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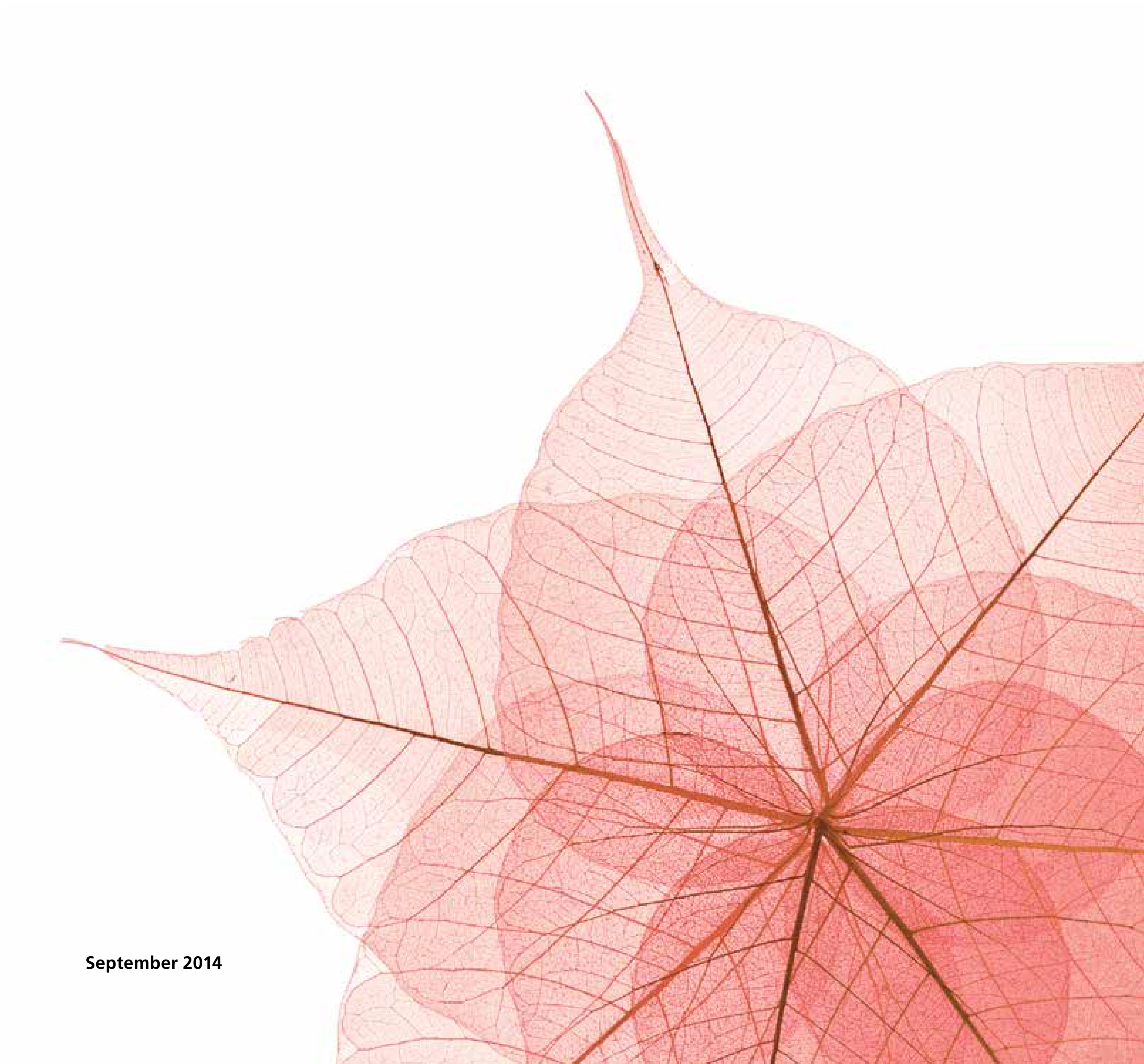
CMS International Guide to Pensions



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Introduction

Pension provision varies significantly across Europe, with both the types and structures of pensions available changing considerably from country to country. According to documentation produced by the European Union in January 2008, nearly 60% of supplementary schemes surveyed in Germany could be described as having features consistent with defined benefit provision, whereas for Poland the figure is only 10%. On closer inspection, a comparison of the specific characteristics of schemes throughout Europe shows noticeable differences, as does a comparison of the regulatory and taxation requirements that apply to them (and a 2014 study requested by a Committee of the European Parliament confirms that these differences have not significantly reduced in recent years).

Against such diversity, homogenisation of pension provision within Europe has provided the focus of recent European Union pensions legislation. The Directive on the Activities and Supervision of Institutions for Occupational Retirement Provision (Directive 2003 / 41 / EC) or the IORP Directive as it is succinctly known, took a significant step towards drawing together pension provision across Europe when it came into force in December 2005. This was on the basis that IORP set out the framework by which occupational pension schemes established in one EU member state could engage in cross-border activity.

Yet, the reality of the provisions of IORP has often resulted in having the opposite effect, leading to cross border activity becoming, if anything, less appealing. A scheme engaging in cross-border activity must ensure it is approved and authorised in the correct manner. The scheme must be fully funded and must also comply with the social and labour laws of any other relevant European Union countries. Such onerous provisions have resulted in cross-border activity becoming undesirable and many schemes have taken active steps to ensure they positively avoid cross-border activity.

