension funds is exempt from withholding tax. The services related to mandatory and voluntary supplementary pension provision are VAT-exempt.

**Limits on benefits or contributions?**

There are no limits on either benefits or contributions, but contributions above the limits set out above will be subject to tax.

**Who is the regulator and what are its powers?**

## Regulatory Framework

All forms of pension provision are supervised by the Financial Supervision Commission ('FSC'). The state, through the FSC, exercises effective regulation and control over the activity of supplementary pension-provision companies and funds for the purpose of protecting the interests of the members.

**How does it receive information?**

Pension providers have statutory reporting obligations. In addition, the FSC may require them to provide specific information and documents.

**Any supervision of failed or insolvent schemes?**

Reorganisation of pension-provision companies requires prior authorisation from the FSC. Only the FSC is entitled to initiate insolvency proceedings against pension-provision companies.

## Legislative Framework

**Requirements in relation to discrimination?**

Discrimination on grounds of nationality, origin, sex, sexual orientation, race, skin colour, age, political or other persuasions, religion or belief, marital, social and property status, etc. is prohibited.

**Rights for early leavers?**

It is not possible to withdraw early from a second pillar arrangement. If an individual ceases to be employed, they will remain entitled to their accrued rights under the second pillar. In third pillar schemes, an individual has the right to withdraw funds accrued from personal (but not third party) contributions from their account at any time.

**Member involvement?**

In second pillar arrangements, members' interests are represented by a board of trustees which consists of an equal number of representatives from the national representative organisations of employees and employers and one representative of the pension-provision company. In third pillar funds there is an advisory board which consists of representatives of insured persons/pensioners, employers or other contributors and one representative of the pension provision company.

**Scope for cross-border activity?**

Pension-provision companies, registered in other Member States, may act in Bulgaria. Any company managing a supplementary voluntary pension provision fund may operate on a cross-border basis and enter into a social insurance contract with a non-resident sponsoring undertaking. A sponsoring undertaking may allocate the management of an occupational scheme to a non-resident institution.

**Are there restrictions on switching plans?**

Yes, in both the second and third pillars, a member may switch from one fund to another of the same type with another pension-provision company, subject to meeting statutory requirements.

# Chile

## **Give a brief overview of the types of pension provision**

### General

The Chilean pension system is based on the capitalisation of social security savings in individual accounts, and on professional management of the resources by private Pension Fund Administrators (AFP) devoted exclusively to that end. The savings are mandatory, but the individuals can also make voluntary payments in two retirement plans in Chile: agreed deposits (depósito convenido) and voluntary pension savings accounts (APVs). They both permit and encourage employees to save voluntarily, and so increase the balance accumulated in the individual capitalisation account and the amount of pension to be received.

## **What are the main types of pension provision?**

### Structure of private pension provision

All pensions provided to employees who entered the labour force after 31 December 1982, are provided through private Pension Fund Administrators. The pension amount is finally determined by the contributions of the employees, the years of affiliation to the system and the investment provided by the AFPs through different capitalisation instruments.

## **Is pension provision mandatory?**

Yes, it is mandatory for all employees. Participation will also be mandatory for self-employed persons who provide professional services in 2018.

## **Any restrictions in relation to who can establish a plan?**

Plans can only be established by law. Since 2002 the number of Pension Funds for each Administrator was extended to five. These funds are differentiated by the proportion of their portfolio invested in equities, where the greater the investment in equities, the greater the risk and the greater the expected return.

## **Are there restrictions on who can operate a plan?**

Plans can only be operated by the Pension Fund Administrators (AFP).

## **Is there a mandatory level of contributions?**

10% of the covered earnings, plus an average of 1.39% (administrative fees). Persons working under arduous conditions contribute an additional 1% or 2% of covered earnings depending on occupation.

## **Are there any funding requirements?**

The initial capital for the establishment of an AFP is 5,000 UF.

**What age are benefits taken?**

In the case of voluntary pensions, employees can withdraw their APV at any time before they retire, but this involves payment of the corresponding global complementary tax with a surcharge ranging between 3 per cent for lower incomes and 7 per cent for higher incomes. On the other hand, the employee is not allowed to withdraw the agreed deposit before he or she retires. However, Law No. 19,768 allows these resources to be withdrawn as part of the freely usable surplus, but this involves payment of the corresponding global complementary tax.

In the case of mandatory pensions, employees can either retire at age 65 for men or age 60 for women. Nevertheless, it is not mandatory to request the funds from the pension system once these ages are reached. It is only the minimum age from which people are entitled to claim them. The Law allows early retirement for mandatory pensions if the individual account balance is sufficient to provide a pension of at least 70% of the insured's average wage in the last ten years and 80% of the PMAS (pensión máxima con aporte solidario).

The PMAS is the lowest value of the old-age pension before qualifying for the old-age social security top-up benefit (APS Vejez or Invalidez). The PMAS is currently 309,2031 pesos a month.

**Who bears the costs of private pension provision?**

The employee or the self-employed persons who provide professional services.

## Tax Regime

**Any registration requirements for tax purposes?**

Pension Funds Administrators must deliver statements informing whether the conditions for deductibility of employer contributions to the plan have been satisfied.

**Is tax paid on contributions?**

No.

**Are investment returns taxed?**

Pension payments, including the investment returns, are subject to income tax.

**Are benefits taxed?**

Not applicable.

**Other incentives to contribute to plans?**

Through a voluntary deposit plan, employees – generally in managerial positions – voluntarily agree with the employer on the payment of an amount of money (such as bonuses) as savings in their individual capitalisation account, which will be added to the mandatory pension contributions. This type of investment has tax benefits for both parties.

Regarding APVs, members may freely pay in contributions of up to UF 50 per month with tax exemption. This contribution represents a tax benefit for the employee, because it is tax-exempt up to the maximum given. This plan also makes the resources more liquid, enabling these contributions to be withdrawn by the employee at any time in their working life and not only on retirement, by paying an additional rate on the corresponding global complementary tax, or withdrawn as freely usable surpluses, if applicable.

Voluntary social security savings can also prove useful in providing employees protection in case of unemployment.

**Limits on benefits or contributions?**

No.

## Regulatory Framework

**Who is the regulator and what are its powers?**

The Superintendent of Pensions exercises control and regulation over the activities of the AFP.

**How does it receive information?**

AFP have statutory reporting obligations. In addition, the Superintendent of Pensions may require them to provide specific information and documents.

**Any supervision of failed or insolvent schemes?**

Since the pension funds are contained in individual accounts which funds cannot be used by the AFP for other purposes else than investing them, the requirements for pension fund companies to have minimum reserves to protect from insolvency are low. In the event that the AFP became insolvent, then the individual accounts and its found can pass to another AFP.

## Legislative Framework

### **Requirements in relation to discrimination?**

Yes, there is extensive legislations prohibiting discrimination for reasons of race or ethnic origin, gender, religions or belief, disability, age or sexual orientation.

### **Rights for early leavers?**

Early retirement is possible at any age if the individual account balance is sufficient to provide a pension of at least 70% of the insured's average wage in the last ten years and 80% of the PMAS (pensión máxima con aporte solidario).

### **Member involvement?**

The PMAS is the lowest value of the old-age pension before qualifying for the old-age social security top-up benefit (APS Vejez or Invalidez). The PMAS is currently 309,2031 pesos a month.

### **Scope for cross-border activity?**

No.

### **Are there restrictions on switching plans?**

Pension Funds can invest their resources in foreign instruments under rules that determine the eligible instruments, the maximum investment limits, the formal secondary market, the investment conditions and the eligibility requirements for such instruments.

# China

## **Give a brief overview of the types of pension provision**

### General

There are several types of pension provision in China. The main type is the statutory pension system, the Pension of Employees of Enterprises ('PEE') which is mandatory for employees of enterprises, individual economic organisations and private non-enterprise entities. The self-employed, part-time employees not participating in the PEE through their employers and freelancers can join the PEE voluntarily. There are also non-statutory voluntary arrangements, Enterprise Annuities ('EA') which may be established by enterprises and their employees in addition to the PEE and supplementary private pension schemes provided by life insurance companies.

## **What are the main types of pension provision?**

The main type of pension provision is statutory pension scheme, i. e. PEE. Private voluntary provision is not common.

## **Is pension provision mandatory?**

Participation in the PEE is mandatory. Employers must register themselves and all their employees within 30 days of the employees joining at the competent Social Insurance Administration Centre to whom contributions are then made on a monthly basis. No other type of pension provision is mandatory.

## **Any restrictions in relation to who can establish a plan?**

An EA may be established by any business that has participated in the PEE and is in a good financial position. The relevant plan must be discussed with trade unions, or in the absence of trade unions, with employee representatives and be filed with the competent labour administration authority. An EA will become effective if the competent labour authority does not make an objection within 15 days.

## **Are there restrictions on who can operate a plan?**

PEE funds are operated by a State-owned social security fund management institute entrusted by the State Council and can be used to make investments in China only. The scope of investments includes: bank deposits, central bank bills, interbank deposits; treasury bonds, bonds of policy banks and development banks, financial bonds with a credit rating of investment grade and above, enterprise bonds, municipal bonds, convertible bonds (including separate trading convertible bonds), short-term financing bills, medium term notes, asset-backed securities, bond repurchase, pension products, listed and traded securities investment funds, shares, equities, stock index futures, and treasury bond futures.

	<p>For the operation of the EA funds, an enterprise may establish an EA board or entrust a qualified legal entity to do so. The EA funds are limited to domestic investment in China within the scope of bank deposit, treasury bonds, central bank bill, bond repurchase, universal insurance products, unit-linked insurance products, securities investment funds, stocks, and financial products with a credit rating of investment grade and above, such as financial bonds, corporate bonds (debentures), convertible bonds (including detachable convertible bonds), short-term financing bills and medium term notes and others.</p>
<p><b>Is there a mandatory level of contributions?</b></p>	<p>Yes. Chinese law provides statutory standards on both the rate and calculation basis for PEE contributions. The contribution rate is determined at provincial level and generally does not exceed 20% for the employer-payable part and 8% for the employee-payable part (although some developed areas require a higher contribution). The calculation basis for PEE contributions shall be the actual average monthly salary of the respective employee in the previous year, but subject to a minimum of 60% of the municipal/provincial average salary and a maximum of 300% of the municipal average monthly salary in the previous year. Therefore, the contribution will be adjusted on an annual basis. There is no mandatory level of contributions to other types of pension arrangement.</p>
<p><b>Are there any funding requirements?</b></p>	<p>No.</p>
<p><b>What age are benefits taken?</b></p>	<p>An employee is entitled to pension benefits on retirement. The statutory retirement age is 60 for men and 50 for women (or 55 for women in managerial positions). For employees engaged in certain high risk or potentially harmful activities, the retirement age is 55 for men and 45 for women. Early retirement at the age of 50 for men and 45 for women is possible in cases of permanent total disability.</p>
<p><b>Who bears the costs of private pension provision?</b></p>	<p>It depends on the type of arrangement, but generally both employers and employees.</p>

**Any registration requirements for tax purposes?**

No.

**Is tax paid on contributions?**

Employer contribution to the PEE can be deducted from the taxable income of the business. Employee contributions can be deducted from the taxable income of the employee. The employer contribution to the PEE does not form part of the taxable income of the employee.

Employer contributions to an EA can be deducted from the taxable income of the business up to 5% of the overall payroll. They are not counted as taxable income of the employee when contributed to the personal account of the employees. Employee contributions up to 4% of the average salary of the employee can be deducted from the individual's taxable income when they are contributed to the personal account of the employees.

**Are investment returns taxed?**

Not for the PEE. In the EA, investment returns are not taxable when they are attributed to the personal account of the employees.

**Are benefits taxed?**

Benefits from the PEE are not subject to individual income tax. Benefits from the EA are subject to individual income tax when they are taken by the employees.

**Other incentives to contribute to plans?**

No.

**Limits on benefits or contributions?**

In an EA, the employer's maximum annual contribution must not exceed 1/12th of the previous year's payroll. The total employer and employee contributions must not exceed 1/6th of the previous year's payroll. Benefits can be taken on retirement as either a lump sum or an annual or monthly pension.

## Regulatory Framework

**Who is the regulator and what are its powers?**

The supervisory authorities for the PEE and EA are the competent labour administrative authorities, i.e. the Ministry of Human Resources and Social Security at the state level and the competent Human Resources and Social Security at the county level or above at the place where the business is located. The authority is entitled to audit the status of PEE contributions made by employers. If it finds that any employer fails to comply with the legal requirements, the competent labour administration authority is entitled to order rectification, imposing late payment fees or penalties on the employer.

**How does it receive information?**

Employers are required to provide their employees' salary information to the competent social insurance administration centre every year. The PEE contribution will be adjusted annually based on the salary information provided by the employers. Further, the competent social insurance administration centre is entitled to make regular or irregular audits on employers' PEE contribution. The competent insurance administration centre in charge of the PEE contributions makes reports on the PEE contributions to the labour authorities. In addition, the competent labour authorities can launch investigation and inspection against employers when conducting labour security supervision, and also have set up reporting systems via complaint hotlines and mail boxes.

**Any supervision of failed or insolvent schemes?**

No.

## Legislative Framework

**Requirements in relation to discrimination?**

There are no legal requirements.

**Rights for early leavers?**

Employees who have contributed to the PEE for more than 15 years are entitled to a pension after retirement. The pension is paid to the employee on a monthly basis. Employees who contributed to the PEE for less than 15 years can have their pension account transferred from the PEE system to other types of pension system or can receive a lump sum payment based on their personal account upon reaching the statutory retirement age.

**Member involvement?**

No.

**Scope for cross-border activity?**

Foreigners working in China are required to participate in the PEE in most places in China, except otherwise provided that the home country of the foreigners has reached a bilateral agreement with China in this regard. Until now, Germany, South Korea, Denmark, Canada, Finland, Netherlands, Switzerland, France and Spain have already reached such bilateral agreements with China. Under this agreement, for instance, German employees holding an exemption certificate issued by the German authority can be exempted from participating in the PEE in China.

**Are there restrictions on switching plans?**

The PEE account of the employee is registered under the account of the employer. Therefore, if an employee changes employer, his/her pension account must be transferred to their new employer. The new employer must apply for the transfer. The PEE account can be transferred from one province to another province. If an employee changes employer, the EA account can also be transferred to the new employer. If the new employer does not have an EA scheme, the EA account remains with the original management institution.

# Colombia

## **Give a brief overview of the types of pension provision**

### General

The pension system in Colombia is comprised of two independent pension systems:

- RPM: This system is managed by the government and it is mandatory for the members to have 1,300 weeks of contributions and to be 62 years old (men) and 57 years old (women) to become a retired person.
- RAIS: This system is managed by private companies and supervised by the government and the members need to have the necessary funds to acquire the retired status.

## **What are the main types of pension provision?**

In Colombia there is only one type of private pension provision which is the RAIS system as previously explained.

## **Is pension provision mandatory?**

Yes, for all workers and investors with incomes on the Colombian minimum wage or higher.

## **Any restrictions in relation to who can establish a plan?**

Yes. The pension plans can only be operated by authorised companies. The government has to approve the companies that can manage pension funds.

## **Are there restrictions on who can operate a plan?**

Yes. The pension plans can only be operated by authorised companies. The government has to approve the companies that can manage pensions.

## **Is there a mandatory level of contributions?**

Yes. The contribution is established depending on the income the member has every month. The contribution must be 16% of such income.

## **Are there any funding requirements?**

The only requirement is that the contributions have to be equal to 16% of the income of the member.

## **What age are benefits taken?**

On the RPM system the age requirements are 62 years old for men and 57 years old for women. On the RAIS system there is no minimum age requirement.

## **Who bears the costs of private pension provision?**

The members. If the member has a labour contract then in that case the employee contributes 4% of his salary and the employer contributes the remaining 12% of the employee's salary.

## Tax Regime

<b>Any registration requirements for tax purposes?</b>	No.
<b>Is tax paid on contributions?</b>	No.
<b>Are investment returns taxed?</b>	No.
<b>Are benefits taxed?</b>	No up until a determined amount.
<b>Other incentives to contribute to plans?</b>	The income transferred to voluntary pension funds can be treated as exempted income up to certain amount.
<b>Limits on benefits or contributions?</b>	Members can only contribute 16% of an amount equal to 25 Colombian minimum wages or lower.

## Regulatory Framework

<b>Who is the regulator and what are its powers?</b>	All forms of pension provision are supervised by the Financial Supervision Commission. The Financial Supervision Commission exercises effective regulation and control over the activity of pension-provision companies and for the purpose of protecting the interests of the members.
<b>How does it receive information?</b>	The pension-provision companies must provide all the information that the Financial Supervision Commission requires.
<b>Any supervision of failed or insolvent schemes?</b>	Yes. The Financial Supervision Commission monitors pension-provision companies in order to prevent any kind of insolvency.

## Legislative Framework

**Requirements in relation to discrimination?**

Discrimination on the grounds of nationality, origin, sex, sexual orientation, race, skin colour, age, political or other persuasions, religion or belief, marital, social and property status, etc. is forbidden.

**Rights for early leavers?**

It is not possible to withdraw the contributions made unless the member is 62 years old for men or 57 years old for women. In any case if the member has enough money to support a pension it is not possible to withdraw the money, in that case the person becomes a retired person but cannot withdraw all the money.

**Member involvement?**

There is no involvement.

**Scope for cross-border activity?**

N/A

**Are there restrictions on switching plans?**

A member can only switch between the RPM and RAIS system every five years. Switching plans is forbidden for members that are ten years away from acquiring the retired status (62 for men and 57 for women).



# Croatia

## **Give a brief overview of the types of pension provision**

### General

Croatia has a three pillar system. The first pillar is the basic state pension scheme and is based on a pay-as-you-go system where those working fund the benefits of those who have retired. The second pillar is made up of supplementary pension plans funded by individual savings. The third pillar is voluntary pension savings.

## **What are the main types of pension provision?**

### Structure of private pension provision

Within the third pillar, there are two main types of pension provision: (a) open private voluntary pension funds which are open to any individual who wants to participate; and (b) closed private voluntary pension funds which are only open to employees of certain employers, or members of particular unions or associations. The benefits they provide are in the form of defined contribution benefits.

## **Is pension provision mandatory?**

All employees must participate in the first and second pillar. Participation in third pillar arrangements is voluntary.

## **Any restrictions in relation to who can establish a plan?**

The basic pension plan is administered by the state. Pension fund companies can establish supplementary second pillar pension plans. Voluntary third pillar funds are established by employers, unions and associations to benefit employees and members and are operated by pension fund companies.

## **Are there restrictions on who can operate a plan?**

All pension plans must be operated by a pension fund company. There are strict rules on who can incorporate such companies and strict conditions for doing so.

## **Is there a mandatory level of contributions?**

There is a mandatory level of contributions for the basic and supplementary pension plans. However there is no mandatory level of contributions for voluntary schemes.

## **Are there any funding requirements?**

Contributions to the basic and supplementary plans are deducted from employees' salary and transferred to the pension fund by the employer. Contributions to open voluntary pension plans are paid personally by the member. Contributions to closed voluntary pension plans are paid by the sponsors.

<b>What age are benefits taken?</b>	Benefits from the basic and supplementary pension plans can normally be taken at age 65 for men and, currently (in 2018), age 62 for women (the prescribed age for women is progressively increasing by three months per year, and it will reach 65 by 2030). As of 2031, the prescribed age – both for men and women – will be progressively increasing by three months per year, and it will reach 67 by 2038. The benefits from voluntary pension plans can normally be taken at the age of 50.
<b>Who bears the costs of private pension provision?</b>	The costs of open private voluntary pension plans are borne by their members. The costs of closed private voluntary pension plans are borne by their sponsors.
<b>Tax Regime</b>	
<b>Any registration requirements for tax purposes?</b>	There are no specific registration requirements for tax purposes.
<b>Is tax paid on contributions?</b>	No tax is paid on contributions to the basic and supplementary pension plans. Employee contributions to open and closed voluntary pension plans are not subject to personal income tax ("PIT") and are not tax deductible. Employer contributions to a voluntary pension plan are not subject to PIT up to a limit of HRK 6,000 (app. EUR 800) per year or HRK 500 (app. EUR 67) per month.
<b>Are investment returns taxed?</b>	No.
<b>Are benefits taxed?</b>	<p>Pensions (paid from the obligatory first and second pillar) up to HRK 3,800 (app. EUR 500) are not taxed. Pensions from HRK 3,800 (app. EUR 500) up to the HRK 17,500 (app. EUR 2,300) are subject to PIT at a rate of 24%. Pensions exceeding monthly HRK 17,500 (app. EUR 2,300) are taxed at a rate of 36%.</p> <p>Benefits from the voluntary (third pillar) pension plan are generally not taxed. However, if the contributions to the voluntary pension plan were tax recognized expenses, the benefits are taxable as an income from insurance. PIT at a rate of 12% will be withheld from the payments up to the amount of contributions that were tax recognised expenses.</p>
<b>Other incentives to contribute to plans?</b>	Tax incentives are granted to employers who contribute with payments to the voluntary pension plan of employees. Up to the HRK 6,000 (app. EUR 800) per year, such contributions are tax deductible expenses for the employer.
<b>Limits on benefits or contributions?</b>	No.