Therefore, as yet it remains to be seen whether the future really will see increased uniformity in pension provision across Europe. Certainly, this guide highlights the fact that there is currently significant variation in pension provision throughout Europe, suggesting homogenisation, for the moment at least, remains some distance away.

CMS is the organisation of independent European law and tax firms of choice for organisations requiring pensions advice across Europe. CMS provides a deep local understanding of pensions issues and delivers client focused services through a joint strategy executed locally across 33 jurisdictions with 59 offices in Western, Central and Eastern Europe and beyond. CMS was established in 1999 and today comprises 10 CMS firms, employing over 3,000 lawyers and is headquartered in Frankfurt, Germany.

Katja van Kranenburg-Hanspians

Austria

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types of private pension provision?

Occupational pension plans can be established on a collective basis (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?

Employers or employees can establish pension plans. A pension contract is a contract under private law and is based on an agreement between an employer and an employee. 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 for women, which is currently 60.

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.
How does it receive information?	There are extensive statutory obligations for pension providers to provide information to the FMA contained in the Austrian Act on Pension Schemes (‘PKG’).
Any supervision of failed or insolvent schemes?	There is no supervision as such, but there are statutory provisions which are aimed at ensuring that pension funds cannot become insolvent. Only the FMA can apply to begin bankruptcy proceedings against a pension provider.

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 Work forbids any discrimination regarding temporary workers.
Rights for early leavers?	Yes. After the expiration of an agreed qualifying period (up to a maximum of 5 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

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types 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.

Are there any funding requirements?

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 3.25 and 3.75%), ultimately if the guaranteed return is not met, the employer will have to make up the shortfall.

What age are benefits taken?	The age defined by the plan, but not before the earlier of age 60 or the date at which the worker retires. Early payment of pension benefits is possible to some extent in order to purchase real estate situated inside the European Union or to build, rebuild, restore or improve such real estate.
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?	Insurance companies and pension funds must deliver statements stating whether the conditions for deductibility of employer contributions to the plan have been satisfied.
Is tax paid on contributions?	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% is applicable to the contributions (employer and employee) that exceed 30,000 euros per year (amount indexed).
Are investment returns taxed?	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.
Are benefits taxed?	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.

Regulatory framework

Who is the regulator and what are its powers?

The regulator is the Banking, Finance and Insurance Commission. It provides prudential supervision of insurance companies and pension funds and supervision of compliance with employment related obligations. The Commission has 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 Commission 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 Commission 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.

Legislative framework

Requirements in relation to discrimination?

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 a 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.

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; (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.
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 any body 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

General

Give a brief overview of types of pension provision

The pension system in Bosnia and Herzegovina is comprised of the two independent pension systems of its two entities. In general the pension system is a pay-as-you-go, publicly financed system with mandatory inclusion for all employed persons. However, voluntary pension funds have been introduced in the Republika Srpska entity.

Structure of private pension provision

What are the main types of private pension provision?

Within the voluntary pension fund 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). However, there are no funds which have been established yet.

Is pension provision mandatory?

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

Are there any restrictions in relation to who can establish a plan?

Private pension plans 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 plans can only be operated by a company which has been licensed for the management of such funds.

Is there a mandatory level of contributions?

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

Are there any funding requirements?

Yes. The initial capital of the management company must be at least 2 million BAM and must be paid in total upon establishment, at the account of a bank which operates in Republika Srpska.

What age are benefits taken?	Benefits can be taken at the age of 58 notwithstanding the period of accumulation (paid contributions), or the age of 53 with at least 5 years of continuous accumulation (paid contributions). In the case: of extraordinary medical expenses or permanent incapacity for work, benefits may be taken earlier.
Who bears the costs of private pension provision?	Costs are born 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

Are there registration requirements for tax purposes?	Companies managing voluntary pension funds must be registered with the relevant court registry of business entities and the competent tax office.
Is tax paid on contributions?	There are tax reliefs for contributions made by members and employers to voluntary pension funds. However, it is unclear what this tax relief amounts to and how it will be calculated. Further detail is anticipated in secondary legislation.
Are investment returns taxed?	There are some tax reliefs. However, it is unclear what the precise scope of these are and further detail is anticipated in secondary legislation.
Are benefits taxed?	It is not yet clear how benefits from voluntary pension funds will taxed if at all. Further detail is anticipated in secondary legislation. Pensions from the mandatory system are not taxed.
Any other incentives to contribute to plans?	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.
Any limits on contributions or benefits?	No, not in relation to voluntary pension funds.

Regulatory framework

Who is the regulator and what are its powers?	The Agency for Insurance of Republika Srpska regulates the operation of companies that manage voluntary pension funds. It 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?	The Agency has the right to see 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?	Companies that manage voluntary pension funds cannot directly or indirectly discriminate on grounds of gender.
Rights for early leavers?	A member of a third pillar pension plan can continue to be a member of the same pension fund when his employment ends, but he has to conclude a new contract of membership. Alternatively, he can make an account transfer.
Member involvement?	No.
Scope for cross-border activity?	There is scope for some cross-border activities. Investment in funds in other countries is possible. However, legislation does not provide detail on the scope for international activities.
Are there restrictions on switching plans?	No, individuals are free to choose to switch between plans and pension funds and are allowed to be members of more than one pension fund.

Bulgaria

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types 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.

Are there 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 be taken at age 63 for men and 60 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 2011, the retirement age is increased, from the first day of each successive calendar year, by 4 months each year for both women and men up to age of 63 years for women and 65 years for men. As from 31 December 2011, the length of contributory service is 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.

Regulatory framework

Who is the regulator and what are its powers?	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.

China

General

Give a brief overview of types of pension provision

There are several types of pension provision in China. The main type is the statutory pension system, 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.

Structure of private pension provision

What are the main types of private pension provision?

The main type of pension provision is statutory. Private voluntary provision is not common.

Is pension provision mandatory?

Participation in the PEE is mandatory and affected businesses must register themselves and all their employees within 30 days with 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 fails to object within 15 days.

Are there restrictions on who can operate a plan?

PEE funds are operated by competent Insurance Administration Centres and can only be held as bank deposits or invested in state bonds. 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 may only be held as bank deposits or invested in state bonds and other financial products with good liquidity such as short term bonds or corporate bonds.

Is there a mandatory level of contributions?	There is a mandatory contribution rate to the PEE. This is determined at provincial level and generally does not exceed 20% of payroll for employers and 8% for employees (although some developed areas require a higher contribution). Contributions are calculated on the annual average of an employee's actual monthly salary. If the average is lower than 60% of the average salary in the preceding year, contributions are calculated on 60% and if the average exceeds 300% of the average salary in the preceding year, they are calculated on 300%. There is no mandatory level of contributions to other types of pension arrangement.
Are there any funding requirements?	No.
What age are benefits taken?	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.
Who bears the costs of private pension provision?	It depends on the type of arrangement, but generally both employers and employees.

Tax regime

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 administration authorities where the business is located. The authority is entitled to inspect the PEE contributions of 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?	The competent insurance administration centre in charge of operating the PEE makes reports on the PEE contributions to the labour authorities on a monthly basis. In addition, the competent labour authorities make annual inspections of employers and have set up offence reporting systems via complaint hotlines and mail boxes.
Any supervision of failed or insolvent schemes?	No.

Legislative framework

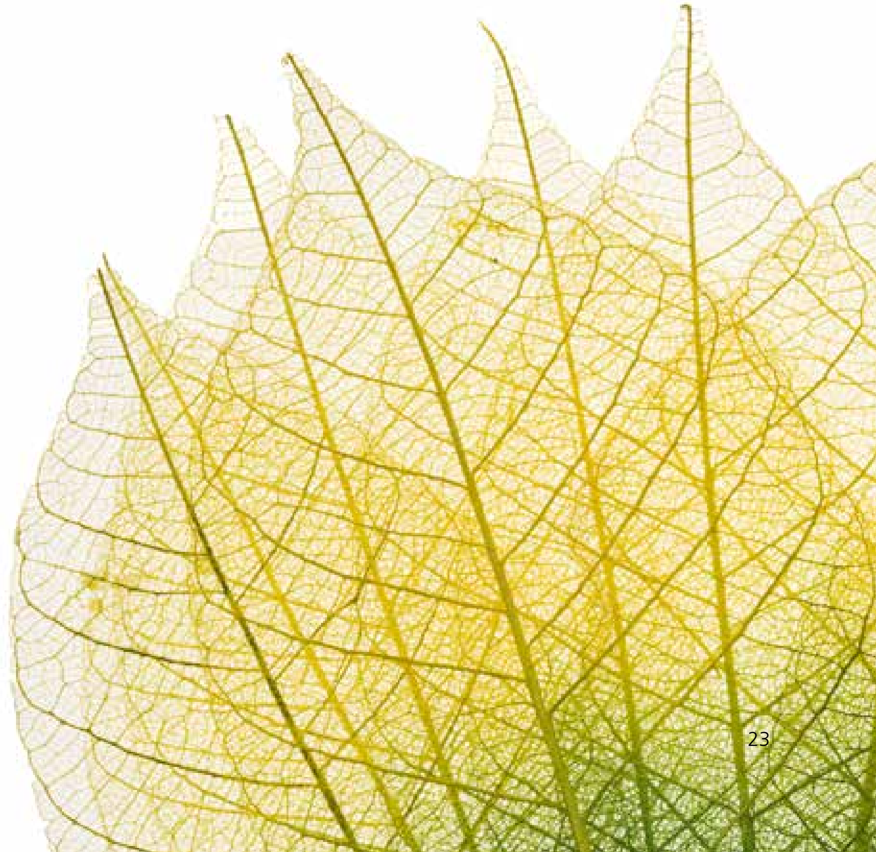
Requirements in relation to discrimination?	There are no legal requirements.
Rights for early leavers?	Employees who have contributed to the PEE for more than 15 years are entitled to a pension after retirement. The pension is paid to the employee on a monthly basis. Employees who contributed to the 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. 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 business so if an employee changes employer, their account must be transferred to their new employer. The new employer must apply for the transfer. From 1 January 2010, a PEE account can be transferred from one province to another province, before 2010, this was not possible. 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 manager.



Croatia

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types 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 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.

What age are benefits taken?

Benefits from the basic and supplementary pension plans can normally be taken at age 65 for men and age 61 for women (the prescribed age for women is progressively increasing by three months per year, and it will reach

65 by 2030). The benefits from voluntary pension plans can normally be taken at the age of 50.