**Who is the regulator and what are its powers?**

## Regulatory Framework

The pension fund companies are controlled by the Croatian Financial Services Supervisory Agency (HANFA). Financial books and documents of the pension fund companies must be made available for inspection by HANFA at all times. In case of a serious breach that has not been remedied, HANFA can deprive a pension fund company of its licence.

**How does it receive information?**

Pension fund companies have a duty to provide HANFA with a variety of information, including details of their financial operations, investments and shareholders at least once a year.

**Any supervision of failed or insolvent schemes?**

Other than the obligation to provide regular reports to HANFA and the basic obligation to ensure the liquidity of pension fund companies, there are no requirements for pension fund companies to have minimum reserves to protect against insolvency. In the event that such a company became insolvent, there are no special provisions and the general legal regime in relation to insolvency would apply. However, if insolvency or pre-bankruptcy proceedings were commenced in relation to such a company, it would lose its authorisation to operate.

**Requirements in relation to discrimination?**

## Legislative Framework

On a general level, direct and indirect discrimination is prohibited in labour relationships and contracts of employment. On a more specific level, closed private voluntary pension plans can be open either to all workers of one employer or to a specific professional group of workers (e.g. engineers). Membership of a closed private voluntary pension plan cannot be a requirement for union membership or employment. In addition, discrimination in closed private pension plans is prohibited on the basis of gender.

**Rights for early leavers?**

There are no statutory provisions restricting the rights of early leavers to their pension benefits. Early leavers from open private voluntary pension plans can take their rights after age 50. Exceptionally, the rights can be exercised prior to age 50 in the case of death or permanent disability. The rights of early leavers from closed private voluntary pension funds can be exercised in accordance with their rules and law.

**Member involvement?**

No.

**Scope for cross-border activity?**

A pension company from another EU Member State may manage a closed-end fund sponsored by one or more sponsors from the Republic of Croatia, without authorisation required by HANFA, but it must comply with the provisions of the labour and social security legislation of the Republic of Croatia.

**Are there restrictions on switching plans?**

There are no restrictions on switching private voluntary pension funds, apart from any set out in their rules. In the case of obligatory second pillar pension funds, switching can be accompanied by the payment of an exit fee, which can be up to: (a) 0.8% of the aggregate savings in the first year of membership; (b) 0.4% of the aggregate savings in the second year of membership; and (c) 0.2% of the aggregate savings in the third year of membership. After three years of uninterrupted membership in the supplementary pension plan, switching must be free.

# Czech Republic

## **Give a brief overview of the types of pension provision**

### General

The Czech pension system has been subject to constant changes in the recent years. In 2013, a new three pillar system was introduced, in which the mandatory pay-as-you-go system was supported by two pillars for private supplementary pension schemes. However, in 2014, the second pillar, consisting of privately managed pension funds was cancelled. As of 2017, the pension system is based on a mandatory pay-as-you-go scheme, supported by existing supplementary schemes.

## **What are the main types of pension provision?**

Besides the mandatory pay-as-you-go system there is a supplementary scheme. Participants may join the supplementary scheme in addition to the mandatory pay-as-you-go system. Participants in the supplementary scheme are allowed to join and exit at any time.

## **Is pension provision mandatory?**

Participation is mandatory in the pay-as-you-go system. Participation in the supplementary scheme is voluntary.

## **Any restrictions in relation to who can establish a plan?**

To establish a supplementary scheme, a specific licence from the Czech National Bank (CNB) is necessary.

## **Are there restrictions on who can operate a plan?**

The restrictions are the same as those which apply for establishing schemes.

## **Is there a mandatory level of contributions?**

Contributions to the mandatory pay-as-you-go system are determined as a percentage of income. For employees, the total contribution amounts to 31.5% of their salary which is divided into employee contributions of 6.5% (deducted from the gross salary) and employer contributions of 25% (paid on top of gross salary). The self-employed pay a contribution of 29.2% of income (less deductible expenses).

Employee incomes which exceed 48 times the average salary (approx. CZK 1.35m) are exempt from the deductions.

In the supplementary scheme, the minimum monthly contribution of a member to be eligible for state support is CZK 300 (approximately EUR 12) per month. There is no maximum monthly contribution. The participants in this plan receive monetary support from the state; the highest amount (CZK 260 per month) is provided to those who contribute over CZK 1,000 per month.

<b>Are there any funding requirements?</b>	The minimum initial capitalisation of a supplementary scheme pension fund company is CZK 50m (approx. EUR 2m). The initial capitalisation is defined as the sum of the paid up registered capital of the company, plus paid up issue premium. The registered capital and the issue premium of a supplementary pension fund company may be paid up only in monetary form (non-monetary contributions to the registered capital or the issue premium are not allowed).
<b>What age are benefits taken?</b>	Benefits from the supplementary scheme may start to be taken from age 60, with the exception of disability pension benefits which can be taken earlier.
<b>Who bears the costs of private pension provision?</b>	Not relevant.

## Tax Regime

<b>Any registration requirements for tax purposes?</b>	Employers and the self-employed must register at the Tax Office.
<b>Is tax paid on contributions?</b>	In respect of the supplementary scheme, contributions are not generally subject to personal income tax. However, if an employer contributes to a supplementary scheme on behalf of an employee, its contributions will be taxed as part of the employee's personal income if they exceed CZK 50,000 (EUR 2,000) a year.
<b>Are investment returns taxed?</b>	Investment returns are in general not subject to tax.
<b>Are benefits taxed?</b>	Pensions (incomes from payments under the supplementary scheme) are not subject to income tax.
<b>Other incentives to contribute to plans?</b>	Individuals may deduct pension savings contributions of up to CZK 24,000 (EUR 960) from their tax base. Furthermore, employers may deduct pension savings contributions paid in favour of their employees of up to CZK 50,000 (EUR 2,000) from their tax base.
<b>Limits on benefits or contributions?</b>	There are in general no mandatory limits.

**Who is the regulator and what are its powers?**

## Regulatory Framework

The CNB supervises pension funds in the supplementary scheme. Where there has been a breach of an obligation, it may order remedial measures to be taken, withdraw the fund's licence, appoint an administrator or suspend the right to dispose of fund assets for a specified time period.

**How does it receive information?**

In general, the CNB is entitled to all of the information it needs for the proper supervision of pension funds. Pension funds are required to provide it with information and it can attend the meetings of a pension fund's corporate body. The CNB may request any information about a pension fund's activities necessary for its supervision and the funds are obliged to submit the required information. Pension funds must also provide certain information relating to changes in their structure or status automatically.

**Any supervision of failed or insolvent schemes?**

There are no special insolvency rules for pension funds.

**Requirements in relation to discrimination?**

## Legislative Framework

It is prohibited to discriminate against members on the grounds of gender, race, skin colour, language, religion, political or other opinions, national or social origin, ethnicity, wealth, family line, state of health or age. Retirement age must be the same for both men and women, although pension funds may use separate mortality tables for men and women to calculate benefits.

**Rights for early leavers?**

Members of the supplementary scheme may terminate their participation at any time. The scheme has to state the relevant notice period for such purposes (which cannot be longer than two months). Early leavers are entitled to request either a severance payment (the sum of all contributions paid by them and a corresponding yield share) or a transfer of their contributions to another pension fund.

**Member involvement?**

Members are party to the agreements with the pension schemes and have various rights to receive information.

**Scope for cross-border activity?**

Cross-border activity is in general only possible in relation to occupational pension insurance schemes run by EU/EEA institutions with relevant licences granted in their home countries (occupational pension schemes)

**Are there restrictions on switching plans?**

Participants may easily switch from one pension fund to another. A charge (of up to CZK 800 or approximately EUR 30), for the transfer can be imposed on the member.

# France

## **Give a brief overview of the types of pension provision**

### General

France has a three pillar-system. The first pillar is a mandatory basic pension scheme administrated by the state. The second pillar is a mandatory supplementary pension scheme. The third pillar is a voluntary private pension scheme that the employer can subscribe to for its employees. In addition, anyone can subscribe to private retirement savings schemes (as a kind of fourth pillar).

## **What are the main types of pension provision?**

### Structure of private pension provision

There are both defined contribution and defined benefit schemes. Defined benefit schemes are divided into two categories: (a) additive pension schemes where the amount of the benefit does not depend on the level of benefits paid by other pension schemes; and (b) differential pension schemes where the amount of the supplementary pension tops up the benefits paid by other pension schemes to a guaranteed level. In addition, employees can voluntarily subscribe to a private retirement savings scheme.

## **Is pension provision mandatory?**

Private pension provision is not mandatory. All employees must be enrolled in the basic and supplementary pension schemes.

## **Any restrictions in relation to who can establish a plan?**

All employers must be affiliated to the first and second pillar schemes and can choose to introduce a third pillar pension scheme operated by an insurance company.

## **Are there restrictions on who can operate a plan?**

The basic pension scheme is administered by the state. Second pillar schemes are administered by bodies managed by trade unions at a national level. Third pillar schemes must be managed by an insurance company authorised to do so by the French authorities.

## **Is there a mandatory level of contributions?**

There is no minimum level of contributions for either employers or employees in private pension schemes, but there are caps which apply in the assessment of social and tax favourable regimes. There are mandatory contributions in both the basic and mandatory supplementary pension schemes (first and second pillars).

**Are there any funding requirements?**

In defined benefit schemes, the employer must deposit enough funds into an account of the pension fund company to ensure that retiring employees receive their full pension when an insurance company is involved.

An ordinance of 6 July 2015 provide that pension benefits liquidated under direct pension commitments undertaken by the employer (without an insurance company) are secured at least 50% in 2030. The secured proportion of commitments must increase according to the following schedule:

- As from the closing of the accounts immediately after January 1, 2017, at least 10% of the commitments undertaken for the closed financial year;
- From the closing of the accounts immediately after 1 January 2020, at least 20% of the commitments undertaken for the closed financial year;
- As from the closing of the accounts immediately after January 1, 2025, at least 40% of the commitments undertaken for the closed financial year;
- As from the closing of the accounts immediately after January 1, 2030, at least 50% of the commitments undertaken for the closed financial year.

**What age are benefits taken?**

Benefits from both the basic and the mandatory supplementary pension scheme can normally be taken between 60 and 62 depending on the member's year of birth. There is no minimum age for taking benefits from non-compulsory schemes. However, to retain the favourable social and tax regime for the employee: (a) in a defined contribution scheme, benefits must not be taken before the earlier of payment of benefits from the mandatory pension schemes (basic or supplementary) or between 60 and 62 depending on the birth year; and (b) in the case of defined benefit scheme, the employee must end his career with the scheme employer before taking benefits.

**Who bears the costs of private pension provision?**

Defined benefits schemes are financed exclusively by the employer. Private defined contribution schemes can be financed by the employer, or by both the employer and the employee depending on the internal documentation setting up the scheme in the firm.

## Tax Regime

### Any registration requirements for tax purposes?

Yes. Private defined benefit schemes must be registered with the Social Administration to benefit from the favourable social regime. There are no registration requirements for defined contribution schemes.

### Is tax paid on contributions?

Defined contribution schemes that satisfy certain conditions are exempt from standard income tax on both employer and employee contributions. They are also generally exempt from social contributions, but special contributions of 20% and 8% will be levied on the employer contributions. In defined benefit schemes, the employer may pay either a 24% levy on the contributions or a special levy on the benefits (32%). In addition, if the scheme does not satisfy certain conditions, employer and employee contributions will be subject to the normal standard social contributions and will not be tax deductible and employer contributions will be treated as taxable income of the employee.

### Are investment returns taxed?

No social contribution has to be paid on investment returns. For resident pension funds, corporate tax is due at 15% on dividends, and at 10% on interest. No tax is due on capital gains. For non-resident pension funds, withholding tax is due on dividends at a rate of 30%, subject to limitations in relevant tax treaties. EU pension funds can apply for a withholding tax rate of 15% on French dividends provided they can be considered as non-profit organisations under French law. No withholding tax is due on interest or capital gains (except on French real estate).

### Are benefits taxed?

Pensions are liable to two cumulative social contributions of 8.4% (this rate should increase to 10.1% as from 1 January 2018). In defined benefit schemes, if the employer chooses to pay the levy on the benefits rather than contributions, a 32% contribution is due on pensions in payment (for pensions taken after 1 January 2013). The beneficiary of a defined benefit pension has also to pay a 14% contribution on pensions of more than EUR 648 per month (subject to different minor ceilings). Pensions are liable to income tax, subject to a 10% allowance (capped at EUR 3,715).

In the case of defined contribution schemes, the pension fund company who pays the benefits has to pay social contributions on the benefits to the social administration.

### Other incentives to contribute to plans?

No.

### Limits on benefits or contributions?

There is no limit on benefits or contributions, but the availability of favourable social and tax treatment is capped.

## Regulatory Framework

### Who is the regulator and what are its powers?

Insurance companies are controlled by an administrative authority called ACPR that ensures they are able to fulfil their commitments.

### How does it receive information?

ACPR receives information from insurance companies as it authorises them to carry out their activity and controls their solvency. The social and tax administration can audit employers at any time.

### Any supervision of failed or insolvent schemes?

Defined contribution schemes and the majority of defined benefit schemes are insured by an insurance company in the event of insolvency. In addition, specific insurance exists to partially guarantee debts to employees in insolvency procedures.

## Legislative Framework

### Requirements in relation to discrimination?

French law prohibits many kinds of discrimination including discrimination on grounds of gender, age, pregnancy, political opinions, union activities, physical appearance and disability. In defined contribution schemes, employer contributions are not exempt from social contributions if the scheme excludes employees on grounds of age or seniority.

### Rights for early leavers?

Benefits from both the basic and mandatory supplementary pension scheme can be taken before the legal age of retirement in limited cases (e.g. short careers and disability). For third pillar schemes, benefits cannot be paid before the employee retires. In the case of a defined benefit scheme, an employee who leaves the company before he retires loses any entitlement to his accrued benefits (subject to exceptions). In the case of a defined contribution scheme, the employees' accrued rights are frozen until retirement.

### Member involvement?

It depends on the kind of insurance company. If an employer sets up a supplementary pension scheme with a mutual insurance company, the employees become members of that company. There is no specific employee involvement in other types of insured arrangement.

### Scope for cross-border activity?

Insurance companies operating retirement plans established in other EU member states can operate such plans in France.

**Are there restrictions on switching plans?**

If a pension scheme has been introduced unilaterally by the employer, the employer can terminate it by notice to the employees. If the pension scheme has been introduced by a referendum, the employer has to hold a new referendum to terminate the pension scheme. If the pension scheme has been introduced by a collective bargaining agreement, the employer may terminate it but has to negotiate a renewal with the union's representatives. The employer is sometimes compelled to keep a scheme or at least to warrant accrued benefits at termination date (e. g. if it is required by a national collective bargaining agreement).

# Germany

## **Give a brief overview of the types of pension provision**

### General

Germany has a three pillar system. The first pillar is a statutory old age pension financed by employer and employee social security contributions which have to be paid to the German Pension Insurance Federation. The second pillar consists of company pension schemes which are financed either by the employer or the employee through deferred compensation. An employer is not obliged to operate an employer-financed company pension scheme and may decide voluntarily whether or not to offer a company pension scheme. The third pillar is personal pension provision, usually in the form of insurance policies for old age or life assurance.

## **What are the main types of pension provision?**

### Structure of private pension provision

In Germany, company pension schemes and personal pension schemes co-exist. Personal pension schemes typically involve life assurance or insurance policies for old age which are concluded with an insurance company. There are several types of company pension schemes. Company pension schemes may be financed either by the employer or by the employee (deferred compensation) or by both. Company pension schemes are in general defined benefit schemes. Until 31 December 2017 defined contribution schemes were only possible if the employer promised to pay a minimum amount of company pension. As of 1 January 2018 it is also generally possible to structure a company pension as a defined contribution scheme if an applicable collective bargaining agreement creates this possibility. If there is no such collective bargaining agreement in place, then it remains that defined contribution schemes are only possible if the employer promises to pay a minimum amount of company pension.

## **Is pension provision mandatory?**

The employer is not required to offer employer-financed company pension schemes. However, if the employee elects, the employer must use future salary to provide an employee-financed company pension scheme (deferred compensation).

## **Any restrictions in relation to who can establish a plan?**

Generally, any employer may establish a plan for employer-financed or employee-financed company pension schemes or for company pension schemes which are financed by the employer and the employee.

**Are there restrictions on who can operate a plan?**

Yes. There are five different ways of establishing a company pension scheme: direct pension commitment, direct insurance, benevolent funds, staff pension funds and pension funds. With a direct pension commitment the employer pays no contributions, but undertakes to pay the employee the pension itself once the employee's entitlement matures. Direct insurance, benevolent funds, staff pension funds and pension funds are all indirect forms of pension where the employer pays contributions to a third party (a pension provider), which then pays the pension to the employee once the pension entitlement matures. In each case the employer is liable for the pension benefits which have been promised. As a consequence, the employer is required to pay the promised amount if the pension provider does not pay the promised pension (irrespective of the grounds).

**Is there a mandatory level of contributions?**

There are no minimum contributions for employer-financed company pension schemes. However, employees have a statutory entitlement to employee-financed pension provision by way of salary conversion and may require a percentage of their future salary entitlement to be used for this purpose (up to EUR 3,120 in 2018). For various reasons, including the availability of tax reliefs, total contributions should generally not exceed a certain limit (EUR 6,240 in 2018).

**Are there any funding requirements?**

There are no funding requirements for the system of direct pension commitments made by the employer and for pension obligations operated through a benevolent fund. However, provisions for direct pension commitments have to be shown in the balance sheet. The other forms of company pension schemes are subject to funding requirements as a result of regulatory provisions which apply to the insurance sector.

**What age are benefits taken?**

A company pension is usually paid when a person reaches the standard age for a statutory old age pension, which is gradually being increased from age 65 to age 67 (depending on an individual's date of birth). The standard age after which anyone born in or after 1964 can receive a state pension will be 67. Early retirement is possible in certain circumstances, if the individual is prepared to accept a reduction to reflect early payment. The date when a claim for an early retirement pension can be made varies from case to case. In most cases a retirement pension can be drawn once the individual reaches age 63. However, if a company pension is drawn early the employee usually has to accept a reduction.

**Who bears the costs of private pension provision?**

With employer-financed company pension schemes, the contributions are paid by the employer. With employee-financed company pension schemes, contributions are paid by the employee through deferred compensation. However, there are also hybrid forms where both employers and employees contribute.

## Tax Regime

### **Any registration requirements for tax purposes?**

There are generally no registration requirements. However, eligibility for tax relief is conditional on compliance with specific tax requirements such as a written pension commitment. This may vary according to the type of pension scheme.

### **Is tax paid on contributions?**

For employer-financed company pension schemes the income tax due on pension contributions is dependent on the specific type of pension scheme (direct commitment - no contributions and therefore no tax to be paid; benevolent fund - not taxable; direct insurance, staff pension fund and pension fund - contributions taxable in principle, however there are tax reliefs up to certain limits which are set out below). Contributions for employee-financed company pension schemes up to a certain threshold (which in 2018 is EUR 6,240 per calendar year) are not liable to income tax. Employees can claim tax relief on their contributions to personal pension plans up to a certain level.

### **Are investment returns taxed?**

Yes. Taxation depends on whether investment returns are used to reduce the contributions or increase the benefits (see tax treatment of benefits and contributions).

### **Are benefits taxed?**

This depends in principle on whether the contributions were subject to income tax. If benefits are based on tax-free employer contributions, the benefits are, in principle, fully taxable as income, however, there may be some tax privileges applicable. If the benefits are based on both taxable and tax-free contributions, the office processing the payment determines which portion is derived from tax-free contributions and is therefore taxable as income.

### **Other incentives to contribute to plans?**

As a rule contributions can be deducted by the employer for tax purposes as operational expenditure. Employees do not have to pay tax on employer contributions to direct insurance arrangements, staff pension and pension funds up to a certain threshold (which in 2018 is EUR 6,240 per calendar year).

### **Limits on benefits or contributions?**

In general there are no limits. However, there is no tax relief for income tax on contributions which exceed the limits set out above, instead the amounts which exceed the tax thresholds are taxed as additional salary.

**Who is the regulator and what are its powers?**

## Regulatory Framework

If the employer uses insurance companies, staff pension funds or pension funds to manage a company pension scheme, they are subject to the regulatory provisions which apply to the insurance sector. Compliance is monitored primarily by the Federal Financial Supervisory Authority (BaFin) which has far-reaching powers and may even withdraw operating licences. In addition, the German Pension Security Organisation (PSV) is responsible for safeguarding certain kinds of employer-financed company pension schemes in cases of insolvency.

**How does it receive information?**

Companies that are subject to the insurance sector regulatory provisions have extensive reporting duties. Conversely, the regulatory authorities also have extensive rights to information. This also applies to the German Pension Security Organisation.

**Any supervision of failed or insolvent schemes?**

In general, the German Pension Security Organisation will pay pensions from certain employer-financed company pension schemes if a company becomes insolvent. Employers are required to pay contributions to this organisation in relation to most pension scheme types.

## Legislative Framework

**Requirements in relation to discrimination?**

Yes. There is extensive case law prohibiting discrimination on grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation.

**Rights for early leavers?**

The provisions concerning early leavers were amended with effect from 1 January 2018, and the applicable thresholds have been lowered. Employees who have been promised payments from a company pension scheme will retain their entitlements if they leave service before retirement age provided the employment relationship ends after they have reached age 21 and the pension commitment has been in existence for at least three years. The thresholds which applied previously apply to pension commitments which were made prior to 1 January 2018. Therefore it is necessary to determine when the pension commitment was made in order to assess the applicable thresholds. The amount of these vested entitlements will be reduced pro rata to reflect actual service compared to potential service up to the standard pension age in the statutory old age pension system. With a few exceptions (including very minor entitlements) it is illegal to pay out vested pension entitlements when an employment relationship ends or after pension payments have begun.

**Member involvement?**

No. However, in companies with a works council, the works council must be consulted on the structure of the company pension scheme. The introduction and financing of the company pension scheme lies within the discretion of the employer and does not require the involvement of the works council.

**Scope for cross-border activity?**

If the focal point of the employment relationship is in Germany, the German Occupational Pension Act applies. As a rule periods spent working abroad are not taken into account when calculating pension entitlements. There are very few exceptions.

**Are there restrictions on switching plans?**

Switching plans may have implications under employment, social insurance and tax law. This depends on the individual case. However, if there would be disadvantages for the employee it is only permitted in certain circumstances. The general principle is that any acquired pension entitlements must be preserved unless there are certain grounds for the switch. If the company has a works council it always has to be involved in any change to a company pension scheme.



# Hungary

## **Give a brief overview of the types of pension provision**

### General

Hungary has a two pillar system. The first pillar is a pay-as-you-go, earnings-related state pension system. The second pillar consists of voluntary mutual retirement savings funds and privately managed pension funds. Prior to November 2010, privately managed pension funds represented a third pillar, where participation was mandatory but as of November 2010, their members were essentially forced to transfer their savings to the state pension system. Contributions to these funds can now only be made on a voluntary basis. Occupational pension funds were introduced in 2008 as part of the second pillar but only one fund has been formed to date.

## **What are the main types of pension provision?**

Private pension provision is made up of (the previously mandatory) privately managed pension funds, voluntary pension funds and occupational pension funds. The benefits provided in the second pillar are defined contribution.

## **Is pension provision mandatory?**

No.

## **Any restrictions in relation to who can establish a plan?**

Privately managed pension funds may be established by employers, chambers, professional associations and bodies representing employers or employees if it is likely that the number of members will reach 2,000. They must be registered by the competent county court. Voluntary pension funds may be established by at least 15 private persons, and must be registered by the competent county court. Occupational pension funds may be established by banks, insurance companies and investment companies, or by an employer individually or jointly with other employers.

## **Are there restrictions on who can operate a plan?**

All types of pension fund must apply to the National Bank of Hungary (exercising the functions of the Hungarian Financial Supervisory Authority) (the 'Regulator') for an operation licence.

## **Is there a mandatory level of contributions?**

10% of an employee's gross salary must be paid into the state pension system as the employee's contribution. There is no mandatory level of contributions to privately managed pension funds or voluntary pension funds, however funds can set out a minimum payment in their articles of association. There are no mandatory contributions in occupational pension funds.

## **Are there any funding requirements?**

There is no minimum capital requirement in relation to the foundation of privately managed pension funds and voluntary pension funds. However, they have to submit a business plan in their application for an operation licence.

<b>What age are benefits taken?</b>	Benefits may be taken from the pension funds on reaching the official retirement age, or from the time when the fund member receives early retirement benefits or some other special benefits. The official retirement age is being increased from 62 to 65 years.
<b>Who bears the costs of private pension provision?</b>	In the case of privately managed pension funds, members' contributions cover the funds' services, as well as the funds' operating expenses. Membership payments must be made by all members, the minimum amount of which is determined by the fund bylaws.
<b>Tax Regime</b>	
<b>Any registration requirements for tax purposes?</b>	Voluntary and occupational pension funds are subject to corporate income tax, and must therefore request a tax number. Privately managed funds are not subject to corporate income tax, but also need a tax number to satisfy their tax obligations eg. in relation to their employees.
<b>Is tax paid on contributions?</b>	The compulsory contribution paid by employees to the state pension system as well as the contributions now voluntarily paid to the privately managed pension funds by their members are paid from post tax income. Any contributions paid by the employer to the privately managed fund are taxed as employment income. Contributions paid by the employer to a voluntary pension fund or occupational pension fund are taxed on the employer at 17.7% and a 25.96% health care tax is also payable (the health care tax will fall to 23.01% from 2018).
<b>Are investment returns taxed?</b>	No.
<b>Are benefits taxed?</b>	Benefits received from privately managed pension funds are tax exempt. Benefits received from a voluntary fund or occupational pension fund are tax exempt provided that membership was maintained for at least ten years prior to receiving the payment.
<b>Other incentives to contribute to plans?</b>	Members of voluntary pension funds are entitled to a tax credit equal to 20% of employee contributions in the relevant tax year up to a maximum of approximately EUR 480. The tax credit is not reimbursed to the member, instead the relevant amount is credited to the member's pension fund account.
<b>Limits on benefits or contributions?</b>	There are no limits in relation to benefits or contributions made by employees. Employer contributions into a voluntary pension fund have to follow uniform principles (same amount or same per cent of salary for every employee).

## Regulatory Framework

### **Who is the regulator and what are its powers?**

The Regulator is in charge of the supervision of all pension funds. The powers of the Regulator include granting and revoking licences, financial penalties, suspending benefit payments, the admission of new members and requiring the fund to be liquidated.

### **How does it receive information?**

Each fund must provide various documents (such as minutes of general meetings, agreements, reports etc.) to the Regulator both on a regular basis and when requested by the Regulator.

### **Any supervision of failed or insolvent schemes?**

Privately managed pension funds must belong to a guarantee fund (which is not guaranteed by the state) and has reserves to cover losses ('Péztárak Garancia Alapja'). The relevant law offers the possibility for voluntary pension funds to establish a guarantee or a general fund. Neither of these funds is guaranteed by the state. When there is a threat of insolvency of any type of pension fund, the Regulator will conduct a review of the fund's business plan and rules and require an action plan to be prepared. In case of serious or repeated breach of law or non-compliance with the instruction of the Regulator, the Regulator may suspend the admission of new members, impose a ban on benefit payments and suspend the operation of funds for up to 180 days. During such period, payments may only be made and investment activity carried out with the Regulator's consent provided that the investment would be (a) state securities issued by any EEA member states or (b) securities secured with the surety of the Hungarian State. Eventually, the Regulator may initiate the liquidation of the fund.

<b>Legislative Framework</b>	
<b>Requirements in relation to discrimination?</b>	Anti-discrimination legislation is extensive in Hungary, and any discrimination by pension funds, such as discrimination between genders, is subject to the relevant anti-discrimination laws.
<b>Rights for early leavers?</b>	In a voluntary pension fund, a member may withdraw their funds after ten years (irrespective of whether membership is continued or terminated) even before reaching the retirement age. In occupational pension funds, a minimum period may apply and if employment is terminated within this period, the member will receive no benefits unless otherwise provided in his contract.
<b>Member involvement?</b>	Generally members are entitled to participate in the decision making process. In the case of voluntary pension funds only a fund member may be nominated as a member of the board of directors.
<b>Scope for cross-border activity?</b>	Cross-border activity is only possible in the case of occupational pension funds. Such activity must be reported to the Regulator and also be in compliance with the legal requirements of the target country.
<b>Are there restrictions on switching plans?</b>	Switching between privately managed pension funds is allowed after six months membership. The member has to bear the cost of switching and notify the pension fund in advance. The yield guarantee on the fund may be lost. For members of voluntary pension funds, there are no restrictions on switching but the cost is borne by the member. As the membership of an occupational pension fund is related to the employment relationship, the member can only switch to another occupational pension fund if their employment is terminated. Further restrictions and conditions may be stipulated in the articles of association of both voluntary and the occupational pension funds.

# Italy

## **Give a brief overview of the types of pension provision**

### General

Italy has a two pillar system. The first pillar is a national insurance arrangement which is based on social contributions paid by employers and employees. The second pillar is private voluntary supplementary pensions.

## **What are the main types of pension provision?**

### Structure of private pension provision

There are three main types of private pension provision: (a) contractual pension provision or 'closed pension funds', set up by the employers and trade unions from specific sectors; (b) open pension funds, set up and managed by banks, insurance companies and brokerage companies and into which all employees can be admitted; and (c) individual pension schemes based on insurance contracts.

## **Is pension provision mandatory?**

Private pension provision is not mandatory but participation in the national insurance system is.

## **Any restrictions in relation to who can establish a plan?**

Closed pension funds are derived from National Collective Contracts and Company Collective Contracts and are established by employers. Open pension funds can be established by stockbrokers, banks or insurance companies.

## **Are there restrictions on who can operate a plan?**

Closed pension funds are self-governing legal entities. Open pension funds belong to whoever created them, but they have different and separate organs which control and operate them and which are established by their creators.

## **Is there a mandatory level of contributions?**

Employees pay around 33% of their taxable income to the national insurance system, while the self-employed pay around 20% to 25.72%. There are no mandatory contributions to private pension arrangements.

## **Are there any funding requirements?**

There are no funding requirements.

## **What age are benefits taken?**

Starting from 1 January 2018, as a general rule it is possible to retire:

- a) in the case of 'old age pension' whenever an employee is at least 66 years and seven months' old,;
- b) in the case of 'early retirement', whenever a male has 42 years and ten months of social contribution paid, and a female 41 years and ten months of social contribution paid; and
- c) from 2019 the age will be increased for all employees at 67 years old except for: a) employees that started their work activity before they are 18 years old, b) workers carrying out heavy work (permanent night work etc.), c) female employees where they had children.

**Who bears the costs of private pension provision?**

Where participants are employees, the amount of any contributions is determined by collective bargaining and can be paid by both employers and employees. In arrangements for the self-employed, the only source of funding is voluntary contributions from the employees.

**Any registration requirements for tax purposes?**

There are no specific registration requirements for tax purposes (other than generally applicable requirements).

**Is tax paid on contributions?**

Employees' contributions to private pension schemes can benefit from personal tax relief up to EUR 5,164.57 per year. Contributions paid by the employer on behalf of the employee are fully deductible from its business income for corporation tax purposes, as they are treated as an employment cost.

**Are investment returns taxed?**

Investment returns in private pension schemes are generally subject to taxation at a flat rate of 20%.

**Are benefits taxed?**

From 1 January 2007, benefits have been taxed at a flat rate of 15%. This rate can be further reduced by 0.30% for each year of participation in the scheme in excess of 15 (with a maximum reduction of 6%). Transitional provisions regulate the taxation of benefits accrued up to 31 December 2006. The underlying principle for taxation of pensions is that benefits should be taxed only so far as they relate to contributions which enjoyed tax relief when they were paid in, thus avoiding any double taxation of income. According to this principle, benefits are subject to tax in the hands of the recipient but the component of the benefit corresponding to the investment returns or to the contributions that exceeded the tax relief threshold are excluded from taxable income.

**Other incentives to contribute to plans?**

No.

**Limits on benefits or contributions?**

No, except in relation to the tax reliefs referred to above.

**Who is the regulator and what are its powers?**

## Regulatory Framework

Pension funds are regulated by a pensions regulator (COVIP). It has the power to guarantee and ensure the transparency and proper management and administration of the pension funds. To this end, it authorises the pension funds to carry out their activities and it approves their by-laws and regulations and guarantees the observance of transparency principles in the relations between the pension funds and their participants.

**How does it receive information?**

COVIP cooperates and collaborates with public authorities, and receives information from them within the limits permitted by confidentiality requirements.

**Any supervision of failed or insolvent schemes?**

There is no requirement for supplementary pension funds to guarantee either their capital or the interests of members, and the risk of failure or insolvency cannot be insured.

**Requirements in relation to discrimination?**

## Legislative Framework

There are no specific requirements in relation to pension funds, but there are general labour law requirements which prohibit discrimination on a wide variety of grounds including age, sex, race and disability.

**Rights for early leavers?**

The specific rights for early leavers depend on the provisions of each fund. An employee always has the right to request up to 75% of their accrued rights if such sum is necessary for medical expenses. In addition, after eight years an employee can request a sum up to 75% of their accrued rights if such sum is necessary for purchasing or restructuring their first house or that of their children and a sum up to 30% of their accrued rights in the case of further needs.

**Member involvement?**

There are no specific requirements.

**Scope for cross-border activity?**

Where an employee carries out his duties abroad, he is able to make contributions in respect of such overseas service to an Italian pension arrangement.

**Are there restrictions on switching plans?**

Switching is permitted in specific circumstances and the procedure depends on the provisions of each plan. An employee who has been a member of a particular pension fund can voluntarily transfer his accrued funds to another pension fund, provided that at least two years have elapsed from joining the original pension fund.

# Luxembourg

## **Give a brief overview of the types of pension provision**

### General

Luxembourg has a three pillar system. The first is a mandatory basic pension paid by the State and financed by the employer and employee through social security contributions paid by the employer to the Centre Commun de la Sécurité Sociale. The second pillar is a supplementary pension scheme and consists of company pension schemes which are financed either by the employer or the employee. An employer is not obliged to operate an employer-financed company pension scheme and may decide voluntarily whether or not to offer a company pension scheme. The third pillar is made up of occupational pension plans and consists of a personal pension provision, usually in the form of insurance policies for old age or life assurance.

## **What are the main types of pension provision?**

### Structure of private pension provision

Company and personal pension schemes co-exist. Personal pension schemes typically involve life assurance or insurance policies for old age which are concluded with an insurance company.

There are several types of company pension schemes. Supplementary pension schemes can be established at either company or group level. These plans can provide benefits on a collective basis (for all workers) or for specific categories of workers (as long as the selection is based on objective criteria). The scheme is only open to employees with an employment agreement with the company. Company pension schemes may be financed either by the employer or by the employee (deferred compensation). The plans can be either a pension promise guaranteed by a provision in the balance sheet (an internal scheme) or a pension fund or an insurance group (an external scheme). If the employer chooses an internal scheme, it has to be affiliated to a company approved by the State which insures against the risk of insolvency. The benefits provided may be in a variety of forms, including defined benefit or defined contribution.

## **Is pension provision mandatory?**

There is no general requirement to provide supplementary pension benefits. However, if a pension plan is introduced at the company level, employers in that company must contribute to it. The company can decide unilaterally to introduce a pension scheme for its employees. In that case, it will have to draft an internal document setting up the organisation of the pension, who is entitled to a pension, how it will be financed, etc.

**Any restrictions in relation to who can establish a plan?**

Generally any employer may establish a plan for employer-financed or employee-financed company pension schemes.

**Are there restrictions on who can operate a plan?**

An internal scheme is operated by the employer company and an external scheme is operated either by the insurance company or pension fund.

**Is there a mandatory level of contributions?**

No, each employer can decide on the level of contributions. Defined contribution plans typically require employer contribution rates between 3% and 7% of annual earnings.

**Are there any funding requirements?**

Yes, provisions in an internal scheme have to be shown in the balance sheet. In external schemes, the funding requirements have to comply with the regulatory provisions applying to the financial and insurance sector.

**What age are benefits taken?**

Usually benefits are taken at statutory retirement pension age, which is currently age 65, provided that the employee has participated in the fund for a specified number of years (provided for in the internal documentation drafted by the employer which could not exceed ten years). Early retirement is possible in certain circumstances.

**Who bears the costs of private pension provision?**

The employer, the employee or a combination of both, depending on the conditions of the plan.

## Tax Regime

**Any registration requirements for tax purposes?**

Employer contributions are deductible only if the General Inspector of Social Security (Inspection Générale de la Sécurité Sociale) delivers to the tax authorities (Administration des Contributions) a statement confirming that the scheme fully complies with the regulations.

**Is tax paid on contributions?**

Employer contributions are subject to a 20% tax charge payable and borne by the employer.

**Are investment returns taxed?**

No.

**Are benefits taxed?**

Benefits paid out, transferred or paid back to the employee are tax exempt in the hands of resident tax payers (benefits deriving from an internal scheme may remain taxable in the hands of the employee). Non-resident tax payers must refer to statutory provisions of their country of residence.

**Other incentives to contribute to plans?**

No.

**Limits on benefits or contributions?**

Employer contributions are deductible for corporate income tax purposes as operating expenses to the extent that they do not exceed 20% of the normal annual remuneration of the scheme member. Specific rules apply for schemes built up before 1 January 2000.

Employee contributions are deductible for personal income tax purposes up to a maximum annual amount of EUR 1,200.

## Regulatory Framework

**Who is the regulator and what are its powers?**

The regulatory body that oversees the operation of supplementary pension schemes is the General Inspector of Social Security (Inspection Générale de la Sécurité Sociale). In addition, if the employer uses insurance companies or pension funds to manage a company pension scheme, they are subject to the regulatory provisions which apply to the insurance sector. Compliance is monitored by the Commissariat aux assurances. If the employer uses a "Sepcav" or an "Assep", they will be subject to the regulatory provisions which apply to the financial sector where compliance is monitored by the Commission de surveillance du secteur financier. Both entities have extensive power and may even withdraw operating licenses. In addition, the German Pension Security Organization is responsible for safeguarding certain kinds of employer-financed company pension schemes in case of insolvency.

**How does it receive information?**

The employer must deposit and register a supplementary pension scheme regulation and financing plan with the General Inspector of Social Security within three months after first implementing the supplementary pension scheme and each modification of that scheme.

In addition, pension funds and insurance companies must inform the relevant regulatory entities of any event that could substantially affect the financial position of the insurance company or pension fund as well as any violation of any legislation that they are aware of.

**Any supervision of failed or insolvent schemes?**

An inspection must regularly check whether a supplementary pension scheme, its regulation and its financing plan complies with the law. The inspection can require the employers to provide information. In addition, in a case of insolvency, where the pension scheme is an internal scheme, the German Pension Security Organisation will pay pensions from certain employer-financed company pension schemes. Employers are required to pay contributions to this organisation. In case of an external scheme, no contribution is mandatory since the amount is guaranteed outside the estate of the bankrupt.

## Legislative Framework

### Requirements in relation to discrimination?

Yes. Laws prohibit any kind of discrimination including discrimination on grounds of gender, age, race, civil partnership, sexual preference, pregnancy, political or religious opinions, union activities, physical appearance and disability.

It is also unlawful to: (a) make participation in a plan subject to age conditions; (b) treat male and female beneficiaries differently; (c) treat fulltime and part-time workers differently; and (d) treat permanent and fixed-term employees differently.

### Rights for early leavers?

The employee is not entitled to pension rights or transfer of such rights during the period fixed in the internal document (this period cannot exceed ten years). After the vesting period, the employee who leaves his employer is entitled to his rights, even in case of dismissal for professional misconduct. The computation of the entitlement depends on the type of scheme, i. e. defined contribution plan or defined benefit plan.

Vested rights must be guaranteed up to retirement. In some cases where the employee leaves the employer before retirement age, the entitlement may be transferred to another employer or bought back by the employee.

### Member involvement?

Yes. Staff delegates are involved in the adoption, amendment and abrogation of the internal document drafted by the employer and establishing the pension scheme.

Membership of the schemes is mandatory for all new qualifying personnel in a category of employment covered by the scheme. Employee contributions may be made mandatory for new personnel, but must remain optional for existing staff at the time the scheme is established. Any employee may refuse to agree to an increase in personal contributions.

### Scope for cross-border activity?

In principle the contributions to and benefits paid by Luxembourg pension funds operating in another EU country should be treated in the same way as contributions and benefits of domestic pension funds. The treatment of contributions and benefits in other countries depends on local legislation and needs to be investigated on a case-by-case basis.

**Are there restrictions on switching plans?**

As a general principle, the employer can amend or terminate the internal documentation setting up the pension plan without the consent of the employee by giving notice of termination. However, the employer can only amend the documentation in a less favourable way for the employee if the law imposes a duty to comply with new provisions or if the company is facing real economic difficulties and cannot pay the pension anymore. Finally the change only has effect for the future. As a consequence, any acquired pension entitlements are preserved.