Who bears the costs of private pension provision?	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.

Tax regime

Any registration requirements for tax purposes?	No.
Is tax paid on contributions?	No, tax is paid on contributions to the basic and supplementary pension plans. An employee's contributions to open and closed voluntary pension plans are not tax deductible. Employer contributions to a voluntary pension plan are not taxable up to a limit of 6,000 Croatian Kuna (approximately 790 euros) per year.
Are investment returns taxed?	No.
Are benefits taxed?	Pensions above the amount of 3,400 Croatian Kuna (approximately 447 euros) are liable to income tax at the rates of 12%, 25%, or 40%.
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 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.

Legislative framework

Requirements in relation to discrimination?

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?

There is no possibility of cross-border activity. Foreign pension plans are not permitted to operate within Croatia.

Are there restrictions on switching plans?

There are no restrictions on switching private voluntary pension funds, apart from the ones set-out in their rules. In the case of obligatory second pillar pension funds, switching must be accompanied by the payment of an exit fee, which amounts to the total of: (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 is free.

Czech Republic

General

Give a brief overview of types of pension provision

On 1 January 2013, major pension fund reforms took place. The system is based on mandatory pay-as-you-go scheme (the first pillar), which is supported by a second pillar, consisting of privately managed pension funds, and a third pillar incorporating the existing supplementary schemes. The existence of second pillar is mostly a political decision and the current government plans to cancel it (probably around 2016) and move all deposits into third pillar saving schemes (which may explain why there are currently only around 90 000 people involved (March 2014) instead of planned over 500 000 savers).

Structure of private pension provision

What are the main types of private pension provision?

Besides the mandatory pay-as-you-go system (the first pillar), there are two types of private pension plan: (a) the second pillar, in which individuals may voluntarily enter into privately managed pension funds; and (b) the third pillar, which incorporated the existing supplementary schemes (and in which new funds are created). Participants may join the third pillar in addition to participation in the first and second pillar. In contrast to the second pillar, participants in the third pillar are allowed to join and exit at any time.

Is pension provision mandatory?

Participation is mandatory in the first pillar (the pay-as-you-go system). Participation in the second and third pillar is voluntary.

Any restrictions in relation to who can establish a plan?

To establish a second pillar or third pillar 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?

Once an individual decides to participate in the second pillar, their total joint contribution to the first and second pillar will be 30% of the assessment base of their salary. This 30% contribution will be split into two parts:
(a) a deduction from the participant's salary of 8.5% of the assessment base of the participant's salary; and (b) a contribution by the participant's employer of 21.5% of the assessment base of the participant's salary. Out of this 30%, 5% will be allocated to the participant's account in the second pillar pension fund chosen by the participant, and the remaining 25% will be transferred to the mandatory pay-as-you-go scheme (the first pillar). Gross salary is used for the purpose of these calculations.
In the third pillar, the minimum monthly contribution of a member to be eligible for state support is CZK 300 (approximately 12 euros) per month.

	There is no maximum monthly member contribution. The participants in this plan receive monetary support from the state; the highest amount of such support (CZK 260 per month) is provided only to those who contribute over CZK 1000 per month.
Are there any funding requirements?	The minimum initial capitalisation of a second pillar pension fund company is CZK 300,000,000 (approx. 12,000,000 euros). The minimum initial capitalisation of a third pillar pension fund company is CZK 50,000,000 (approx. 2,000,000 euros). 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 second or third pillar 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).
What age are benefits taken?	Benefits from the second pillar system may be taken when the individual starts to receive benefits from the first pillar (in most cases at the age of 65). Benefits from the third pillar system may start to be taken from the age of 60, with the exception of disability pension benefits which can be taken earlier.
Who bears the costs of private pension provision?	Members.

Tax regime

Any registration requirements for tax purposes?	Employers and the self-employed must register at the Tax Office.
Is tax paid on contributions?	In respect of the second and third pillar schemes, contributions are not generally subject to personal income tax. However, if an employer contributes to a third pillar scheme on behalf of its employee, its contributions will be taxed as part of the employee's personal income if they exceed CZK 30,000 a year.
Are investment returns taxed?	Investment returns are in general not subject to tax.
Are benefits taxed?	Pensions (incomes from payments of pension funds under the second and third pillar) are not subject to income tax.

Other incentives to contribute to plans?	Individuals may deduct pension savings contributions of up to CZK 12,000 (approx. 480 euros) from their tax base (this applies to both the second and third pillar). Furthermore, employers may deduct pension savings contributions paid in favour of their employees of up to CZK 30,000 from their tax base (this applies to the third pillar only).
Limits on benefits or contributions?	There are in general no mandatory limits.

Regulatory framework

Who is the regulator and what are its powers?	The CNB supervises pension funds both in the second and the third pillar. 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

Legislative framework

Requirements in relation to discrimination?	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 second pillar schemes may not terminate their participation early (unless they wish to change the pension fund only). Members of the third pillar may terminate their participation at any time. Schemes have to state the relevant notice period for such purposes (which cannot be longer than 2 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 30 euros), for the transfer can be imposed on the member.

France

General

Give a brief overview of types of pension provision

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).

Structure of private pension provision

What are the main types 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.

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.

Regulatory framework

Who is the regulator and what are its powers?

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

How does it receive information?

ACP 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 anytime.