# Macedonia

## Give a brief overview of the types of pension provision

### General

Macedonia has a three-pillar pension system. The first pillar is the mandatory pension and disability provision based on an intergenerational solidarity arrangement (pay-as-you-go). The second pillar is the mandatory fully funded pension provision. The third pillar is the voluntary fully funded pension provision.

## What are the main types of pension provision?

### Structure of private pension provision

The mandatory fully funded pension provision (the second pillar) and the voluntary fully funded pension provision (the third pillar) represent the private pension system in Macedonia. As the second pillar is mandatory, there is only one type of it (the mandatory payment of 6% of the contributor's gross salary by the employer). The third pillar is voluntary and a person may become a member of this type of private fund by opening: (i) an individual account; and (ii) a professional account (the member becomes part of an occupational pension scheme).

## Is pension provision mandatory?

Participation in the second pillar scheme is mandatory for all individuals that entered the first pillar scheme on or later than 1 January 2003. All other insured persons that applied for obligatory participation in the second pillar prior to 30 June 2006 will be entitled to the right to a combined pension from both the first and the second pillar. Third pillar schemes are voluntary.

## Any restrictions in relation to who can establish a plan?

Only licensed pension-provision companies established in the form of joint stock companies may operate private fully funded pension funds. The Macedonian law differentiates three forms of such companies:

- Company for management with mandatory pension funds;
- Company for management with voluntary pension funds; and
- Company for management with mandatory and voluntary pension funds.

A company may incorporate and manage both second and third pillar funds at the same time, but only one of each.

As an exception, a Company managing a mandatory pension fund and a Company managing both the mandatory pension fund and a voluntary fund may also manage more than one mandatory fund, ten years after the initial fund has been set up, providing they complete a procedure stipulated by law. All companies that can establish a plan must have the necessary license as set out in the following answers.

**Are there restrictions on who can operate a plan?**

Any company that has obtained a license for establishment of a mandatory or voluntary pension fund from the regulatory authority can operate such fund. The company also needs to obtain approval to manage the pension fund and the approval is given separately for each fund. These companies may not carry out other activities.

**Is there a mandatory level of contributions?**

The mandatory level of contributions to the second pillar scheme is 6% of the gross salary of the employee, out of 18% determined for pension and disability insurance (the remaining 12% of contributions are paid into the first pillar scheme).

There is no mandatory level of contributions for the third pillar scheme.

**Are there any funding requirements?**

The funding requirements for the stated companies are as follows:

- a) Company managing mandatory pension funds – minimum share capital in the amount of EUR 1.5m;
- b) Company managing voluntary pension funds – minimum share capital in the amount of EUR 5m; and
- c) Companies managing both mandatory and voluntary pension funds – minimum share capital in the amount of EUR 1.8m.

The minimum share capital may be increased under certain situations as stipulated in the law.

**What age are benefits taken?**

The insured person may take the benefits from the second pillar at the age of 64 for men and 62 for women (plus the condition of 15 years service), whereas for the benefits from the third pillar, the insured person has the right to take his/her benefits ten years prior to the stated age for the second pillar.

**Who bears the costs of private pension provision?**

Members.

**Any registration requirements for tax purposes?**

As a rule, pension provision companies must comply with general tax requirements.

**Is tax paid on contributions?**

The voluntary contributions paid by a member for their employees and members are free from personal income tax. The amount that is tax free in one calendar year cannot be higher than four average monthly salaries in the Republic of Macedonia published for the previous year, per member of per employee.

**Are investment returns taxed?**

N/A

**Are benefits taxed?**

The income that comes out from investment of the assets of the voluntary pension funds as well as the income that comes out from investment of the assets of the voluntary pension funds which are distributed in voluntary or professional accounts of the members are not subject to taxation.

**Other incentives to contribute to plans?**

Yes, the law does provide certain tax incentives for the members of the voluntary pension fund who pay their own contributions in the pension funds that were previously subject to taxation. The law also provides tax incentives in cases when the members are making contributions to their individual account, and which were previously subject to taxation. However, there are limitations with regard to the amount on which the incentive is approved.

**Limits on benefits or contributions?**

N/A

## Regulatory Framework

**Who is the regulator and what are its powers?**

All forms of private pension provisions are supervised by the Agency for supervision of fully funded pension insurance (MAPAS). MAPAS is a fully autonomous and independent public entity and it is held liable for its operation before the Assembly of the Republic of Macedonia. MAPAS exercises effective regulation and control over the activity of fully funded pension-provision companies and funds for the purposes of protecting the interests of the members.

**How does it receive information?**

The pension providers, as defined above, have statutory reporting obligations. In addition, the MAPAS may require them to provide specific information and documents, and to require insight in documentation and to inspect the operation of the funds via formal supervision.

**Any supervision of failed or insolvent schemes?**

So far, there is no available information with respect to supervision of failed or insolvent schemes.

In the event that the MAPAS determines that the fund's minimum share capital or the fund's liquid assets are decreased and the company did not increase the share capital or the liquid assets within the legally prescribed deadline provided by MAPAS (no longer than 12 months), it will revoke the approval for management with mandatory and voluntary pension funds.

## Legislative Framework

**Requirements in relation to discrimination?**

Discrimination on grounds of nationality, origin, sex, sexual orientation, race, skin colour, age, political or other persuasions, religion or belief, marital, social and property status, etc. is prohibited.

**Rights for early leavers?**

It is not possible to withdraw early from a second pillar arrangement. If an individual ceases to be employed, they will remain entitled to their accrued rights under the second pillar, at the age of 64 for men and 62 for women. In third pillar schemes, an individual has the right to withdraw funds from their account ten years prior to the stated age for the second pillar.

**Member involvement?**

No.

**Scope for cross-border activity?**

Cross-border activities with respect to establishing occupational pension schemes in voluntary pension funds will be possible once the Republic of Macedonia becomes a member of the European Union.

This matter is not regulated regarding the mandatory pension funds. Members of pension funds can be foreign nationals. A management company cannot be a foreign legal entity.

**Are there restrictions on switching plans?**

With respect to the second pillar scheme, a member cannot switch from one mandatory pension fund to another within the first two years as of the initial payment of contributions for mandatory fully funded pension insurance.

As for the third pillar scheme, a member cannot switch from one voluntary pension fund to another when the contributions for voluntary fully funded pension insurance are paid by the employer (occupational pension scheme), as long as the member is employed by the employer or is part of an insurer.

# Monaco

## **Give a brief overview of the types of pension provision**

### General

Monaco has a three pillar-system. The first pillar is a mandatory basic pension scheme administrated by the Principality. The second pillar is the French mandatory supplementary pension scheme which is administrated locally by a Monegasque Association. The third pillar is a voluntary private pension scheme that the employer can subscribe to for its employees.

## **What are the main types of pension provision?**

Voluntary private pension scheme can be established at company level. This type of pension can provide benefits on a collective basis (for all workers) or for specific categories of worker.

## **Is pension provision mandatory?**

Private pension provision is not mandatory. All employees must be enrolled in the basic and supplementary pension schemes.

## **Any restrictions in relation to who can establish a plan?**

There is no general requirement to provide a private pension scheme, as per applicable insurance regulation.

## **Are there restrictions on who can operate a plan?**

The basic pension scheme is administered by the Principality. Second pillar scheme is administrated by a Monegasque Association on behalf of the mandatory supplementary pension scheme (French Institution). Third pillar schemes must be managed by an insurance company authorised to do so by the French and Monegasque authorities.

## **Is there a mandatory level of contributions?**

No. The level of contributions required is determined by each private pension plan.

## **Are there any funding requirements?**

Yes. Insurance companies must always dispose of sufficient assets in order to meet their obligations.

## **What age are benefits taken?**

Benefits from both the basic and the mandatory supplementary pension scheme can normally be taken at 65 years old.

A pension is only payable if the employee has worked in Monaco for a minimum of ten years. However, an employee who has not accumulated ten years of employment in the Principality may request reimbursement of his contributions on reaching retirement age.

Early pension: Age 60 and retired from all active work or employment; Age 55 for a woman who has raised three children for at least eight years before the children reach age 16.

**Who bears the costs of private pension provision?**

Private defined contribution schemes can be financed by the employer, or by both the employer and the employee depending on the internal documentation setting up the scheme in the company.

**Any registration requirements for tax purposes?**

There are generally no registration requirements.

**Is tax paid on contributions?**

Only contributions paid by the employer in a private pension plan are submitted to social contributions.

**Are investment returns taxed?**

Not under Monaco law.

**Are benefits taxed?**

It will depend on the nationality of the employee. Benefits received from voluntary private pension scheme by a Monegasque national are tax exempt.

**Other incentives to contribute to plans?**

No.

**Limits on benefits or contributions?**

No, not in relation to a voluntary private pension scheme.

## Regulatory Framework

**Who is the regulator and what are its powers?**

Insurance companies wishing to perform operations in Monaco must obtain an agreement from the French administrative authority called "ACP" (Autorité de Contrôle Française) that ensures they are able to fulfil their commitments.

Insurance Companies must obtain subsequently an agreement of Monaco authorities and must be registered with the registry of business entities.

**How does it receive information?**

ACP receives information from insurance companies as it authorises insurance companies to carry out their activity and controls their solvency.

**Any supervision of failed or insolvent schemes?**

There is no requirement for voluntary private pension scheme to guarantee either their capital or the interests of members, but the risk of failure or insolvency could be insured by specific insurance.

## Legislative Framework

### **Requirements in relation to discrimination?**

Yes. Monegasque Constitution and extensive case law prohibit discrimination on grounds of race or ethnic origin, gender, religion or belief, disability, age or sexual orientation etc., for the purpose of granting any benefits, including pensions.

### **Rights for early leavers?**

Benefits from both the basic and mandatory supplementary pension scheme can be taken before the legal age of retirement (see above what age are benefits taken) in limited cases (e. g. short careers and disability). For third pillar schemes, benefits cannot be paid before the employee retires, unless otherwise agreed.

### **Member involvement?**

No.

### **Scope for cross-border activity?**

Insurance companies operating retirement plans established in France or other European Economic Area (EEA) states can operate such plans in Monaco, subject to proper authorizations.

### **Are there restrictions on switching plans?**

If a pension scheme has been introduced unilaterally by the employer, it can terminate it by notice to the employees.

# Montenegro

## **Give a brief overview of the types of pension provision**

### General

Montenegro has a two pillar system. The first pillar is mandatory pension (and disability) insurance which is provided by the Pension and Disability Insurance Fund of Montenegro. The second pillar is voluntary pension insurance.

## **What are the main types of pension provision?**

### Structure of private pension provision

Private pensions are provided by private pension funds managed by companies set up for the management of voluntary pension funds ('management companies'). Benefits are provided on a defined contribution basis.

## **Is pension provision mandatory?**

Private pension provision is not mandatory.

## **Any restrictions in relation to who can establish a plan?**

N/A

## **Are there restrictions on who can operate a plan?**

A pension plan can only be operated by a management company which holds a licence from the Securities Commission (the 'SC') for performing this type of activity.

## **Is there a mandatory level of contributions?**

No, the amount of contributions are specified in the membership agreements.

## **Are there any funding requirements?**

The management company has to be established as a joint stock company which cannot issue preferred shares with a minimum stock capital of EUR 250,000.

## **What age are benefits taken?**

The minimum age at which benefits can be taken is 50.

## **Who bears the costs of private pension provision?**

The costs of private pension provision are generally borne by the members. However, the employer can also meet the costs of a voluntary pension fund it has organised for its employees.

## Tax Regime

<b>Any registration requirements for tax purposes?</b>	No special registration is required for the members of a pension fund. Management companies must register with the tax authority and obtain a tax identification number (like any other company).
<b>Is tax paid on contributions?</b>	N/A
<b>Are investment returns taxed?</b>	N/A
<b>Are benefits taxed?</b>	N/A
<b>Other incentives to contribute to plans?</b>	N/A
<b>Limits on benefits or contributions?</b>	N/A

**Who is the regulator and what are its powers?**

SC supervises the establishment and work of management companies.

The SC may, with no limitations, to review regulations, business books, documents and other materials of the management companies, pension funds and custody. In addition, SC can: issue a warning; require the remedy of specified irregularities within a set period; withdraw consent regarding the appointment of a manager of the management company; revoke the licence of the management company etc.

**How does it receive information?**

There is an obligation on the management companies to provide SC with such reports and information as are required by law. SC can also directly collect any required information by accessing the relevant documents at the premises of the management companies.

**Any supervision of failed or insolvent schemes?**

SC supervises the investment of pension funds. The members of the pension fund bear the investment risk.

## Legislative Framework

**Requirements in relation to discrimination?**

Managing companies managing open pension funds may not withdraw an application for membership from any person, however, managing companies managing closed pension funds may accept application for membership only from the persons who are employed at employers, the members of trade unions or any other organisation for whose needs the pension fund has been organised.

**Rights for early leavers?**

A member of the voluntary pension fund may withdraw from it by withdrawing funds from his/her account minus the amount of fees that the management company charges for after reaching 50 years of age.

**Member involvement?**

No.

**Scope for cross-border activity?**

Members of pension funds can be foreign nationals. A management company cannot be a foreign legal entity.

**Are there restrictions on switching plans?**

No.

The costs of private pension provision are generally borne by the members. However, the employer can also meet the costs of a voluntary pension fund it has organised for its employees.

# The Netherlands

## **Give a brief overview of the types of pension provision**

### General

The Netherlands has a three pillar system for old age pensions. There is a basic state old age pension ('AOW') which is for the most part funded by contributions from taxpayers under the pensionable age. For the AOW the pensionable age has become 66 in 2018, but will further increase gradually thereafter to 67 and three months by 2022, with further increases depending on future increases of life expectancy. The gross annual pension payment for this state pension varies between approx. EUR 8,000 each for married couples and EUR 14,000 for single households. The second pillar consists of private occupational pension plans and the third pillar consists of personal pension arrangements. Various important legislative amendments have recently been implemented, but still further such proposals are either pending or announced.

## **What are the main types of pension provision?**

### Structure of private pension provision

Occupational pension plans, which are established by third party pension providers. With a few exceptions, these are either pension funds (in the vast majority of cases) or insurance companies. Pension providers receive contributions from the sponsoring employers, invest these and arrange for the payment of benefits. They have traditionally provided defined benefit plans, but defined contribution plans are gaining popularity.

## **Is pension provision mandatory?**

There is no general legal requirement to provide pension plans for employees. However, in practice, about 90% of the workforce is a member of a pension scheme. This is mostly due to the fact that the majority of employers are either (a) required by law to participate in a mandatory plan for their particular industry, or (b) required to have their employees participate in such schemes on the basis of collective labour agreements.

## **Any restrictions in relation to who can establish a plan?**

Yes. An occupational pension scheme is either provided for (a) by law, requiring participation in a mandatory pension fund for an industry, or (b) based on an individual or collective agreement between employers and (representatives of) employees. Personal pension plans are established and offered by insurance companies and banks.

**Are there restrictions on who can operate a plan?**

Yes. Pension funds, insurance companies and certain foreign institutions may act as a pension provider. In addition it is possible to make use of a flexible special purpose pension provider, called 'Premiepensioeninstelling', or 'PPI'. A PPI may, however, not insure any of the relevant risks. As of 2016 the general pension fund, the 'APF' has been introduced. This type of pension provider is subject to fewer constraints than the traditional pension funds and may, for instance, also be applied in respect of a number of different pension schemes and also service foreign pension schemes.

**Is there a mandatory level of contributions?**

Yes, but only in a very general sense for pension funds. There is a general legal requirement that adequate funding must be provided. The level of contributions actually required depends on the specifics of the funds and their schemes, or the contractual arrangements made with the insurance companies.

**Are there any funding requirements?**

Yes. In respect of pension funds, the combined contributions paid should at least cover all the costs and obligations of the fund. If the average value (on a 12-month basis) of the assets is less than 105% of the value of pension obligations, the fund is obliged to formulate a plan to reach an adequate funding level and lodge it with De Nederlandsche Bank ('DNB'). However, due to extremely low market interest rates, not all pension funds have yet been able to restore a proper funding level. For insurance companies, no requirements exist regarding the level of assets, but they are also subject to supervision in relation to their financial position.

**What age are benefits taken?**

Occupational pension plans used to be based on a general target pensionable age of 65, but in 2014 the target pensionable age became 67 and has become 68 as of 1 January 2018. Unless agreed otherwise (in which case some further conditions also have to be met), this new pensionable age only applies to new pension benefits. Pension benefits accrued before 2014 may still be taken at 65 and accrued before 2018 at 67 respectively, unless agreed otherwise. Individual alternative pensionable ages are usually also an option. Just as for the AOW, further increases of life expectancy may cause the target pensionable age for occupational pensions to be raised further in future. Early retirement is possible, but this option is as a result of the applicable tax regime severely restricted. Benefits may also be postponed, but should for tax reasons ultimately be taken for the first time no later than five years after the applicable pensionable age for the AOW. For defined contributed plans it is no longer required that the entire pension capital will at the pensionable age be used for the acquisition of pension distributions. Instead it may continue to be invested for a longer period of time, which is aimed at increasing the return on investments and reducing the connection between the amount of the distribution and (solely) the market interest at the date of retirement.

**Who bears the costs of private pension provision?**

Employers, employees, or both, depending on the terms of the plan. Reimbursement of contributions may – in theory, that is – be possible in the case of excess funds, but additional contributions may also be required, if this was agreed beforehand with the applicable pension provider, in case the assets of defined benefit schemes have become inadequate to fund their obligations.

**Any registration requirements for tax purposes?**

No. There are no specific registration requirements. However, for employees to benefit from tax-exempt contributions, the pension plan must be arranged for by a qualified pension provider.

**Is tax paid on contributions?**

No. Pension contributions by employers are tax-exempt (reversal rule), but this exemption is limited to a pensionable salary of EUR 105,075 gross (amount for 2018, subject to small annual increases thereafter). Pension savings for additional salaries above this threshold amount are to be paid for by contributions from net salaries. Personal pension contributions are not tax-exempt but are up to a certain extent deductible from taxable income.

**Are investment returns taxed?**

No.

**Are benefits taxed?**

Yes. Pension benefits, not when accrued but when paid, are subject to personal income tax of up to 51.95% (reversal rule), unless the reversal rule was not applied to the related, initial contributions.

**Other incentives to contribute to plans?**

Pension contributions may be deductible for corporate tax purposes for employers.

**Limits on benefits or contributions?**

As regards contributions, direct limits apply for defined contribution plans and indirect limits for defined benefit plans. In a defined benefit plan annual accrual of benefits is subject a maximum (1.875% for average wage and 1.657% for final salary plans, provided the target pensionable age is 68). Benefits are also subject to additional limitations and conditions.

## Regulatory Framework

**Who is the regulator and what are its powers?**

There are two regulators with extensive powers: DNB and the authority for the financial markets ('AFM'). AFM reviews how pension providers behave in the financial markets. DNB is the most important regulator and reviews the policies and solvency of pension providers.

**How does it receive information?**

Extensive obligations exist for pension providers to provide information. Furthermore, all relevant parties are required to report irregularities.

**Any supervision of failed or insolvent schemes?**

DNB and AFM may appoint a curator (who needs to be consulted by the board) at a pension provider and DNB may also request the appointment of a "bewindvoerder" at a pension fund, who assumes the authority of either the full board or some of its members.

## Legislative Framework

**Requirements in relation to discrimination?**

Yes. There is extensive legislation reflecting EU Directives preventing discrimination on a significant number of general grounds, as well as specific pension legislation preventing discrimination of unofficial spouses, employees with part-time or fixed term contracts and of members who left before the pensionable age.

**Rights for early leavers?**

Except for certain conditional entitlements, all scheme members have vested entitlements, including early leavers. Only very small pensions (in 2018, an annual pension of approx. EUR 475) may in some cases be refunded, but this option will be severely restricted as a result of legislation that is presumably to be introduced at the start of the second quarter of 2018. Also a number of other, mostly technical amendments of the relevant legislative framework will be introduced shortly, but much more fundamental changes thereof are currently also being considered.

**Member involvement?**

Representatives of employers, employees and pensioners must either be included in the management or supervisory boards of pension funds, or, if these consist exclusively of professional managers, in the co-determination bodies of such pension funds.

**Scope for cross-border activity?**

Yes. Both foreign insurance companies and foreign pension institutions may have members in the Netherlands, if they meet certain requirements. Dutch pension providers may also service foreign plans, as well as employees who are temporarily on secondment abroad. Cross-border transfers of entitlements are also permitted.

**Are there restrictions on switching plans?**

Yes. A switch is not possible without the consent of the members, but various options might possibly be available to avoid the need for consent. In addition, it is possible that either the works council or certain representative bodies of pensioners may also have to provide consent or advice and/or the applicable co-determination formalities of pension funds may have to be observed.

# Peru

## **Give a brief overview of the types of pension provision**

### General

Peru has a two pillar system. The first pillar is the public pension system, administered by the Government and which is paid for the most part with social security contributions made by employees. The second pillar is private pension which is administered by private entities and is paid by contributions made by employees. Both systems are mandatory and the employee must choose to which system he/she desires to belong.