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.

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% (subject to pending changes) and 8% will be levied on 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 25%, 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%. In defined benefit schemes, the employer has to pay a social contribution equal to 30% of pensions above a specified level (300,384 euros in 2014) plus, 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 600 euros (subject to different minor ceilings). Pensions are liable to income tax, subject to a 10% allowance (capped at 3,689 euros).
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.

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

General

Give a brief overview of types of pension provision

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 salary conversion. 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.

Structure of private pension provision

What are the main types 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). Company pension schemes are in general defined benefit schemes. 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.

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, 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.

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 2,856 euros in 2014). For various reasons, including the availability of tax reliefs, total contributions should not exceed a prescribed limit (of 2,856 euros in 2014, although this limit does not apply for mutually agreed deferred compensation).

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). 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 and is between the ages of 60 and 65.

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 salary conversion. 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 2014 was 2,856 euros) 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 or social contributions on employer contributions to direct insurance arrangements, staff pension and pension funds up to a certain threshold (which in 2014 was 2,856 euros and a further 1,800 euros for pension commitments made after 31 December 2004).

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.

Regulatory framework

Who is the regulator and what are its powers?

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 which has far-reaching powers and may even withdraw operating licences. In addition, the German Pension Security Organisation 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?

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?

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 25 and the pension commitment has been in existence for at least five years. The amount of these 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.

Hungary

General

Give a brief overview of types of pension provision

Hungary has a two pillar system from 3 November 2010 (and prior to that had a three 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. Previously, 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.

Structure of private pension provision

What are the main types of private 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.
What age are benefits taken?	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.
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. Membership payments must be made by all members, the minimum amount of which is determined by the fund bylaws. Contributions to voluntary pension funds must be paid by the fund members. However, employers may undertake to partially or fully pay the membership payment contribution. The minimum amount of this contribution is determined by the fund bylaws. In occupational pension funds the employer bears the costs but the employee may make supplementary payments. How the contribution is divided between reserves is set out in an agreement.

Tax regime

Any registration requirements for tax purposes?	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.
Is tax paid on contributions?	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 (up to a monthly limit equal to 50% of the minimum wage) to a voluntary pension fund or occupational pension fund are taxed on the employer at 19.04% and a 14% health care contribution is also payable. Employer contributions exceeding this limit are subject to a 27% health care contribution instead of the 14% if paid within the framework of a cafeteria system.
Are investment returns taxed?	No.

Are benefits taxed?

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 10 years prior to receiving the payment.

Other incentives to contribute to plans?

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 500 euros. The tax credit is not reimbursed to the member, instead the relevant amount is credited to the member's pension fund account.

Limits on benefits or contributions?

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 ('Pénztárak 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.

Legislative framework

Requirements in relation to discrimination?	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.
Rights for early leavers?	In a voluntary pension fund, a member may withdraw their funds after 10 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.
Member involvement?	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.
Scope for cross-border activity?	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.
Are there restrictions on switching plans?	Switching between privately managed pension funds is allowed after 6 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

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types 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%. 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 1st January 2014, as a general rule it is possible to retire:

a) in the case of 'old age pension' (pensione di vecchiaia) whenever:
   - a male is at least 66 years and 3 months' old, and he has at least 20 years of social contribution paid; or
   - a female is at least 63 years and 9 months' old, and she has at least 20 years of social contribution paid;

b) in the case of 'early retirement' (pensione anticipata), whenever a male has 42 years and 6 months of social contribution paid, and a female 41 years and 6 months of social contribution paid.

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 5,164.57 euros 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 11%.
Are benefits taxed?	From 1st 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.

Regulatory framework

Who is the regulator and what are its powers?	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.

Legislative framework

Requirements in relation to discrimination?	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 8 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 2 years have elapsed from joining the original pension fund.

The Netherlands

General

Give a brief overview of types of pension provision

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 (currently 65 and two months, but to increase gradually to 66 by 2019 and 67 by 2023 with further changes being considered). The gross annual pension payment for this state pension varies between approx. 8,000 euros each for married couples and 14,000 euros for single households. The second pillar consists of private occupational pension plans and the third pillar consists of personal pension arrangements. Various important new legislative proposals are pending. For instance in respect of the regulatory framework for the financial supervision of pension funds and regarding communication with (former) members of pension schemes.

Structure of private pension provision

What are the main types 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 participate on the basis of collective labour agreements.

Are there 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. Legislation is pending regarding a new general format for a pension provider.

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.
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 value 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 the continuing economic difficulties, many pension funds have not yet been able to restore a proper funding level. As a result, legislation is now being considered that would introduce significant changes in respect of the financial rules for pension funds. 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 as of 2014 this target pensionable age has become 67. However, exceptions to this rule are still possible. Unless agreed otherwise (in which case some further conditions also have to be met), this new pensionable age only applies to new pension benefits. This means that accrued pension benefits may still be taken at 65. Due to recent, further increases of life expectancy, it is expected that the pensionable age will again be raised in the near future and become 68. Early retirement is possible, but this option is for various reasons severely restricted.
Who bears the costs of private pension provision?	Employers, employees, or both, depending on the terms of the plan. Reimbursements of contributions may be possible in the case of excess funds, but additional contributions may also be required if the assets of defined benefit schemes have become inadequate to fund their obligations.