The public system is a joint pension fund (employees contribute to a common fund) while the private system is composed of individual accounts so the contributions made by each employee are deposited in his/her individual account.

## **What are the main types of pension provision?**

### Structure of private pension provision

The private pension system offers different alternatives so that the affiliate chooses one of them when reaching retirement age. Those alternatives are basically the following:

- a) The Programmed Retirement, in which the pensioner keeps the property of the fund that he saved and every month he withdraws his pension from the fund. The managing entity of the fund continues to generate profitability and the pension is recalculated every year. This pension is payable in national currency.
- b) Life Annuities is another alternative, which consists of paying pensions until the member dies. Its amount is less than in the Programmed Retirement, but the pension is adjusted periodically and can be paid in different currencies. Although the affiliate loses ownership of the fund, he or she is entitled to a lifetime pension by an insurance company that assumes the longevity risk.
- c) There are also different combinations of these two basic alternatives.
- d) Withdrawal of up to 95.5% of the fund, in which case the affiliate is the one who administers his fund and assumes the risks, being able to choose to withdraw less than 95.5% and use the balance to receive a pension in any of the aforementioned provisions.

## **Is pension provision mandatory?**

Employees who are registered in the payroll of any company are obliged to choose one of the two legal systems of pensions and to make contributions to the fund they have chosen. Employers are obliged to withhold their corresponding contributions from their salaries and to pay such contributions directly to the pension fund entities.

**Any restrictions in relation to who can establish a plan?**

The public pension plan is the only one and it is established by the law. In case of private pension plans, the law also establishes the terms and conditions for the different pension plans that can be operated by private entities incorporated with the sole purpose of administering pension funds, and in certain cases by insurance companies.

**Are there restrictions on who can operate a plan?**

Private pension funds can only be operated by pension fund companies (AFP) subject to administrative authorisation, and insurance companies. The AFP are private entities incorporated with the only purpose of administering such funds.

**Is there a mandatory level of contributions?**

Yes. All employees are legally obliged to contribute with approximately 13.5% of their total salaries to their corresponding private pension fund, or with 13% to the public pension fund if they are affiliated to it. For this purpose, employers are legally obliged to withhold the corresponding amounts from the salaries they pay to their personnel.

**Are there any funding requirements?**

In January 2017 the government updated the minimum capital of the private pension funds administrators, fixing it in the amount of S/. 2'804,488 Soles (approximately USD 875,400,000).

The sum of the capital is updated annually at the end of each year in January and the increase is a function of the inflation registered in the city of Lima.

**What age are benefits taken?**

Benefits may be taken from the public and the private pension systems on reaching the official retirement age, except in certain cases provided by law allowing fund members of the private system to receive early retirement benefits whose amounts are smaller. The official retirement age is 65 years.

**Who bears the costs of private pension provision?**

In the case of privately managed pension funds, members' contributions cover the funds' services, as well as the funds' operating expenses. Contributions to voluntary pension funds must be paid by the fund members. However, employers may voluntarily make complementary payments.

**Any registration requirements for tax purposes?**

Every taxpayer is required to obtain a tax identification number.

**Is tax paid on contributions?**

No.

**Are investment returns taxed?**

Dividends, interest, commissions and capital gains received by the pension funds are not subject to Income Tax.

**Are benefits taxed?**

Pension's benefits are not taxed, but the pensioner must contribute 4% of his/her pension for Social Security in health.

**Other incentives to contribute to plans?**

Employer voluntary contributions to private pension funds are tax deductible for the purpose of determining its Income Tax as operational expenditure. Employees do not have to pay tax or social contributions on employer contributions.

**Limits on benefits or contributions?**

There are no upper limits on benefits or contributions.

## Regulatory Framework

**Who is the regulator and what are its powers?**

The regulator is the Superintendency of Banks and Insurance (SBS) which is a government body that has extensive powers to check whether the investments of the pension funds and pension schemes comply with relevant legal requirements.

**How does it receive information?**

Pension providers have legal obligations to provide information. In addition, the SBS may require them to provide particular information, documents or explanations whenever it considers it necessary.

**Any supervision of failed or insolvent schemes?**

SBS supervises the investment of pension funds.

## Legislative Framework

### **Requirements in relation to discrimination?**

In general terms, discrimination is prohibited, but there is no legal prohibition expressly referred to pensions or pension funds purposes.

### **Rights for early leavers?**

An employee affiliated with the Private Pension System can retire before the age of 65 if the accumulated funds in his/her individual account reach the amount to receive a pension equivalent to 40% of his/her monthly remuneration, and if he/she has contributed for at least 72 months in the last ten years. Advance retirement also applies in the case of certain workers who work in conditions of risk to life or health, in the case of people with terminal illness, and in the case of people who are 55 years old with disabilities or unemployed for at least one year.

### **Member involvement?**

No.

### **Scope for cross-border activity?**

No.

### **Are there restrictions on switching plans?**

Yes. There are several legal restrictions on members switching between plans. In principle, members of the public system can freely move to the private system, but members of the private system cannot move to the public system unless they have previously been in the public system and meet certain requirements. Even to change AFP the employee must also comply with certain legal requirements.

# Poland

## Give a brief overview of the types of pension provision

### General

Polish pension system is a 3-pillar system. The first pillar is a mandatory pay-as-you-go scheme administered by the state Social Security Authority (Zakład Ubezpieczeń Społecznych – “ZUS”) and provides a relatively low level of pension based on the total amount of the contributions transferred during a given individual’s career and allocated to that individual’s account. The second pillar is also mandatory but the contributions may either be administered by ZUS or, upon request, part of the contributions may be transferred to private open pension funds (“OFE”). The third pillar consists of voluntary private pension schemes. Both the second and third pillars operate on a defined contribution basis.

## What are the main types of pension provision?

### Structure of private pension provision

Second pillar funds are established and managed by licensed and highly capitalised private pension fund companies. Members have a percentage of their social security contributions diverted to OFE of their choice which then invests them. In recent years this percentage rate has been reduced to 2.92% of gross monthly remuneration.

Third pillar schemes consist of occupational and individual (personal) pension schemes.

Occupational pension schemes (an employee pension fund) are set up voluntarily by an employer. Membership of such schemes is based on an agreement between the employer and employees’s representation. An employee pension fund is a regulated entity, generally established by employers or other entities interested in providing certain groups of individuals with a pension scheme.

Individual pension schemes are individual agreements with life insurance companies, banks, investment companies or entities providing brokerage services. The benefits provided by individual pension schemes depend on the type of scheme chosen by an employee (e.g. life insurance, bank account, mutual fund).

## Is pension provision mandatory?

Transferring a part of a contribution to OFE is currently voluntary for all individuals. If a declaration in this respect is not submitted, the entire mandatory contribution (first and second pillar) is administered by ZUS. Third pillar schemes are voluntary.

**Any restrictions in relation to who can establish a plan?**

Only open pension fund companies can establish OFE and only employee pension companies can establish employee pension funds. In general, banks and insurance companies control open pension fund companies. The founders are required to obtain a license from the Polish Financial Supervision Authority ("PFSA").

An occupational pension scheme is set up by an employer. Individual pension schemes must be set up by life insurance companies, banks, investments funds or brokerage companies.

**Are there restrictions on who can operate a plan?**

Only pension fund companies can operate OFE and employee pension companies can operate employee pension funds.

Occupational pension schemes are based on a contract entered into by an employer with an insurance company (group life insurance contracts), investment fund, employee pension fund or foreign entity entitled to operate pension schemes incorporated in the European Union.

Individual pension schemes are operated by life insurance companies, banks, investments funds or brokerage companies.

**Is there a mandatory level of contributions?**

The total mandatory contributions for pension insurance (first and second pillar) amount to 19.52% of the gross monthly remuneration. However, remuneration above a statutory threshold (PLN 127,890, approx. EUR 30,000, in 2017) is no longer subject to contributions.

The mandatory monthly level of contributions for the second pillar amounts to 7.3% of gross monthly remuneration. 2.92% of gross monthly remuneration may be transferred to OFE of the individual's choice. Otherwise the entire 7.3% is administered by ZUS.

If employers establish third pillar pension schemes, they are obliged to contribute to them but employees cannot be required to make contributions. Total employer contributions cannot be higher than 7% of the gross remuneration of participating employees. The participating employee may declare additional contributions, provided the agreement on creating a scheme does not prohibit it. There are, however, separate limits for employee contributions.

Annual contributions to an individual pension scheme are capped at three times the national average for the year in question (PLN 12,789, approx. EUR 3,000, in 2017).

**Are there any funding requirements?**

No, although there are minimum capitalisation requirements.

**What age are benefits taken?**

The retirement age has recently been decreased from 67 to 60 years for woman and to 65 years for man. Earlier retirement is possible, due to “bridging pensions”, which are designed for people performing special types of work. A member of an occupational or individual pension schemes may request for the retirement to be paid out at age 60 or, provided that certain statutory conditions are met, 55. In case of occupational pension schemes, the payment takes place if the participating employee reaches the age of 70 and he/she has not applied for the payment beforehand.

**Who bears the costs of private pension provision?**

In the second pillar, the members bear the costs. The maximum level of certain costs is determined by law. In the case of occupational and individual pension schemes, the issue of who bears the cost depends on the design of the scheme.

## Tax Regime

**Any registration requirements for tax purposes?**

Each taxpayer must have a tax identification number.

**Is tax paid on contributions?**

In the second pillar, contributions are not subject to personal income tax. In the third pillar, contributions are paid from post-tax income; however, some contributions (up to PLN 5,331.60) may be deducted from the taxable income.

**Are investment returns taxed?**

Investment returns, from both individual and occupational pension schemes are exempt from tax. However, the withdrawal of funds by a member of an individual pension scheme before age 60 (or, under certain conditions, 55) is subject to personal income tax.

**Are benefits taxed?**

Pensions benefits paid from the second pillar are subject to personal income tax at progressive rates up to 32%. Benefits paid under the third pillar are free from personal income tax. However, in the case of an individual pension scheme this exemption does not generally apply if the member was in more than one such scheme.

**Other incentives to contribute to plans?**

Pension benefits in the second and third pillar are exempt from inheritance tax. Contributions paid by the employer to an occupational pension scheme are tax-deductible but are not added to the member’s remuneration, which is the basis for the calculation of mandatory social insurance.

**Limits on benefits or contributions?**

Please see above.

**Who is the regulator and what are its powers?**

## Regulatory Framework

The regulator is the PFSA. The PFSA has extensive powers to check whether the pension funds and pension schemes comply with Polish law.

**How does it receive information?**

Pension providers have extensive statutory obligations to provide information. In addition, the PFSA may require them to provide particular information or documents whenever it considers it necessary for supervision purposes.

**Any supervision of failed or insolvent schemes?**

To a limited extent, the PFSA supervises failed or insolvent funds and schemes. In the case of individual pension schemes, there is an Insurance Guarantee Fund and a Bank Guarantee Fund that, in certain events, compensate participants of pension schemes operated by insurance companies or banks.

## Legislative Framework

**Requirements in relation to discrimination?**

Discrimination on grounds of age, sex, sexual orientation, disability, race, origin, religion, part-time and fixed term working is not permitted.

**Rights for early leavers?**

In the second pillar it is not possible to leave a pension fund before retirement age. In the case of occupational and individual pension schemes, a participant leaving the scheme early may request that funds be transferred to another pension scheme. In such a case the amount paid out is subject to personal income tax.

**Member involvement?**

Employees are represented by members of the supervisory board of an employee pension fund company. In an occupational pension scheme, there is an agreement between the employer and the employees' representatives who accept the scheme's terms and conditions. In an individual pension scheme, there is an agreement between the provider and the member.

**Scope for cross-border activity?**

A foreign employer incorporated within the EU may set up an employee pension fund. In the third pillar, occupational pension schemes may be operated by a foreign entity, provided that the entity is incorporated in the EU and is entitled to operate pension funds. Pension providers are able to invest into foreign assets but such investments are limited.

**Are there restrictions on switching plans?**

In the second pillar members of open pension funds may switch between funds but it is not possible to switch to an employee pension fund. In the third pillar, members face restrictions if they wish to switch to another scheme but it is generally possible. An employee cannot withdraw from an occupational pension scheme whilst he remains employed by the employer who established the scheme.

# Portugal

## **Give a brief overview of the types of pension provision**

### General

Portugal has a three pillar system. The first pillar is a mandatory pension system administrated by the State through the Social Security system. The second pillar is a voluntary private pension scheme that the employer can subscribe for its employees. The third pillar is the existence of individual voluntary private retirement savings schemes that anyone can subscribe.

## **What are the main types of pension provision?**

### Structure of private pension provision

Private pension plans may be “closed”, which means that they are established by one or accept many entities that have an associative, professional or social links with each other, or “open”, which means that the associates to the fund can be any natural or legal persons, irrespective of any associative or other links with each other, provided that they are approved by the management company.

Private pension schemes may be the following: (i) defined contribution schemes; (ii) defined benefit schemes and (iii) mixed system schemes.

Pension plans to finance through individual membership to an open pension fund can only be a defined contribution scheme.

## **Is pension provision mandatory?**

Private pension provision is not mandatory.

## **Any restrictions in relation to who can establish a plan?**

Closed pension funds can be established by one company or by groups of companies, or by associations with an associative, professional or social character, or by agreement between employers’ associations and trade unions.

Open pension funds can be established at the initiative of any entity authorised to manage pension funds.

## **Are there restrictions on who can operate a plan?**

The mandatory pension system is administrated by the State.

Private pension plans can be operated by a management company which must be authorised by the Supervisory Authority for Insurance and Pension Funds (Autoridade de Supervisão de Seguros e Pensões – ‘ASF’) to perform this type of activity. The management company may be an insurance company or a pension fund’s management company.

**Is there a mandatory level of contributions?**

There are mandatory contributions in the mandatory system. In private pension schemes, the level of contributions is set by the management company of the pension fund.

**Are there any funding requirements?**

A Management Company must maintain an adequate solvency margin and compliant guarantee fund.

The solvency margin of a management company matches its assets, free from any foreseeable liabilities, less any intangible items.

Management companies shall, from the time they are authorised, maintain a guarantee fund which is part of the solvency margin, corresponding to a third of its value, provided that the minimum amount established by Law is complied with.

**What age are benefits taken?**

Benefits can be taken as pre-retirement, early retirement, old age pension, disability pensions and as survivor's benefits. In 2017 the normal retirement age in Portugal was 66 years and three months.

In contributory pension funds (contributions paid by the employee), the refund of the amount derived from employee contributions may occur in cases of long-term unemployment, serious illness and permanent incapacity for work.

Currently the minimum retirement age shall be updated each year, taking into consideration the evolution of the average life expectancy (the so called sustainability factor). According to this, in 2018 the standard retirement age shall be of 66 years and four months.

**Who bears the costs of private pension provision?**

Private defined benefits schemes are financed by the employer.

Private defined contribution schemes can be financed by the employer or by both the employer and the employee, depending on the scheme set up in the firm.

The individual voluntary retirement saving schemes are financed by the individual.

## Tax Regime

**Any registration requirements for tax purposes?**

No.

**Is tax paid on contributions?**

It depends. Contributions made on behalf of the employee granting individual rights will be considered as employment income and will entitle the employee to a small tax relief from the final tax liability. Contributions made by the employer on behalf of the employees, not resulting in the granting of individual rights, are not subject to taxation.

**Are investment returns taxed?**

Yes.

**Are benefits taxed?**

Yes. Different rates may apply depending on whether a contribution resulted in the granting of individual rights or not:

- Early reimbursements or withdrawals, will be treated as employment income;
- Plain reimbursements at the end will be exempt;
- Capital returns at the end will be taxed as investment income, at effective rates of 4% or 8%; Payments made at the end in the form of rents, will be taxed as pension income.

**Other incentives to contribute to plans?**

In certain circumstances the employer is allowed to deduct, for corporate income tax purposes, contributions up to certain limits. Employees may also benefit from small tax relief from personal income tax.

**Limits on benefits or contributions?**

No, although contributions made above a certain limit may be disregarded for tax deduction purposes at the level of the employer.

**Who is the regulator and what are its powers?**

## Regulatory Framework

In the case of a private pension plan, the regulator is the ASF. It supervises the pension funds, management companies and the cross-border activity. It also issues the regulations necessary for the proper working of the pension fund sector and supervises compliance.

It is the competent authority to authorise the establishment of a pension fund management company or revoke the authorisation.

It verifies the compliance of pension funds and management entities with law, financial and technical rules; can obtain detailed information about them, namely by asking for documents or by doing inspections in the companies' premises; and can require specified irregularities to be remedied and initiate procedures before competent bodies.

**How does it receive information?**

The documentation required for supervisory purposes, including statistical documents, is periodically sent to the ASFin accordance with regulations issued by it.

**Any supervision of failed or insolvent schemes?**

When there is a current or foreseeable failure in financing the liabilities of the pension fund, the ASF may, if necessary or appropriate to protect the interests of participants and beneficiaries, and individually or cumulatively with other measures, restrict or prohibit the free disposal of assets of the fund and/or appoint interim managers of the management company.

Should the ASF verify that, with the recovery measures adopted, the company cannot recover, it must revoke the authorisation for management of pension funds.

## Legislative Framework

### **Requirements in relation to discrimination?**

On a general level, Portuguese law prohibits many kinds of discrimination, including discrimination on grounds of gender, age, pregnancy, political opinions, union activities, physical appearance and disability.

### **Rights for early leavers?**

Early leavers can withdraw their benefits before legal retirement age in circumstances prescribed by law.

In non-contributory pension funds early payment cannot exceed a third of the current value of the pension. In contributory pension funds there may be a refund of the pension amount derived from the employee's contributions.

### **Member involvement?**

The performance of the pension plan and the management of the pension fund in the case of closed pension funds and collective subscriptions to open funds covering more than 100 participants, beneficiaries or both, are checked by a monitoring committee. This committee is composed by representatives of the associate and the participants and beneficiaries, the latter representing not less than one third of the commission members.

In the case of individual subscriptions to open pension funds, management companies designate an ombudsman to whom participants and beneficiaries may submit claims.

### **Scope for cross-border activity?**

Cross-border activity is possible in the case of occupational pension funds.

The acceptance by management companies of contributions from promoters whose occupational pension schemes are set up under the law of another EU state must be authorised by the ASF.

When the ASF is notified of the intention of an institution for occupational retirement of another EU member state to manage national occupational pensions, it informs the competent national authority.

### **Are there restrictions on switching plans?**

In contributory plans, members have the option of transferring their own contributions to another pension fund. In addition in plans where members retain a right to benefit from the plan, even if they cease to be employed by a participant, members may also transfer their benefits to another pension fund. There is a right to transfer the membership in open pension funds, without charge, where there has been a substantial change in the investment policy, increased commissions and transfer of fund management to another management company.



# Romania

## **Give a brief overview of the types of pension provision**

### General

Romania has a three pillar system. The first pillar is a pay-as-you-go mandatory state managed pension system. The second and third pillars are both private pension funds. The second pillar is a mandatory private pensions system open to employees paying social security contributions. The third pillar is a voluntary private pensions system providing defined contribution benefits to anybody who earns income and volunteers to pay contributions.

## **What are the main types of pension provision?**

Both second and third pillar arrangements are based on personal accounts which provide defined contribution benefits.

## **Is pension provision mandatory?**

Participation in the second pillar is mandatory for all employees paying social security contributions who are under 35, and voluntary for employees aged 35 to 45. Third pillar participation is voluntary.

## **Any restrictions in relation to who can establish a plan?**

Both second and third pillar pension funds are set up as civil partnerships with at least five founders. Second pillar funds must acquire at least 50,000 participants within the three years following authorisation by the relevant regulatory and supervisory authority (i. e. the Romanian Financial Supervisory Authority, 'ASF'). Third pillar funds must have at least 100 participants to be authorised to operate as private pension funds by the ASF. The founders enter into an agreement with an authorised private pension administrator whose private pension scheme prospectus has been authorised by the ASF.

## **Are there restrictions on who can operate a plan?**

Second and third pillar funds are managed by administrators or, in the case of third pillar funds, insurance and asset management companies, as well. An administrator can manage only one second pillar fund and/or one or more third pillar funds if so authorised by the ASF. To enter and function within this market, any pension company must obtain several licences from the ASF.

Private pension plans can be operated by a management company which must be authorised by the Supervisory Authority for Insurance and Pension Funds (Autoridade de Supervisão de Seguros e Pensões – 'ASF') to perform this type of activity. The management company may be an insurance company or a pension fund's management company.

**Is there a mandatory level of contributions?**

In the second pillar, contributions are 3.75% of the member's total gross earnings. The contribution level is fixed, and the member cannot save more in this system. The level of contributions to the second pillar is subject to amendment and update by the legislature. In the third pillar, contribution rates are flexible and can be varied or suspended altogether.