Tax regime

Are there 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 by a qualified pension provider.
Is tax paid on contributions?	No. Pension contributions by employers are tax-exempt (reversal rule), but as of 2015 this exemption is to be limited to a pensionable salary of 100,000 euros gross. 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 are subject to personal income tax of up to 52% (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.
Any limits on contributions or benefits?	There are direct limits for defined contribution plans and indirect limits for defined benefit plans. In a defined benefit plan annual accruals are subject a maximum (as of 2015: 1.875% for average wage and 1.657% for final salary plans). Benefits may in any case not exceed 100% of the final salary and are also subject to additional limits and conditions.

Regulatory framework

Who is the regulator and what are its powers?	There are 2 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. Further restrictions may be implemented in view of recent European case law (Kristensen/Experian).
Rights for early leavers?	Except for certain conditional entitlements, all scheme members have vested entitlements. Only very small pensions (which for 2015 means an annual pension of approx. 500 euros) may in some cases be refunded.
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.

Poland

General

Give a brief overview of types of pension provision

The Polish pension system is currently being remodelled. In general, it is a three 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.

Structure of private pension provision

What are the main types 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 the OFE of their choice which then invests them. This percentage rate has recently been reduced to 2.92% of gross monthly remuneration.
Third pillar schemes consist of occupational and personal pension schemes. Occupational pension schemes (employee pension funds) are set up voluntarily by an employer. Membership of such schemes is based on an agreement between the employer and employees. 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?

Principles for participating in an OFE have recently been changed. Transferring a part of a contribution to an 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.

Are there any restrictions in relation to who can establish a plan?

Only open pension fund companies can establish an OFE and only employee pension companies can establish employee pension funds. In general, banks and insurance companies control such companies. The founders are required to obtain a license from the Polish Financial Supervision Authority ('PFSA'). An occupational pension scheme must be 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 an OFE and employee pension companies, employee pension funds. Occupational pension schemes are based on a contract entered into by an employer with an insurance company, 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 gross monthly remuneration. However, remuneration above a statutory threshold (PLN 112,380, approx. 27,000 euros, in 2014) is no 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 an 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. There are 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 11,238, approx. 2,700 euros, in 2014).

Are there any funding requirements?

No, although there are minimum capitalisation requirements.

What age are benefits taken?

The retirement age has recently been set at age 67. However, interim regulations provide for earlier retirement for men born before 1 October 1953 and women born before 1 October 1973. 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 scheme may request a pension to be paid at age 60 or, provided that certain statutory conditions are met, 55. Payment of benefits becomes mandatory after the member reaches age 70.

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 obtain 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.
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?	Pension 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.

Regulatory framework

Who is the regulator and what are its powers?	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. The retirement age has recently been equalised for men and women 67 years of age. However, interim regulations provide for earlier retirement for men born before 1 October 1953 and women born before 1 October 1973.

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 cases the amount paid out is subject to personal income tax.

Member involvement?

Employees are represented by members on 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 in 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 at any time but it is not possible to switch to an employee pension fund and vice versa. 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

General

Give a brief overview of types of pension provision

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 consists of voluntary private pension schemes that the employer can subscribe to for its employees. The third pillar is made up of individual voluntary private retirement savings schemes that anyone can subscribe to.

Structure of private pension provision

What are the main types of private pension provision?

Private pension plans may be 'closed', which means that they are for either one or many entities that have professional or social links with each other. They may also be 'open', which means that the associates to the fund can be any natural or legal persons, irrespective any link with each other, provided that they are aproved by the management company.
Private pension schemes may be: (a) defined contribution schemes; (b) defined benefit schemes and (c) mixed system schemes.
Pension plans financed through individual membership of an open pension fund can only be defined contribution schemes.

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 or several companies, associations of 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 Insurance Institute of Portugal (Instituto de Seguros de Portugal - 'ISP') to perform this type of activity. The management company may be an insurance company or a pension fund management company.

Is there a mandatory level of contributions?

There are mandatory contributions in the state system. In private pension schemes, the level of contributions is set out 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, which corresponds to a third of its value and which cannot be less than 800,000 euros.
What age are benefits taken?	Benefits can be taken as pre-retirement, early retirement, old age or disability pensions and as survivor's benefits. Normal retirement age in Portugal is currently 66. In contributory pension funds (contributions paid by the employee), the refund of the amount derived from employee contributions may also occur in cases of long-term unemployment, serious illness and permanent incapacity for work.
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. 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 by the employer 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 grant 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 contributions up to certain limits, for corporate income tax purposes. Employees may also benefit from small tax reliefs from personal tax liability.

Limits on benefits or contributions?

No, although contributions made above a certain limit may be disregard for tax deduction purposes in the case of the emplayer.

Regulatory framework

Who is the regulator and what are its powers?

In case of private pension plans, the regulator is the ISP. It supervises pension funds, management companies and 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 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 ISP in 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 ISP 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 or/and appoint interim managers of the management company. Should the ISP 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 age 65 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 detrived 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 open pension covering more than 100 participants, beneficiaries or both, are checked by a monitoring committee. This committee is composed of 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 ISP. When the ISP is duly notified of the intention of an institution in 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 membership of an open pension fund 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

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types of private 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 5 founders. Second pillar funds must acquire at least 50,000 participants within the 3 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.

Any restrictions in relation to who can establish

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.

Is there a mandatory level of contributions?

In the second pillar, contributions are 4.5% of the member's total gross earnings (which is intended to be gradually increased to 6%).
The contribution level is fixed, and the member cannot save more in this system. 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.

Tax regime

Any registration requirements for tax purposes?	No.
Is tax paid on contributions?	Participant and employer contributions to third pillar pension funds are tax deductible (in both cases, up to a maximum of 400 euros 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 16% income tax, less a tax-free allowance of approximately 220 euros.
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 employer and member contributions are limited to 15% of the member'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 9 member board appointed by the Parliament. The ASF's objective is also 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 particular 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?	As long as a member is an employee paying social security contributions he must 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

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types 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.

Are there any restrictions in relation to who can establish a plan?

Only private pension funds 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 Federal Service for Financial Markets (‘FSFM’).

Are there restrictions on who can operate a plan?

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

Is there a mandatory level of contributions?	There are no limits on or mandatory levels of contributions to private pension funds. 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 222% for the employee's annual gross remuneration below RUB 568,000 (14,175 euros) in 2013; and 10% is payable on remuneration in excess of this amount.
Are there any funding requirements?	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.
What age are benefits taken?	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'.
Who bears the costs of private pension provision?	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.

Tax regime

Any registration requirements for tax purposes?	Every tax payer is required to obtain a tax identification number.
Is tax paid on contributions?	No.
Are investment returns taxed?	Only if the member withdraws his funds before the retirement age in which case a 13% personal income tax is applied.
Are benefits taxed?	Pensions benefits are taxed at the rate of 13%.
Other incentives to contribute to plans?	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.
Limits on benefits or contributions?	Please see above.

Regulatory framework

Who is the regulator and what are its powers?	The regulator is the FSFM which is a government body 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 FSFM 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.

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?	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

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types 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 one million euros.

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.

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.

Tax regime

Any registration requirements for tax purposes?	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 5,329 dinars (approx. 46 euros) 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?	Investment returns are taxed when benefits are paid.
Are benefits taxed?	Benefits paid as a lump sum or in some other manner set out in the agreement with the member are subject to income tax payable by the member. Benefits secured by the purchase of an annuity from an insurance company are exempt from tax.
Other incentives to contribute to plans?	The amount of contributions determined by law (currently 5,329 dinars – approx. 46 euros 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 condition of employment, membership of a trade union or any other form of organisation.

Rights for early leavers?

Early leavers can withdraw their benefits before age 58 in circumstances prescribed by the law (in the case of permanent incapacity). If for any reason payment of contributions ceased, membership of the pension fund would continue and any accumulated moneys 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

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types of private 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 and third pillars are 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 with 14% going to the first and 4% to the second pillars. The contributions are assessed on income between 4,025 euros and 337 euros. Half of the second pillar contributions are retained by the Social Insurance Agency, the other half is sent to the relevant pension assessment management company.

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 pillar, provided they have participated in it for at least 15 years. 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 benefits can be taken from age 55 provided the member has participated in the plan for at least 10 years.
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

Any registration requirements for tax purposes?	No.
Is tax paid on contributions?	No.
Are investment returns taxed?	No.
Are benefits taxed?	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.
Other incentives to contribute to plans?	Contributions to a complementary savings plan are a non-taxable portion of income. Contributions in each tax period are exempt up to a maximum of 180 euros for the third pillar and 943.20 euros for the second pillar. To benefit from this tax relief, certain conditions must be complied with.
Limits on benefits or contributions?	The level of first and second pillar contributions is set out above. There is no limit on third pillar contributions.

Regulatory framework

Who is the regulator and what are its powers?

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.

How does it receive information?

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.

Spain

General

Give a brief overview of types of pension provision

Spain has a two pillar system. The first pillar is a state old age pension administered by the Government, paid for the most part with the social security contributions of both employers and employees. The second pillar is private pension provision.

Structure of private pension provision

What are the main types of private pension provision?

The type of benefits provided may be defined benefit, defined contribution or both. A private plan may be: an occupational plan where the promoter is the employer and the employees are the participants; an associate plan where the promoter is a union (or similar) and the participants, their members; or a personal plan where the promoter is a financial entity and the participants, individuals (such plans can only provide benefits on a defined contribution basis).

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 regulation of the plan and establish a sub-committee that will ask for the 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?

The financial and actuarial structure should be reviewed every three years (or every year in certain cases) by an independent actuarial body appointed by the control commission.

What age are benefits taken?

Benefits are normally taken when the participant reaches the age of 65 years and 2 months, which is the normal age of retirement for 2014. Early retirement is possible in certain circumstances where a participant has reached age 60 and ceased working.

Who bears the costs of private pension provision?

Employers and/or participants, depending on the terms of the plan.

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 equal to the amount of the contribution.

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, but is up to 43%.

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 8,000 euros.

Limits on benefits or contributions?

There is a maximum level of combined employer and employee contributions of 10,000 euros per participant per year, or 12,500 euros for participants older than 50. Contributions above these limits will be liable to sanctions.

Regulatory framework

Who is the regulator and what are its powers?

The regulator is the Ministry of Treasury, through the General Insurance Directorate ('GID'). GID 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, GID may request additional information from all relevant parties.

Any supervision of failed or insolvent schemes?

GID supervises failed or insolvent funds and where it deems necessary, 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.