**Are there any funding requirements?**

Investments are strictly regulated. The law imposes limits on investment in certain asset classes. There are explicit restrictions regarding investments made abroad but in theory, funds can invest all their assets within the EEA. Pension funds are classified depending on the accepted risk degree as: low risk (risk degree below 10%), medium risk (risk degree between 10% and 25%), and high risk (risk degree between 25% and 50%). Most private pension funds invest their assets in low and medium risk instruments. These instruments may be bank deposits, state bonds, municipal bonds, corporate bonds, bonds issued by foreign non-government bodies and other instruments explicitly guaranteed by the state, shares and equity interests.

**What age are benefits taken?**

Members will receive monthly benefits as follows: (a) from second pillar funds, when they meet the retirement conditions; and (b) from third pillar funds, usually, at age 60, provided that they have made at least 90 monthly contributions to such funds.

**Who bears the costs of private pension provision?**

In the second pillar, pension companies may charge an upfront entry fee (of up to 2.5% of paid contributions, deducted before contributions are converted into fund units) and an asset management fee (0.05% per month out of the overall fund's net assets). The fund also pays for the annual auditing fee and the rest of the fund's expenses must be met by the pension company (the administrator). In the third pillar, the administrator may charge an entry fee (of up to 5% of the paid contributions, deducted before the contributions are converted into fund units) and an asset management fee (of up to 0.2% per month of the overall fund's net assets). The third pillar fund's expenses are paid by the fund itself.

**Any registration requirements for tax purposes?**

No.

**Is tax paid on contributions?**

Participant contributions to third pillar pension funds are tax deductible (up to a maximum of EUR 400 per participant per tax year). Contributions to the second pillar are not tax deductible.

**Are investment returns taxed?**

For both second and third pillar pension funds, investments and investment returns are exempt from tax.

**Are benefits taxed?**

Income from both second and third pillar schemes is subject to 10% income tax (less a tax-free allowance of approximately EUR 430).

**Other incentives to contribute to plans?**

No.

**Limits on benefits or contributions?**

In the second pillar, the contribution level is set by law, and a member cannot contribute any additional monies. In the third pillar, total participant contributions are limited to 15% of the participant's gross monthly earnings.

## Regulatory Framework

**Who is the regulator and what are its powers?**

The ASF is the supervisory authority for private pensions, insurance and capital markets sectors. The ASF oversees private pension funds. It is governed by a nine member board appointed by the Parliament. One of the ASF's objectives is to protect the interests of those involved in the private pension fund system by assuring its efficient functioning and to authorise and supervise the activities carried out. The ASF has a wide range of powers including: granting, suspending and withdrawing licenses of pension administrators; monitoring the private pension funds system; ensuring that employer contributions are paid; regulating investments; protecting the participants; supervising custodians and asset managers; controlling the organisation, book-keeping and administration of pension funds; and informing and educating people about the private pension funds system.

**How does it receive information?**

Various entities such as pension fund administrators and pension fund custodians must provide specified information to the ASF. The ASF has issued reporting rules setting out when and how relevant information should be reported.

**Any supervision of failed or insolvent schemes?**

If the ASF notices that there are problems in the administration of a pension fund and a scheme has become insolvent, it will appoint a special supervision committee to oversee the activity of that administrator. This procedure is referred to as 'Special Supervision'. If the ASF withdraws the authorisation of a particular administrator, it will commence the Special Administration procedure and will announce to the other administrators on the market that a certain fund needs an administrator. The other administrators will submit their offers to the ASF who will then choose the one with the best performance. If no administrators send in offers, the ASF will appoint a special administrator, and subsequently notify the members that they must transfer to another fund. The remaining members will be distributed to the administrators on the market.

## Legislative Framework

**Requirements in relation to discrimination?**

No eligible person can be discriminated against or denied the right to join a pension fund on a wide variety of grounds.

**Rights for early leavers?**

A member who is an employee paying social security contributions, must under certain conditions, also be a member of a second pillar private pension fund. Early withdrawal from a third pillar fund is permitted at any time. If the member's accumulated fund is insufficient to provide a pension, he will receive the total amount of contributions, less administration costs in one or in several instalments.

**Member involvement?**

In the third pillar, participants must be consulted before any amendments are made to the pension scheme prospectus. There is no participant involvement in second pillar funds when amending the pension scheme prospectus.

**Scope for cross-border activity?**

The participants and beneficiaries of a private pension fund are entitled to equal treatment even in the event of transferring to another work place, permanent domicile or residence in the territory of either an EU member state or a EEA state.

**Are there restrictions on switching plans?**

Members can switch second or third pillar funds at any time, but they have to pay a penalty fee of up to 5% of their net assets held within the fund if they transfer within the first two years after joining.

# Russia

## **Give a brief overview of the types of pension provision**

### General

Russia has a three pillar system. The first pillar is a mandatory pay-as-you-go scheme administered by the state and provides a relatively low level of pension. The second pillar consists of mandatory social security contributions that may be diverted by employees to a private pension fund of their choice which then invests them. It also allows employees to make voluntary contributions in addition to mandatory social security contributions and to benefit from the investment return on this part of the state pension. If an employee does not choose a private pension fund, their second pillar funds are managed by the state. The third pillar consists of voluntary private pension schemes.

## **What are the main types of pension provision?**

### Structure of private pension provision

Licensed and relatively highly capitalised legal entities called private (non-state) pension funds operate third pillar private pension schemes and may also operate second pillar pensions by accepting and investing the social security contributions diverted to them. Private pension funds also operate third pillar schemes which are voluntary group schemes (funded by employers) or personal pension schemes. Although it is possible for private pension funds to operate on either a defined contribution or a defined benefit basis, the overwhelming majority operate on a defined contribution basis.

## **Is pension provision mandatory?**

Participation in second pillar schemes is mandatory but applies only to those born on or after 1 January 1967. Those born before 1 January 1967 do not participate in the second pillar at all. Third pillar schemes are voluntary.

## **Any restrictions in relation to who can establish a plan?**

Only private pension funds and only third pillar schemes can establish private pension schemes. In general, large employers or insurance companies control such funds. The founders are required to obtain a licence from the Central Bank of the Russian Federation ("CBRF").

## **Are there restrictions on who can operate a plan?**

Only pension funds can operate private pension plans and pay non-state pension benefits.

<b>Is there a mandatory level of contributions?</b>	<p>There are no limits on or mandatory levels of contributions to private pension funds.</p> <p>Contributions to the first and second pillar systems depend on the gross salary of employees. The rate of social security contributions to the first and the second pillar pension systems is 22% for the part of an employee's annual gross remuneration below RUB 876,000 (EUR 13,000) in 2017; and 10% is payable for the part of remuneration in excess of this amount.</p>
<b>Are there any funding requirements?</b>	No, although there are minimum capitalisation requirements. Private pension funds must provide a capital guarantee but are not obliged to ensure a minimum rate of return.
<b>What age are benefits taken?</b>	Benefits from all pillars of the pension system may be taken at age 60 for men and age 55 for women. Earlier retirement is possible in limited circumstances for people doing specific types of work with typically short working lives, and is achieved by the payment of "bridging pensions".
<b>Who bears the costs of private pension provision?</b>	It depends on the design of the scheme. The cost of private pension provision may be born by the employer alone or shared with the employees or funded solely by individuals.
<b>Tax Regime</b>	
<b>Any registration requirements for tax purposes?</b>	Every tax payer is required to obtain a tax identification number.
<b>Is tax paid on contributions?</b>	No.
<b>Are investment returns taxed?</b>	Only if the member withdraws his funds before the retirement age in which case a 13% personal income tax is applied.
<b>Are benefits taxed?</b>	Pensions benefits are taxed at the rate 13%.
<b>Other incentives to contribute to plans?</b>	Employer contributions to private pension funds are exempt from social security contributions and corporate profit tax provided certain criteria are met, for example, the pension plan is mentioned in collective bargaining agreements or individual employment contracts and provides for a retirement age in line with the statutory retirement age.
<b>Limits on benefits or contributions?</b>	Please see above.

**Who is the regulator and what are its powers?**

## Regulatory Framework

The regulator is the CBRF that has extensive powers to check whether the pension funds and pension schemes comply with relevant legal requirements.

**How does it receive information?**

Pension providers have extensive statutory obligations to provide information. In addition, the CBRF may require them to provide particular information, documents or explanations whenever it considers it necessary for supervision purposes.

**Any supervision of failed or insolvent schemes?**

Yes. By inspection of non-state pension funds.

**Requirements in relation to discrimination?**

## Legislative Framework

Discrimination on the grounds of age, sex, sexual orientation, disability, race, origin, religion, part-time and fixed term working is not permitted.

**Rights for early leavers?**

A member leaving a private pension scheme early may request funds to be transferred to another pension scheme or receive a surrender value.

**Member involvement?**

Members have no actual involvement in any type of pension arrangement.

**Scope for cross-border activity?**

There is no scope for cross-border activity except for investment of pension reserves. Pension reserves may be partially invested in assets outside Russia.

**Are there restrictions on switching plans?**

In the second pillar, employees may switch between funds once a year. In the third pillar, members can switch at any time but are only able to transfer a surrender value calculated in accordance with the plan rules. Plan rules may provide for a mechanism of calculating surrender values that may make the switch less attractive.

# Serbia

## **Give a brief overview of the types of pension provision**

### General

Serbia has a two pillar system. The first pillar is mandatory pension (and disability) insurance which is provided by the Republic Pension and Disability Insurance Fund. The second pillar is optional pension insurance.

## **What are the main types of pension provision?**

### Structure of private pension provision

Private pensions are provided by private pension funds managed by companies set up for the management of optional pension funds ('management companies'). Benefits are provided on a defined contribution basis.

## **Is pension provision mandatory?**

Private pension provision is not mandatory.

## **Any restrictions in relation to who can establish a plan?**

A pension plan can be established by an employer, association of employers, professional association or trade union. Those who establish a plan must not be affiliated with the management company which operates the plan. An employer can establish a pension plan for its own employees only.

## **Are there restrictions on who can operate a plan?**

A pension plan can only be operated by a management company which holds a licence from the National Bank of Serbia (the 'NBS') for performing this type of activity.

## **Is there a mandatory level of contributions?**

The management company must set out a minimum level of pension contributions. These amounts will vary from management company to management company.

## **Are there any funding requirements?**

The management company has to be established as a joint stock company which is not publicly listed with a minimum stock capital of EUR 1m.

## **What age are benefits taken?**

The minimum age at which benefits can be taken is 58 and the maximum age is 70. However, benefits can be taken earlier in the event of permanent incapacity to work.

## **Who bears the costs of private pension provision?**

The costs of private pension provision are generally borne by the members. However, the employer can also meet the costs of an optional pension fund it has organised for its employees.

**Any registration requirements for tax purposes?**

## Tax Regime

No special registration is required for the members of a pension fund. Management companies must register with the tax authority and obtain a tax identification number (like any other company).

**Is tax paid on contributions?**

In general, contributions for private pension insurance are treated as part of an individual's taxable income. However, the first RSD 5,501 (approx. EUR 46) per month of contributions are tax-exempt (adjusted each year in accordance with the growth of retail prices). An employer's contributions are deductible from its corporate tax liability.

**Are investment returns taxed?**

No.

**Are benefits taxed?**

No. However, if benefits are paid through an annuity from an insurance company, a member will be subject to insurance income tax when the annuity comes into payment.

**Other incentives to contribute to plans?**

The amount of contributions determined by law (currently RSD 5,501 – approx. EUR 46 per month), are not only exempt from income tax but also from mandatory social contributions.

**Limits on benefits or contributions?**

There are no upper limits on benefits or contributions.

## Regulatory Framework

**Who is the regulator and what are its powers?**

NBS supervises the work of management companies by direct and indirect control. It can review the documents of the management companies and custody bank. In addition, NBS can: issue a warning; require the remedy of specified irregularities within a set period; withdraw consent regarding the appointment of a manager of the management company; and revoke the licence of the management company. Furthermore, NBS can deal with complaints of members of the pension fund. The ministry in charge of labour and pension insurance (the 'Ministry') supervises pension plans. There is an obligation to obtain approval from the Ministry to the initial pension plan agreement as well as for any amendments to the agreement or on termination of the pension plan.

**How does it receive information?**

There is an obligation on the management companies to provide NBS with such reports and information as are required by law. NBS can also directly collect any required information by accessing the relevant documents at the premises of the management companies.

**Any supervision of failed or insolvent schemes?**

NBS supervises the investment of pension funds. The members of the pension fund bear the investment risk.

## Legislative Framework

**Requirements in relation to discrimination?**

Those establishing a plan cannot discriminate in the conditions that apply for membership of the plan. They can organise a pension plan and conclude agreements with more management companies that allow members to choose different optional pension funds. In addition, they can set up different pension plans for specific groups of employees/members if they have previously established a plan and provided for contributions from all employees/members. Membership of the pension plan cannot be a condition of employment, or of a trade union or any other form of organisation.

**Rights for early leavers?**

Early leavers can withdraw their benefits before age 58 in the case of permanent incapacity to work. If for any reason payment of contributions ceased, membership of the pension fund would continue and any accumulated monies could still be taken at age 58.

**Member involvement?**

No.

**Scope for cross-border activity?**

Members of pension funds can be foreign nationals. A management company cannot be a foreign legal entity, but its stockholders can. In addition, management activities can be performed by a branch of foreign company (upon obtaining a licence from NBS) after the expiry of five years from the day the Republic of Serbia accessed the World Trade Organisation.

**Are there restrictions on switching plans?**

No.

# Slovakia

## **Give a brief overview of the types of pension provision**

### General

Slovakia has a three pillar system. The first pillar is a mandatory pay-as-you-go pension insurance plan which includes all individuals. The second pillar is an old-age savings plan for those wanting to take out optional pension insurance. The third pillar is an optional complementary pension saving plan.

## **What are the main types of pension provision?**

Second pillar benefits apply to all those who have pension insurance. The third pillar is a complimentary savings plan for individuals of at least 18 years of age, who voluntarily decided to enter into a contract. Third pillar benefits are defined contribution type benefits.

## **Is pension provision mandatory?**

The first pillar is mandatory. The second pillar is voluntary and any person may enter it before 35 years of age; however, upon entering it, the second pillar becomes mandatory after the age of 35. The third pillar is voluntary.

## **Any restrictions in relation to who can establish a plan?**

Pension assessment management companies are authorised to set up second pillar funds. Members must contribute to these funds by making payments to the Social Insurance Agency, based on an agreement entered into with the relevant pension assessment management company. Third pillar funds can only be established by complementary pension insurance companies. Contributions to complementary pension insurance funds are paid by the members or by a member's employer (depending on the terms of the agreement).

## **Are there restrictions on who can operate a plan?**

Second pillar funds are managed by pension assessment management companies. Third pillar funds are managed by complementary pension insurance companies.

## **Is there a mandatory level of contributions?**

There is no mandatory level of third pillar contributions.

Pension insurance contributions of 18% (of which 4% is paid by employees and 14% by employers) are paid to the first pillar in case of persons who are not in the second pillar.

Pension insurance contributions of 4.25% are paid to the second pillar. The contributions to the first pillar in relation to the persons who are in the second pillar amount to 13.75%. The split will be progressively adjusted by 0.25% each year to reach 6% and 12% by 2024.

**Are there any funding requirements?**

Not as such, but companies managing second and third pillar funds are entitled to charge for carrying out certain activities and these charges will need to be met from the funds.

**What age are benefits taken?**

Any person reaching retirement age (which is generally age 62) is entitled to an old-age pension under the second and third pillars. The retirement age for women may be reduced depending on the number of children raised by the time they reach the statutory retirement age. Third pillar superannuation benefits can be taken from age 55 provided the member's employer has contributed to the plan due to the employee performing hazardous works for at least ten years.

In the event of the death of a saver who is already drawing their pension, savings in the second pillar fall inside the scope of inheritance during the first seven years of drawing the pension, unless a different person who was entitled to the payment was identified in the Agreement on pension insurance.

**Who bears the costs of private pension provision?**

The costs of second pillar arrangements are paid by the pension assessment management company and from the funds collected from mandatory contributions. All costs in relation to the third pillar are paid from the assets in the complementary pension fund (made up of contributions, returns on investments and assets transferred from other complementary pension funds).

## Tax Regime

<b>Any registration requirements for tax purposes?</b>	No.
<b>Is tax paid on contributions?</b>	No.
<b>Are investment returns taxed?</b>	No.
<b>Are benefits taxed?</b>	Benefits under the third pillar are subject to a withholding tax of 19% on the payment of benefits to a member. Benefits under the first and the second pillar are exempt from tax.
<b>Other incentives to contribute to plans?</b>	Contributions to a complementary savings plan (third pillar) are a non-taxable portion of income. Contributions in each tax period are exempt up to a maximum of EUR 180. To benefit from this tax relief, certain conditions must be complied with.
<b>Limits on benefits or contributions?</b>	The level of first and second pillar contributions is set out above. There is no limit on third pillar contributions.

## Regulatory Framework

<b>Who is the regulator and what are its powers?</b>	Licences for establishing and operating a pension assessment management company and complementary pension insurance company are issued by the National Bank of Slovakia (the 'NBS'). The NBS also supervises the operations of pension assessment management companies and complementary pension insurance companies, and is authorised to impose sanctions for defaulting on any obligations.
<b>How does it receive information?</b>	Pension assessment management companies and complementary pension insurance companies are obliged to provide the NBS with certain prescribed information, in particular any change in their financial standing and other things which may influence their ability to perform their obligations. The NBS may request other information to carry out its functions.

**Any supervision of failed or insolvent schemes?**

Supervision over the second pillar is done by the NBS. Supervision of the third pillar is done by the NBS and the National Labour Inspectorate. There is a detailed system of financial control operated by the NBS. The assets in the funds of pension assessment management companies and complementary pension insurance companies are allocated to depositary-banks and if the company becomes insolvent, savers are transferred to another company.

**Requirements in relation to discrimination?**

Any direct or indirect discrimination based on gender, marital or family status, race, colour, language, age, health condition, faith and religion, political or other views, ethnicity, property or lineage is prohibited.

**Rights for early leavers?**

Members of the second pillar may not opt out of it once they have decided to join (although in the past, there have been several temporary periods when members were permitted to leave and their savings were transferred back to first pillar). Members may leave a third pillar plan; the member will receive the value of his personal account upon request filed with the complementary pension insurance company ten years after contributing to the third pillar at the earliest (the contract with the complementary pension insurance company does not terminate on the basis of early payment).

**Member involvement?**

Involvement in both the second and third pillars depends on the contractual relationship between the member and the provider.

**Scope for cross-border activity?**

Activities of pension assessment management companies can be provided only by joint-stock companies based in the Slovak Republic. A complementary pension insurance company may be authorised to carry out activities in the territory of a hosting member state after prior notification to the NBS. A foreign occupational pension company can offer occupational pension security in the Slovak Republic if it has notified the competent authority of its home member state (if it is an EU member state or Iceland, Lichtenstein or Norway) and that competent authority delivered the notification to the NBS.

**Are there restrictions on switching plans?**

In both the second and third pillars, members may change the administrator managing their contributions, the pension assessment management company or the complementary pension insurance company.

# Slovenia

## **Give a brief overview of the types of pension provision**

### General

The Slovenian pension system consists of three pillars. The first pillar represents compulsory pension and disability insurance that is financed by contributions of employees. The second pillar represents additional pension insurance, which consists of (i) compulsory additional insurance (occupational pension) and (ii) voluntary additional insurance. The third pillar consists of life and annuity insurance, which represents all forms of annuity savings or insurances that increase social security.

## **What are the main types of pension provision?**

### Structure of private pension provision

Private pension types are provided within the second and third pillar. As mentioned, the second pillar consists of two types of additional insurance: (i) compulsory additional insurance and (ii) voluntary additional insurance.

The compulsory additional insurance of the second pillar takes form of occupational additional insurance.

The voluntary additional insurance of the second pillar can take form of (i) individual additional insurance (each person voluntarily enters the scheme) or (ii) collective additional insurance (employees enter the scheme via the employer that fully or partially finances the scheme).

The third pillar consists of other forms of private and individual pension insurance products (e. g. investment in bonds, shares, mutual funds, investment insurance products, etc.).

## **Is pension provision mandatory?**

The second pillar is partially mandatory – i. e. only for employees that (i) perform types of work that can no longer be performed after certain age or (ii) if employees perform particularly difficult work or work that is harmful to their health (compulsory additional pension insurance – occupational insurance).

Other forms of pension insurance within the second and the third pillar are voluntary.

**Any restrictions in relation to who can establish a plan?**

The compulsory additional pension insurance schemes from the second pillar can be established only by the employers that provide types of work for which such schemes apply (occupational insurance).

Any employer can establish plans for voluntary collective additional insurance within the second pillar.

Plans for voluntary individual additional insurance within the second pillar can be established by a manager of a pension fund. The plan must be approved by the Ministry of Labour, Family, Social Affairs and Equal Opportunities in order for tax benefits to apply.