Legislative framework

Requirements in relation to discrimination?

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 2 years service with an employer before being allowed to join.

Rights for early leavers?

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 the 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.

Member involvement?

The control commission must consist of representatives of the promoter and the participants and beneficiaries.

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

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types of private 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 21,060 Swiss Francs (in 2014) 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 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 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 on 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 842,400 Swiss Francs per year (in 2014). Voluntary contributions to third pillar schemes may only be deducted from taxable income up to 6,739 Swiss Francs per year for employed persons or 20% per year of income from earnings (up to a maximum of 33,696 Swiss Francs) for self-employed persons (in 2014).

Regulatory framework

Who is the regulator and what are its powers?

Each canton shall designate 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: (a) checking whether the provisions of the pension scheme comply with the legal regulations; (b) requiring periodical reports on the pension scheme (in particular on their business activities); (c) examining the reports submitted by the auditors and the accredited pension actuary; and (d) 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 such as the 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 in 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 accrued 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 to 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.

Ukraine

General

Give a brief overview of types of pension provision

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.

Structure of private pension provision

What are the main types 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 for current or former employees. Professional pension funds can be set up by one or more 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 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). A member may choose the date to take their benefits within 10 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?	Tax is not paid on contributions, provided that the private pension fund is duly registered with the tax authorities.
Are investment returns taxed?	Certain investment returns are not taxed: (a) investment returns payable to a beneficiary aged 70 years or above; and (b) returns paid under a life insurance agreement where the insured person obtained the first category of disability as a result of insured event. In other cases, 60% of investment returns are treated as taxable income and a 15% or 17% tax charge is payable. If beneficiary appears to be an insurer, only the difference between contributions and returns is subject to tax (5%) in accordance with the rules applicable to the taxation of deposits.
Are benefits taxed?	No.

Other incentives to contribute to plans?	There are some insignificant incentives. A contributor to a non-state pension fund may be granted a tax credit where contributions to the pension fund do not exceed the statutory limit (15% of the monthly salary capped at 1.4 x the minimum state defined salary). In the case of contributions by a member, the tax credit is 100% of the contributions and in the case of a contributor that makes contributions for their immediate family, it is 50% of the contributions. Contributions to the non-state pension fund are not subject to any social deductions and withholdings
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 reports on a 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 that once in any 6 month period.

United Kingdom

General

Give a brief overview of types of pension provision

The UK currently has a three pillar system. There is 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. There is currently a second pillar of earnings related state benefits (which the Government intends to phase out). The third pillar is private occupational or personal pension provision. The level of replacement income provided by state retirement benefits in the UK is low.

Structure of private pension provision

What are the main types 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. 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 early 2018 (employers have already been notified of their 'staging date' when the requirements will apply to them). Employees can opt-out of this mandatory pension provision but will need to continue to do so at three-yearly intervals.

Are there 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).
To operate a personal pension scheme, an entity must be authorised by the FCA.

Is there a mandatory level of contributions?	Yes, in some circumstances. In a defined contribution scheme, where the 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%. 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.
Are there any funding requirements?	Yes. Schemes which promise a defined benefit must have an actuarial valuation at least once every 3 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.
What age are benefits taken?	There is no mandatory retirement age in the UK. Benefits from third pillar schemes are typically taken between ages 60 and 65, although increases to the state pension age (currently set to be age 68 for some workers) may see this rise. Benefits cannot generally be taken before age 55 without incurring adverse tax consequences (although there are exceptions to this, including where the member is retiring on grounds of incapacity).
Who bears the costs of private pension provision?	In the case of an occupational pension scheme, it is a matter for scheme design. The governing documentation may provide that costs are met by employers or out of the plan assets. In a personal pension scheme, costs will typically be met by the member although it is possible for them to be met by the employer where, for example, the employer has arranged for a particular personal pension arrangement to be available to its employees.

Tax regime

Are there registration requirements for tax purposes?	Yes. 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.
Is tax paid on contributions?	Tax relief is available on the majority of employer and employee contributions.
Are investment returns taxed?	No (assuming the scheme is registered with HMRC).
Are benefits taxed?	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).
Any other incentives to contribute to plans?	No.
Any limits on contributions or benefits?	Yes. Only a certain proportion of benefits can be taken as a lump sum (although the Government has recently announced that from 2015, the whole of a defined contribution pension pot 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 government 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?	Yes. 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 who commenced wind-up before the existence of the PPF. Both arrangements ensure that members will receive the majority of their benefits (within certain limits) but do not replace 100% of the benefits which would have been provided by the occupational pension scheme. In addition, 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.

Legislative framework

Requirements in relation to discrimination?	Yes. 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 under it and generally speaking, schemes must be operated on a non-discriminatory basis and trustees must ensure that they do not contain any discriminatory provisions.
Rights for early leavers?	All members of occupational pension schemes have vested entitlements to benefits after 2 years (in defined contribution schemes, legislation is in place to reduce this to 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. Before 2 years, a member leaving an employer can have their own contributions refunded or after 3 months is eligible to 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?	Yes. 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?	Yes. There is scope for schemes to have members in 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?	Yes. There are generally few restrictions on member switching between plans providing the plan the member wishes to switch to meets certain conditions. However, if an employer wants to move members without their consent, there are more restrictions which are generally aimed at ensuring that the members are no worse off as a result of the transfer.

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