As to the third pillar, certain restriction can be set out by the sectoral legislation, applicable for specific type of pension insurance product.

**Are there restrictions on who can operate a plan?**

Compulsory additional insurance plans are operated by the Compulsory Supplementary Pension Insurance Fund (mutual pension fund).

Voluntary insurance plans from the second pillar are operated by pension funds that must meet certain statutory requirements. Pension funds can be formed only as mutual pension funds, umbrella pension funds and guarantee funds (kritni skladi). Pension funds can be established only by pension companies, insurance companies and banks with suitable licenses.

As to the third pillar, certain restriction can be set out by the sectoral legislation, applicable for specific type of pension insurance product.

**Is there a mandatory level of contributions?**

The amount of contributions for the compulsory additional insurance under the second pillar is statutorily determined.

Collective voluntary additional insurance premiums paid by the employer cannot be lower than EUR 240 per year for one employee.

Contributions in other pension insurances should be made in accordance with the pension plans.

**Are there any funding requirements?**

The compulsory additional insurance from second pillar is financed by statutorily determined contributions of all the employees.

Collective additional insurance financed by contributions of employer, must not be lower than EUR 240 per employee. Should individual employees contribute to collective additional insurance, such contributions are treated the same as contributions in individual additional insurance.

Individual additional insurance is on the other hand financed by the contribution of employees.

There are no requirements in relation to the pension insurance under the third pillar.

**What age are benefits taken?**

The benefits from compulsory additional insurance can be taken with 42.5 years of service and sufficient funding on personal accounts for the payment of additional pension or 40 years of service, sufficient funding on personal accounts for the payment of additional pension and age between 52 and 56 depending on the work performed.

The benefits from voluntary additional insurance can be taken when the employee takes benefits from a pension under the first pillar or when the employee completes 53 years of age and does not take part in insurance under the first pillar anymore.

There are no provisions in relation to the pension insurance under the third pillar.

**Who bears the costs of private pension provision?**

The costs of compulsory additional insurance and voluntary collective additional insurance are borne by employers.

The costs of voluntary individual additional insurance and insurance under the third pillar are borne by individual employees.

<b>Tax Regime</b>	
<b>Any registration requirements for tax purposes?</b>	Generally no, but in order to be entitled to claim the tax deduction, an insurance premium has to be paid to the official pension plan provider with headquarters in Slovenia or any other EU Member State. The pension plan has to be approved by the competent authority and entered into a special register.
<b>Is tax paid on contributions?</b>	Yes, but the taxable base may be reduced by contributions made to additional voluntary pension funds. Such deductions may not exceed 24% of his mandatory pension contribution. The maximum annual deduction may not exceed EUR 2,819.09.
<b>Are investment returns taxed?</b>	Yes.
<b>Are benefits taxed?</b>	N/A
<b>Other incentives to contribute to plans?</b>	No.
<b>Limits on benefits or contributions?</b>	The taxable base may be reduced by contributions made to additional voluntary pension funds. Such deductions may not exceed 24% of his mandatory pension contribution. The maximum annual deduction may not exceed EUR 2,819.09.

## Regulatory Framework

<b>Who is the regulator and what are its powers?</b>	There is no single regulator. In the second and third pillar, there are several possible regulators depending on the type of pension scheme (e.g. Security Market Agency for the mandatory additional insurance within the second pillar, Insurance Supervision Agency for monitoring the managers of mutual pension funds and umbrella pension funds established by pension companies and insurance companies).
<b>How does it receive information?</b>	Different rules apply for each regulator.
<b>Any supervision of failed or insolvent schemes?</b>	No.

## Legislative Framework

### **Requirements in relation to discrimination?**

There is a general rule on prohibition of discrimination based on personal circumstances.

### **Rights for early leavers?**

There are no specific provisions regarding rights of early leavers.

### **Member involvement?**

When creating or amending pension plans within the compulsory additional insurance, the manager is obliged to obtain an opinion of the representatives of insured persons.

When it comes to individual and collective voluntary additional insurance, the possibilities of member involvement are very limited. Such possibilities for example include the requirement for consent of 70% of the members for the change in manager of the fund and other possibilities set forth in the fund rules.

### **Scope for cross-border activity?**

Compulsory additional insurance under the second pillar cannot be performed by foreign entities.

As to the voluntary additional insurance under the second pillar, a pension fund manager that already carries out at least one registered pension plan in Slovenia can conduct its management activity in any EU Member State. A prior license for cross-border activity shall be obtained at the Ministry of Labour, Family, Social affairs and Equal Opportunities. A pension fund manager from another EU Member State can carry out its activity in Slovenia in accordance with Slovenian legislation.

For the performance of pension insurance under the third pillar, specific rules might apply, depending on the form of insurance scheme (e.g. mutual funds).

### **Are there restrictions on switching plans?**

As to the compulsory additional insurance, Compulsory Supplementary Pension Insurance Fund is the only authorised fund. As long as statutory requirements for the compulsory additional insurance are met, the employee must take part in this pension scheme.

The collective voluntary additional insurance pension plan can be switched by an individual employee only if the employer changes the plan or if the employee changes the employer. Transfer of funds between collective and individual additional insurance plans is prohibited by law. There can be other restrictions applicable for collective or individual insurance pension plans depending on rules of the plans.

# Spain

## **Give a brief overview of the types of pension provision**

### General

Spain has a two pillar system. The first pillar is the public pension system, administered by the State and which is paid for the most part with the social security contributions of both employers and employees. The second pillar is private pension provision.

## **What are the main types of pension provision?**

### Structure of private pension provision

Private pension provision may be in several forms: (a) an occupational plan where the promoter is the employer and the employees are the participants; (b) an associate plan where the promoter is a union (or similar) and the participants its members; or (c) a personal plan where the promoter is a financial entity and the participants are individuals. Occupational plans may be implemented under an insurance policy or under a pension plan.

Benefits can be defined benefit, defined contribution or both.

## **Is pension provision mandatory?**

There is no general requirement to provide private pension provision for employees. Collective bargaining agreements can establish such obligations but this is relatively rare.

## **Any restrictions in relation to who can establish a plan?**

A plan can be set up by agreement between promoters and participants. They will agree on the stipulations and internal regulations of the plan. In the case of a pension plan, the parties may establish a committee that will ask for approval of the plan by an actuarial body, then present the plan before a pension fund and, once the plan has been admitted by the pension fund, a "control commission" is established.

## **Are there restrictions on who can operate a plan?**

Pension funds can be operated by pension fund companies (subject to administrative authorisation), insurance companies and mutual benefit societies.

## **Is there a mandatory level of contributions?**

There is no minimum level of contributions.

## **Are there any funding requirements?**

In case of a pension plan, the financial and actuarial position should be reviewed every three years (or every year in certain cases) by an independent actuarial body appointed by the control commission. However, where pension provision is with an insurance company, the financial structure should be reviewed according to insurance standards.

**What age are benefits taken?** The ordinary age of retirement, when benefits are normally taken, is for year 2017 when a participant reaches age 65 (if he/she has contributed for more than 36 years and three months) or age 65 and five months. Early retirement in 2017 is possible where a participant has reached (i) age 61 (if he/she has contributed for more than 33 years and three months) or age 62 (if he/she has contributed only 33 years) if the individual's employment relationship terminated through a dismissal, redundancy, or any other measure beyond the individual's control/will; or (ii) age 63 (if he/she has contributed for more than 36 years and three months) or age 63 and five months, for all other cases.

**Who bears the costs of private pension provision?** Employers and/or participants, depending on the terms of the plan or policy.

## Tax Regime

**Any registration requirements for tax purposes?** There are no specific registration requirements for tax purposes.

**Is tax paid on contributions?** No. Although, in certain circumstances, employer contributions are treated as employment income and subject to income tax. In such cases, the employee can apply for tax relief subject to certain limits.

**Are investment returns taxed?** Yes. Where an individual withdraws funds from a pension plan at the due date, the funds (including accumulated investment returns) will be taxed as employment income.

**Are benefits taxed?** Yes. Benefits are considered as employment income and subject to income tax. The tax rate applicable will vary depending on an individual's income and ranges from approximately 19% to 45%.

**Other incentives to contribute to plans?** Employer contributions to pension plans are deductible expenses for corporation tax purposes. Tax benefits are also available for contributions to pension plans for individuals with a certain degree of disability or incapacity; and for contributions in favour of a spouse whose yearly employment or business income is lower than EUR 8,000.

**Limits on benefits or contributions?** There is a maximum level of combined employer and employee contributions equal to the lower of: (a) EUR 8,000 per participant per year; or (b) 30% of the sum of the labour income and income derived from business activities obtained during a fiscal year. Contributions above these limits will be liable to sanctions.

**Who is the regulator and what are its powers?**

## Regulatory Framework

The regulator is the Spanish General Directorate of Insurance and Pension Funds ('DGSFP'), dependent of the Spanish Ministry of Economy, Industry and Competitiveness. DGSFP has wide authority to check compliance with the relevant laws by pension funds, pension providers, control commissions and actuarial bodies.

**How does it receive information?**

Pension providers have extensive obligations to provide information on a yearly basis. Moreover, DGSFP may request additional information from all relevant parties.

**Any supervision of failed or insolvent schemes?**

DGSFP supervises failed or insolvent funds and where it deems necessary, it may also revoke a fund's administrative authorisation and require the dissolution or liquidation of the pension fund and pension providers. It may also adopt special control measures.

**Requirements in relation to discrimination?**

## Legislative Framework

Discrimination on grounds of age, sex, sexual orientation, disability, race, religion and part-time or fixed term worked status is prohibited. However, a scheme may require an employee to have two years' service with an employer before being allowed to join.

Where pension provision is implemented through a pension plan, all participants have vested rights depending on the type of pension provision (i. e. defined benefit or defined contribution and the level of funding). A participant leaving the plan may request funds to be transferred to another pension scheme. Exceptionally, a plan may provide that benefits may be taken before the age of retirement in the case of long-term unemployment (subject to certain conditions) or very serious illness.

Where pension provision is implemented through an insurance policy, the employees do not have a vested right, which implies that they have no right to recover the contributions they have made or the employer has made on their behalf. Recovery may be permitted under certain circumstances or where it is expressly provided for in the plan.

**Member involvement?**

In pension plans, the control commission must consist of representatives of the promoter and the participants and beneficiaries, but in insurance policies no participation rights are recognised.

**Scope for cross-border activity?**

Yes. Occupational pension plans promoted by foreign companies within the EU can be integrated with pension funds authorised and registered in Spain and vice versa.

**Are there restrictions on switching plans?**

Yes, the requirements vary depending on the type of the plan:

- occupational plans can only be switched on termination of the plan or, if permitted by the plan, on termination of employment;
- associate plans can be switched if a promoter loses its membership, the plan is terminated or the member elects to do so;
- personal plans can be switched where the plan is terminated or the member elects to do so.



# Switzerland

## **Give a brief overview of the types of pension provision**

### General

Switzerland has a three pillar system. The first pillar is a basic old-age, survivors and invalidity pension which is, for the most part, funded by contributions of employees and employers. The second pillar is private occupational pension schemes. The third pillar consists of individual personal pensions. The Swiss Federal Constitution provides that the first pillar must cover basic needs in an appropriate way. Together with the first pillar, the second pillar should ensure that retired people to a large extent maintain their former standard of living, i. e. they should jointly provide approximately 60% of the employee's final salary.

## **What are the main types of pension provision?**

Occupational pension schemes are arranged by third parties, who are generally either pension funds or insurance companies. The providers receive contributions from employers who deduct the employees' contributions directly from their income. The resulting capital is held and invested by the pension schemes who also pay the benefits. Schemes usually also include pensions for relatives of deceased members and disabled members. Personal pension schemes typically consist of provident measures such as blocked bank accounts or contracts with insurance institutions.

## **Is pension provision mandatory?**

All persons who are domiciled or engaged in paid employment in Switzerland are subject to the first pillar basic old-age, survivors and invalidity pension. In addition, employed persons over the age of 17 who receive an annual salary of more than CHF 21,150 (in 2017) from a single employer are subject to second pillar insurance for invalidity and death. Compulsory insurance for old-age starts at the age of 24. Pension provision under the third pillar is purely optional.

## **Any restrictions in relation to who can establish a plan?**

An employer who employs persons subject to compulsory second pillar insurance must either set up his own occupational pension scheme or be affiliated to a provident institution. Occupational pension schemes intended to cover the mandatory benefits of the second pillar must apply to the cantonal supervisory authority for entry into the register of occupational pension plans. Registered pension schemes, if private, must be a foundation or a co-operative and must be legally separate from the employer.

## **Are there restrictions on who can operate a plan?**

See above.

**Is there a mandatory level of contributions?**

Contributions must be sufficient to allow the pension scheme to honour its commitments. However, private pension schemes are free to determine the level of the contributions made by the employees and the employers. The employer's contribution must at least equal the total of contributions of its employees.

**Are there any funding requirements?**

Pension schemes must guarantee the fulfilment of their obligations at all times. If sufficient cover cannot be guaranteed, the pension scheme is under a legal duty to inform the supervisory authority as well as the members and the beneficiaries of the extent of and the reasons for the underfunding and the measures taken in relation to it.

**What age are benefits taken?**

Women are entitled to old-age benefits from the second pillar at age 64 and men at age 65. However, the rules of the provident institutions may provide for an equal retirement age for men and women. Early and deferred retirement is possible if the pension scheme's rules allow it. In any case, old-age benefits cannot be taken before age 58.

**Who bears the costs of private pension provision?**

This is a matter of scheme design. All administration costs (i. e. costs for common administration, asset management, marketing) must be disclosed in the pension scheme's annual financial statements.

## Tax Regime

**Any registration requirements for tax purposes?**

There are no specific registration requirements for private pension schemes. However, in order to benefit from tax relief on investment returns, a pension scheme must have legal personality under Swiss law which in turn requires registration in the commercial register.

**Is tax paid on contributions?**

The contributions made to a pension scheme by employees or self-employed persons are deductible for the purpose of direct federal, cantonal or municipal taxes. Employer contributions to pension schemes are considered business expenditure for direct federal, cantonal and municipal taxes.

**Are investment returns taxed?**

Private pension schemes with legal personality under Swiss law are exempt from direct federal, cantonal, and municipal taxes as well as from cantonal and municipal estate and gift taxes, if their revenue and capital assets are being used exclusively for financing occupational pension plan benefits.

**Are benefits taxed?**

Yes. Benefits paid by occupational pension schemes are fully taxable as income for direct federal, cantonal and municipal taxes. Capital payments benefit from a reduced tax rate.

**Other incentives to contribute to plans?**

No.

**Limits on benefits or contributions?**

There are no restrictions on the amount of contributions. However, the maximum salary insurable by means of occupational pension schemes (second pillar) must not exceed CHF 846,000 per year (in 2017). Voluntary contributions to third pillar schemes may only be deducted from taxable income up to CHF 6,768 per year for employed persons or 20% per year of income from earnings (up to a maximum of CHF 33,840) for self-employed persons (in 2017).

## Regulatory Framework

**Who is the regulator and what are its powers?**

Each canton designates an authority to supervise the pension schemes established within its territory. The supervisory authority shall ensure that the pension scheme complies with the law by: (i) checking whether the provisions of the pension scheme comply with the legal regulations; (ii) requiring periodical reports on the pension scheme (in particular on their business activities); (iii) examining the reports submitted by the auditors and the accredited pension actuary; and (iv) taking measures to redress deficiencies.

**How does it receive information?**

The occupational pension schemes have a statutory duty to provide information to the supervisory authority. In addition, the supervisory authority can ask for further information at any time.

**Any supervision of failed or insolvent schemes?**

The supervisory authority has to approve the scheme of distribution of an insolvent pension scheme. The liquidation of a pension scheme must be based on objective criteria as e. g. amount of retirement assets or number of years of employment.

## Legislative Framework

### **Requirements in relation to discrimination?**

The principle of equal treatment is satisfied if the same conditions of a pension scheme apply for all members. Discrimination is generally prohibited but it is still permissible for survivor's pensions to be different for men and women or for benefits to take into account marital status.

### **Rights for early leavers?**

On departure from a provident institution, before an insured event occurs, a member is entitled to a departure benefit. In a defined contribution plan, if the institution is a savings fund, this benefit corresponds to the amount of the savings; if it is an insurance institution, it corresponds to the actuarial reserve. In a defined benefit plan, it corresponds to the current value of acquired benefits. The minimum amount paid when leaving a provident institution is equivalent to the entry benefit of the insured person, interest included, plus the contributions paid during the insurance period.

### **Member involvement?**

In second pillar schemes, employees have the right to appoint an equal number of representatives to the board of plan trustees, who make all decisions in regards to plan rules, financing and, the investment management of the assets. There are no rights for member involvement in third pillar schemes.

### **Scope for cross-border activity?**

As a general rule, it is permissible for a pension scheme to invest its assets in real estate. Such investments, however, must not exceed 30% of the pension scheme's total assets. In any case, at least two thirds of the real estate concerned must be situated in Switzerland.

### **Are there restrictions on switching plans?**

As a general rule, employees are members of the occupational pension scheme set up by their employer or to which the employer is affiliated. Except in the context of a change of employer, employees cannot switch to another occupational pension scheme.

# Turkey

## **Give a brief overview of the types of pension provision**

### General

Turkey has a three pillar pension system. The first pillar is the state pension system composed of the payment of certain social security contributions calculated based on the salaries of the participants. The second pillar is the private pension system with automatic enrolment composed of payments of certain contributions calculated based on the salaries of the participants. For the sake of completeness, please note that, this pension system was recently introduced and became effective starting from 1 January 2017. Lastly, the third pillar is a voluntary private pension plan.

## **What are the main types of pension provision?**

### Structure of private pension provision

The second and third pillars indicated above are the main types of the private pension system. In the third pillar, company pension plans and personal pension plans co-exist. In addition, sectoral pension plans are also available (i.e. group pension plans for the individual via professional institutions and associations) in the third pillar. None of the private pension systems provide a guaranteed return for the participants.

All private pension plans are typically established through individual contracts with authorised insurance companies. In the case of company pension plans and sectoral pension plans, a separate contract with the relevant company or the professional institution is also required in addition to the individual contracts.

There are several types of company pension plans. Company pension plans can be established at either company or group level. These plans can provide benefits on a collective basis (for all participants) or for specific categories of participants (as long as the selection is based on objective criteria). Company pension plans may be financed either by the employer or by the employee.

## **Is pension provision mandatory?**

Starting from 2017, large-scale employers (i.e. entities employing more than 1,000) are required to enrol their employees under the age of 45 into a private pension arrangement. The automatic enrolment requirement will become applicable to employers on a gradual basis depending on the number of employees they employ and by 2019, it will become applicable to all employers employing at least five employees. Employees have the right to opt-out of this mandatory pension provision within two months upon receiving notification of their participation in the pension plan without any breakage fee and will need to continue to do so at two year intervals as they will be automatically re-enrolled in the system every two years.

**Any restrictions in relation to who can establish a plan?**

Only licensed pension companies can establish pension plans. In practice, most of the pension companies are insurance companies that also hold life-insurance license. Pension plans are required to be registered with the Pension Monitoring Centre. Each licensed pension company may have a maximum of 30 pension plans (including collective pension plans) in total. Individuals and companies choose the most appropriate plan for their needs and expectations.

**Are there restrictions on who can operate a plan?**

Only licensed pension companies may operate a plan.

On the other hand, pension funds are managed by licenced portfolio management companies only.

**Is there a mandatory level of contributions?**

In the private pension system with automatic enrolment, the minimum contribution amount is 3% of the relevant participant's income; calculated as per the provisions of the Social Security and General Health Insurance Law No. 5510. The employers are obligated to make such payments on behalf of their employees by way of deductions, (i.e. the relevant amounts are deducted from the employees' salaries). The Council of Ministers is entitled to amend this ratio by increasing it two-fold or by decreasing the ratio to 1% or by proposing a fixed limit to the contribution fee.

Concerning the other private pension plans, no mandatory level of contribution is regulated under the relevant legislation. Depending on the scope and structure of the pension plan, minimum level of contributions will be set out in the pension plan contracts.

**Are there any funding requirements?**

Minimum capital requirements and capital ratio requirements are applicable for licensed pension companies.

**What age are benefits taken?**

Participants may take benefits after the age of 56 provided that they have been enrolled in the system for at least ten years.

**Who bears the costs of private pension provision?**

Employers/sponsors and/or participants bear the administrative costs depending on the terms of the pension plan contract.

## Tax Regime

### **Any registration requirements for tax purposes?**

There are no specific registration requirements for tax purposes.

### **Is tax paid on contributions?**

No. Although, in certain circumstances, employer contributions are treated as employment income and subject to income tax.

### **Are investment returns taxed?**

Pension funds are exempt from tax.

### **Are benefits taxed?**

The benefits paid as lump-sum payments are subject to withholding tax at the time of exiting the pension system. The amount of withholding tax varies between 5% to 15% depending on the time of exit. The benefits paid as monthly payments are subject to income tax.

### **Other incentives to contribute to plans?**

25% of monthly contribution is paid as state contribution.

In the private pension system with automatic enrolment, if the participants do not use their opt-out right within two months, a one time state incentive of TL 1.000 (Turkish Liras) (app. EUR 200) will also be paid to their pension account. In addition, if the employees would like to receive their benefits as monthly payments, an additional state contribution equal to 5% of the participant's savings will be paid to the participant's pension account when he/she becomes entitled to retirement under this private pension system.

### **Limits on benefits or contributions?**

Monthly amount of the state contribution amount cannot exceed 25% of minimum monthly statutory salary amount.

Early leavers may be unable to benefit from certain portion of the state contributions and state incentive depending on when they exit the private pension system.

**Who is the regulator and what are its powers?**

## Regulatory Framework

The principle regulator of the private pension system is the Undersecretariat of Treasury. The Undersecretariat of Treasury has wide authority with respect to pension companies including but not limited to the issue of an activity licence, checking compliance with the relevant laws and imposing sanctions.

The Pension Monitoring Centre also reviews and audits how pension companies act as well as inspecting their books and records.

Lastly, the Capital Markets Authority also has wide authority with respect to the establishment and compliance of pension funds.

**How does it receive information?**

Pension companies have extensive obligations to provide information on a quarterly and annual basis. Moreover, both the Undersecretariat of Treasury and the Pension Monitoring Centre are entitled to request additional information from all relevant parties.

**Any supervision of failed or insolvent schemes?**

The Undersecretariat of Treasury has the authority to make the pension companies take necessary measures in case of non-compliance with financial requirements.

The assets kept by the pension companies in relation to pension plans are kept by the Settlement and Custody Bank and such assets are not subject to seizure, cannot be used as a guarantee by pension companies or be registered with a bankruptcy estate. If the pension companies become insolvent, the participants may transfer their assets under their pension plans that are kept by Settlement and Custody Bank to a different pension company.

**Requirements in relation to discrimination?**

### Legislative Framework

Discrimination on grounds of nationality, origin, sex, sexual orientation, race, skin colour, age, political or other persuasions, religion or belief, marital or social status or wealth is prohibited under the Turkish constitution.

Further, discrimination among employees is, in principle, forbidden under Turkish law and therefore, private pension plans offered to employees as a benefit will need to provide equal benefits to employees with the same status.

**Rights for early leavers?**

Vesting periods and vesting rights will be determined under the company pension plans. The vesting periods may not be less than one year or more than seven years. Rights of early leavers depend on the vesting periods. A participant leaving the plan may request funds to be transferred to another pension plan.

Early leavers may not benefit from a certain portion of the state contributions and state incentive depending on the time of their exit from the pension system. For example, to become entitled to 15% of state contributions, an individual must stay in the system for three to six years. If an individual stays in the private pension system between six to ten years, he/she will become entitled to 35% of state contribution. After ten years but before retirement, he/she will become entitled to 60% of the state contribution.

**Member involvement?**

N/A

**Scope for cross-border activity?**

Foreigners cannot be part of the private pension system. We do not see any scope for cross border activity in this field.

**Are there restrictions on switching plans?**

Pension plans may be switched a maximum of four times in a year. The fund distribution in the pension plans may be changed a maximum of six times in a year. The funds may be transferred to another pension company after two years.

# Ukraine

## **Give a brief overview of the types of pension provision**

### General

Ukraine has a three pillar system. The first pillar is a mandatory state pension insurance arrangement funded on a pay-as-you-go basis. The second pillar is also a mandatory insurance arrangement which provides benefits on a defined contribution basis. The third pillar is made up of voluntary non-state pension funds which provide defined contribution benefits.

## **What are the main types of pension provision?**

### Structure of private pension provision

Voluntary third pillar pension provision is provided by pension funds (public, corporate and professional/industry oriented pension funds), insurance companies and banks. Insurance companies insure against disability and death risk for members of non-state pension funds and provide annuities. Banks set up pension deposit accounts which provide defined contribution benefits on retirement.

## **Is pension provision mandatory?**

Third pillar provision is not mandatory and provides an additional benefit to the mandatory state pension provision.

## **Any restrictions in relation to who can establish a plan?**

Public pension funds can be set up by one or more legal entities for anyone. Corporate pension funds can be set up by one or more legal entities (or union of entities) for current or former employees. Professional pension funds can be set up by one or more legal entities or individuals (or union of legal entities or individuals) and may only accept contributions relating to beneficiaries of the profession set out in their charters. A legal entity may only be a founder of one corporate or professional pension fund but may also be a founder of one or more open pension funds. Different restrictions apply to entities funded by the state or local government.

## **Are there restrictions on who can operate a plan?**

The pension fund will appoint a licensed asset manager, deposit holders (banks) and a licensed administrator. As a general rule, a founder may not act as a deposit holder or auditor unless specifically permitted to do so by law. However, an asset management company or a bank that establishes its own corporate pension fund may act as the asset manager or the deposit holder for such fund subject to obtaining the respective licenses. The National Bank of Ukraine may act as the asset manager for its corporate fund.

**Is there a mandatory level of contributions?**

An executive body of a pension fund may require a minimum level of contributions of 10% of minimum state guaranteed salary per month. Members of pension funds who enter into disability and death risk insurance agreements are subject to additional contributions, which should not exceed 1% of their contribution under the pension plan.

**Are there any funding requirements?**

The assets of a pension fund can be made up of cash, securities and other assets permitted by legislation. They must not generally include securities of affiliated persons or those providing services to the pension fund; promissory notes; derivatives; or securities issued by institutions of public investment. There are no requirements relating to the minimum level of assets a pension fund must have. However, there are minimum capital requirements for both asset managers and pension fund administrators.

**What age are benefits taken?**

The pension age is 60 for both women and men (special pension age scale from 55 to 60 years of age applies to women born in 1961 or earlier. A member may choose the date to take their benefits within ten years before the pension age or any period after. In certain cases, a member is entitled to early payment of their pension (e.g. critical illness or disability).

**Who bears the costs of private pension provision?**

Employers and employees and other members of non-state pension funds.

## Tax Regime

### **Any registration requirements for tax purposes?**

Private pension funds are considered as not-for-profit organisations. In order to enjoy tax benefits set out in tax legislation, a pension fund must be registered with the tax authorities' registry for non-profit organisations. This registration is not mandatory, though the absence of such registration would prohibit tax benefits.

### **Is tax paid on contributions?**

At the level of the private pension fund, tax is not paid on contributions, provided that the private pension fund is duly registered with the tax authorities and its statutory documents comply with specific requirements established for not-for-profit organisations.

At the level of the beneficiary, the contribution to the non-state pension fund made for the benefit of such beneficiary by the third party is recognised as fringed benefit subject to 18% personal income tax and 1.5% military tax, unless made (i) by immediate family member, or (ii) by employer within the amount of 15% of the accrued monthly salary of such beneficiary but not more than 2.5 times minimum statutory salary (currently UAH 8,000 or ca. EUR 260).

### **Are investment returns taxed?**

Investment returns received by a private pension fund from investing its assets is not taxable, provided that the fund is duly registered with the tax authorities and its statutory documents comply with specific requirements established for not-for-profit organisations.

### **Are benefits taxed?**

Payments made under the pension plan with non-state pension funds are exempt from tax if: (a) payable to a beneficiary aged 70 years or above; (b) payable to a member or beneficiary of pension fund if such person obtained the first category of disability, and (c) payable as a one-time payment to the member of the non-state pension fund or state-administered accumulative fund at the expense of such accumulative fund. In other cases, 60% of the amount payable under the pension plan is treated as taxable income subject to 18% income tax and 1.5% military tax.

**Other incentives to contribute to plans?**

Contributions to a non-state pension fund made by an employer at its own expense for the benefit of its employees are fully deductible for the purposes of employer's corporate income tax. Contributions to the non-state pension fund are not subject to any social deductions and withholdings.

An individual contributor to a non-state pension fund may be granted a tax credit where contributions to the pension fund do not exceed (i) the monthly statutory limit (calculated as 1.4 times statutory monthly living allowance, which currently constitutes UAH 2,470 or ca. EUR 80) if made for own benefit, and (ii) 50% of such monthly statutory limit if made for the benefit of an immediate family member.

**Limits on benefits or contributions?**

No.

## Regulatory Framework

**Who is the regulator and what are its powers?**

The state regulator for non-state pension funds, insurance companies and banks is the National Commission on Regulation of Financial Service Markets. The state regulator for asset management companies and custodians is the National Commission on Securities and Stock Exchange. These Commissions co-operate closely in cases of any breaches of legislation on voluntary pension provision.

**How does it receive information?**

An administrator of a voluntary pension fund must file regular reports on a quarterly and yearly basis to the National Commission on Regulation of Financial Service Markets. Asset managers and custodians must submit reports to the National Commission on Securities and Stock Market.

**Any supervision of failed or insolvent schemes?**

No.

## Legislative Framework

**Requirements in relation to discrimination?**

Yes. There is extensive employment legislation which prevents discrimination on various grounds.

**Rights for early leavers?**

Companies may exit a non-state pension fund on giving required notice. The members relating to that company must transfer their accumulated funds to a new institution. Similarly, if a member leaves employment, they must transfer to another institution. Members making their own contributions may terminate a pension contract and transfer the accumulated contributions to another institution subject to the terms of the contract. Members of the fund for whom contributions are paid by a third party may not transfer their money to another institution unless the pension agreement is terminated between the third party contributor and the fund.

**Member involvement?**

In certain cases, members of a corporate voluntary pension fund may nominate representatives to the executive body of the fund.

**Scope for cross-border activity?**

It is possible to invest funds in foreign securities traded on foreign stock markets.

**Are there restrictions on switching plans?**

Companies or individuals contributing to non-state pension funds are allowed to switch plans, but not more than once in any six month period.

# United Arab Emirates

## **Give a brief overview of the types of pension provision**

### General

The situation with regard to employee pensions in the UAE is unique.

The main difference is that private pensions schemes are rare, and state pension schemes are only applicable to Gulf Co-operation Council (“GCC”) country nationals (including UAE nationals) employed in the UAE.

For ex-patriate employees (the vast majority of the UAE working population), and any GCC nationals not qualifying under the state pension scheme, these employees become entitled to an “end of service gratuity” payment (“EOSG”) on termination of their employment. This is a lump sum calculated based on the length of service of the employee with a company and is mandatory for all employees who have completed one continuous year of employment.

Ex-patriate employees can choose to opt out of receiving EOSG and choose to participate in their employer’s group pension scheme instead. The scheme must be at least as beneficial to the employee as EOSG and their decision to opt out of EOSG must be clearly documented in writing. Even then, there is a risk that the employee can still claim EOSG, and whether they are entitled would ultimately be a decision of the Labour Courts depending on the particular circumstances. Specific advice would also need to be sought from the jurisdiction in which the group pension scheme is operated in relation to any requirements there.

## **What are the main types of pension provision?**

### Structure of private pension provision

As noted above, the only private pension schemes that may be relevant in the UAE would be group pension schemes operated outside of the UAE.

GCC (including UAE) nationals will be registered for the state pension scheme (though can choose to opt for EOSG instead).

## **Is pension provision mandatory?**

Inclusion in the state pension scheme is mandatory for GCC employees.

EOSG is mandatory for ex-patriate employees, unless they have agreed to opt out.

Private pension plans are not mandatory in any circumstances.

<b>Any restrictions in relation to who can establish a plan?</b>	There are no regulations around private pensions.
<b>Are there restrictions on who can operate a plan?</b>	N/A
<b>Is there a mandatory level of contributions?</b>	N/A for private pensions/non GCC nationalities
<b>Are there any funding requirements?</b>	N/A
<b>What age are benefits taken?</b>	N/A
<b>Who bears the costs of private pension provision?</b>	N/A

### Tax Regime

<b>Any registration requirements for tax purposes?</b>	Currently, no tax is payable in the United Arab Emirates on income or pensions. Whilst VAT is being introduced on 1 January 2018, this is not expected to have any impact on pension arrangements.
<b>Is tax paid on contributions?</b>	No.
<b>Are investment returns taxed?</b>	No.
<b>Are benefits taxed?</b>	No.
<b>Other incentives to contribute to plans?</b>	No tax incentives.
<b>Limits on benefits or contributions?</b>	No.

**Who is the regulator and what are its powers?**

**Regulatory Framework**

The General Pensions and Social Security Authority (“GPSSA”) is the federal body responsible for regulating and administering UAE state pensions. Abu Dhabi has its own authority, the Abu Dhabi Retirement and Pensions Fund (“ADRF”). The ADRPF only manages pensions for UAE employees employed in Abu Dhabi, and does not manage pensions on behalf of other GCC nationals employed in Abu Dhabi (which is done by GPSSA) and UAE national employees outside of Abu Dhabi.

There is no regulator in respect of private pension arrangements.

The requirement to pay EOSG can be enforced by an employee bringing an employee dispute against the employer. This would involve the employee raising a complaint with the relevant authority (determined based on the location of the sponsor for their visa) and would ultimately be subject to the jurisdiction of the relevant courts.

**How does it receive information?**

It is mandatory to register as an employer and to register all GCC national employees with the GPSSA (or the ADRPF in respect of UAE nationals in Abu Dhabi).

**Any supervision of failed or insolvent schemes?**

No. The GPSSA and ADRPF only regulate state pension schemes.

**Legislative Framework**

**Requirements in relation to discrimination?**

N/A

**Rights for early leavers?**

N/A

**Member involvement?**

N/A

**Scope for cross-border activity?**

N/A

**Are there restrictions on switching plans?**

N/A

# United Kingdom

## **Give a brief overview of the types of pension provision**

### General

Until April 2016, the UK had a three pillar system: a basic state old age pension which is funded by national insurance contributions and topped up by additional welfare benefits where the individual has made insufficient contributions to get the full benefit; a second pillar of earnings related state benefits; and private occupational or personal pension provision. On the 6 April 2016, the two tiers of state pension provision were replaced (for those reaching pension age from that date) with a single tier benefit. The level of income provided by state retirement benefits in the UK is low.

## **What are the main types of pension provision?**

### Structure of private pension provision

Both occupational and personal pension schemes exist within the UK. Occupational pension schemes are set up by a sponsoring employer. The assets are held under trust and invested by scheme trustees. Such schemes may provide benefits on either a defined benefit or a defined contribution basis (or a combination of these). Personal pension schemes are typically individual agreements with insurance companies and provide benefits on a defined contribution basis.

## **Is pension provision mandatory?**

From 2012, the largest employers have had to automatically enrol employees earning over a certain threshold into a pension arrangement that satisfies certain minimum criteria. The auto-enrolment requirements will apply to all employers by 2018. Employees can opt-out of this mandatory pension provision but will need to continue to do so at three-yearly intervals.

## **Any restrictions in relation to who can establish a plan?**

A pension arrangement which benefits from the tax privileges set out below can generally only be set up by an employer, a government body or an entity regulated by the Financial Conduct Authority ('FCA') (such as an insurance company or bank).

## **Are there restrictions on who can operate a plan?**

Occupational pension schemes are run by trustees, but almost anyone can be a trustee (subject to certain exceptions where for example an individual has been convicted of an offence involving fraud or dishonesty or has been disqualified from being a director of a company). If a pension scheme qualifies for the tax reliefs set out below, the UK tax authorities must be satisfied that the trustees are "fit and proper" persons.

**Are there any funding requirements?**

In a defined contribution scheme, where the employer has reached its auto-enrolment staging date there are mandatory contribution requirements in relation to employees who qualify for auto-enrolment. The mandatory contribution levels can be phased in over a period of time and there are several alternative methods for calculating them, but the basic requirement is that employers will need to contribute at least 3% of earnings (between two thresholds) and total contributions will need to be at least 8%.

**What age are benefits taken?**

In defined benefit schemes, there are no mandatory contribution requirements, but a scheme will need to provide a minimum level of benefits to satisfy the auto-enrolment requirements. In addition, there will be a schedule of contributions setting out the level of contributions which the employer needs to pay to fund the promised benefits, determined as a result of the scheme's actuarial valuation. Employee contributions are determined by the scheme rules.

**Who bears the costs of private pension provision?**

Schemes which promise a defined benefit must have an actuarial valuation at least once every three years to determine whether there are sufficient assets to meet liabilities (and an actuarial report looking at any developments in intervening years). If there is a shortfall in assets, the trustees must formulate a recovery plan to reach an adequate funding level as soon as possible. There will also need to be a schedule showing what contributions are due to the scheme and when. Funding documents (e.g. the recovery plan and schedule of contributions) are the trustees' responsibility, but may require the consent of the employer where the employer has any powers under the scheme's documentation to determine or suspend contributions.

## Tax Regime

<b>Any registration requirements for tax purposes?</b>	Occupational and personal pension schemes can register with Her Majesty's Revenue and Customs (HMRC). If they do so, investments and contributions will be eligible for certain tax reliefs. The scheme will also be subject to certain reporting requirements and restrictions on benefits.
<b>Is tax paid on contributions?</b>	Tax relief is available on the majority of employer and employee contributions.
<b>Are investment returns taxed?</b>	No (assuming the scheme is registered with HMRC).
<b>Are benefits taxed?</b>	Yes. Pensions are subject to income tax. However, there are several different kinds of lump sums which can be paid tax free (either on death or retirement).
<b>Other incentives to contribute to plans?</b>	No.
<b>Limits on benefits or contributions?</b>	Only a certain proportion of benefits can be taken as a lump sum from a defined benefit scheme. Since April 2015, the whole of a member's defined contribution account may be taken as a lump sum. There are restrictions on the maximum level of benefits which can accrue and benefit from tax relief, both over an individual's working life and each year. Where employee savings in a registered scheme exceed these thresholds, HMRC impose a tax on the excess to recover the tax reliefs given.

## Regulatory Framework

### **Who is the regulator and what are its powers?**

The Pensions Regulator is a public body which has extensive powers in relation to the regulation of occupational pension schemes. It can fine trustees for non-compliance with legal requirements, appoint and remove trustees, wind-up schemes and require associates of sponsoring employers to contribute to occupational pension schemes in certain circumstances. It also oversees compliance with the auto-enrolment requirements. The FCA regulates personal pension schemes.

### **How does it receive information?**

Trustees, employers and advisers have a statutory duty to report certain matters which could be of material significance to the Pensions Regulator in the exercise of its powers. The FCA has a detailed reporting framework for those regulated by it.

### **Any supervision of failed or insolvent schemes?**

The Pension Protection Fund ('PPF') provides compensation to members of underfunded defined benefit schemes with insolvent employers. It is funded by a levy on all defined benefit schemes. The Financial Assistance Scheme provides government assistance to members of schemes that commenced wind-up before the existence of the PPF. Both arrangements ensure that members will receive the majority of their benefits (within certain limits). The Financial Services Compensation Scheme covers firms authorised by the FCA and may pay compensation where an authorised firm is unable to meet its obligations.

**Requirements in relation to discrimination?**

## Legislative Framework

There is extensive legislation which prevents discrimination on grounds of age, sex, sexual orientation, disability, race, religion and part-time or fixed term worked status. Both employers and trustees have obligations to prevent discrimination and generally speaking, trustees must ensure that schemes are operated on a non-discriminatory basis.

**Rights for early leavers?**

All members of defined benefit occupational pension schemes have vested entitlements to benefits after two years. Members of defined contribution occupational pension schemes will have vested entitlements after 30 days. Once a member has ceased to accrue benefits in a scheme, their vested entitlement is index-linked (subject to a current cap of 2.5% per annum) until the point of retirement. A member leaving an employer before benefits have vested can have their own contributions refunded or, in the case of a defined benefit member leaving after three months, can request a transfer payment to another occupational or personal pension scheme of their choice. There are regulations setting out provisions in relation to the calculation of such transfer payments.

**Member involvement?**

At least one third of occupational pension scheme trustees should be nominated by a process in which active and pensioner members can participate. There are also requirements to consult members and allow them to make representations when certain amendments are proposed to schemes. In addition, there are statutory requirements to provide members with information relating to both the scheme and their entitlement to benefits under it.

**Scope for cross-border activity?**

There is scope for schemes to have members who are not based in the UK. However, if the scheme is a defined benefit scheme and the overseas members are within the EEA, this can trigger a requirement for the scheme to be fully funded and therefore is generally not done much in practice.

**Are there restrictions on switching plans?**

There are generally few restrictions on a member switching between plans providing the plan the member wishes to switch to meets certain conditions. If a defined benefit member with benefits in excess of GBP 30,000 wishes to transfer to a defined contribution arrangement, they will need to obtain independent advice.

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For more information about our Employment & Pensions group, please visit [cms.law](http://cms.law) and also contact our CMS Employment team at: [employment@cmslegal.com](mailto:employment@cmslegal.com)

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