

Thursday 13 December 2001

17. Cross-border provision of occupational pensions *

A5-0388/2001

European Parliament resolution on the Commission communication on the elimination of tax obstacles to the cross-border provision of occupational pensions (COM(2001) 214 – C5-0533/2001 – 2001/2212(COS))

The European Parliament,

- having regard to the Commission communication (COM(2001) 214 – C5-0533/2001),
 - having regard to the Commission proposal for a directive on the activities of institutions for occupational retirement provision (COM(2000) 507 – C5-0596/2000 – 2000/0260(COD))⁽¹⁾ and the resolution by Parliament's position of 4 July 2001⁽²⁾,
 - having regard to the Commission communication on the future evolution of social protection from a long-term point of view: safe and sustainable pensions (COM(2000) 622),
 - having regard to the Green Paper on Supplementary pensions in the single market (COM(1997) 283),
 - having regard to the OECD Ageing Working Papers: 'Maintaining prosperity in an ageing society': the OECD study on the policy implications of ageing,
 - having regard to the conclusions of the Stockholm and Göteborg European Councils,
 - having regard to the conclusions of the Nice European Council,
 - having regard to the growing number of petitions to Parliament on the problem of fiscal obstacles to cross-border occupational pension schemes;
 - having regard to Rule 47(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinions of the Committee on Employment and Social Affairs and the Committee on Petitions (A5-0388/2001),
- A. whereas proper provision for old-age pensions is essential for the well-being and prosperity of the people of the Member States; whereas occupational pension schemes will play an increasingly important role to that end, whereas the cross-border mobility of workers must not be hindered by fiscal obstacles to the accumulation, management and payment of occupational pensions; whereas, therefore, coordination with regard to the fiscal treatment of occupational pensions in the Member States is of the greatest importance,
- B. whereas the debate on the future of pensions in the European Union cannot be confined to a discussion on financeability and transferability of rights acquired; whereas a broad debate is therefore needed on the future of pension systems in the European Union, taking as the starting point the duty which pension systems place on society; whereas the view that difficulties in implementing national tax provisions in the internal market by no means justifies the sealing of national markets in occupational pension schemes; whereas compliance with national fiscal rules to which Member States rightly attach great importance should, in the case of cross-border pensions, be made consistent with the opening of the market regarding the second pillar,
- C. whereas the coordination of the taxation of occupational pensions will also lead to greater comparison of pension systems in general,

⁽¹⁾ OJ C 96 E, 17.3.2001, p. 136.

⁽²⁾ 'Texts Adopted', Item 8.

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- D. whereas the coordination of occupational pension schemes will enhance labour mobility and thus enhance employment,
- E. whereas the diversity of tax schemes in the various Member States regarding occupational pensions is leading to cases of dual taxation which European citizens regard as an injustice and an infringement of the fundamental rights and freedoms recognised by the Union,
- F. whereas work on the broad guidelines of economic policy means that pensions systems are playing an ever greater role in terms of their effect on national budgets; whereas the content, quality and form of pension schemes, and policy with regard to taxation, are the responsibility of the Member States and whereas the harmonisation of the fiscal treatment of pensions is very difficult to achieve through European legislation in view of the requirement for unanimity on decisions regarding tax legislation; whereas an effective and transparent coordination process must therefore be developed which can contribute to the elimination of tax obstacles and improve coordination,
- G. whereas the granting of tax incentives by exempting pension contributions from tax will stimulate the accumulation of occupational pensions; whereas the taxation of pension payments will generate more tax income in future when there will be a larger group of retired people and greater demands will be made on public funds than at present; whereas the EET system for the taxation of occupational pensions is already used by most Member States,
- H. whereas bilateral or multilateral treaties for the levying and collection of taxes, as proposed by the Commission and encouraged by the OECD, are an important means to that end, but whereas enhanced cooperation by a number of Member States in the context of the opportunities offered by the Treaty amendments of Nice could provide greater clarity and transparency,
- I. whereas tax treatment of pensions also may have wide-ranging effects on other areas of law (social security, labour, contract and financial supervision law, enforceability of administrative and judicial orders); whereas the unrestricted deductibility of payments for all workers made to foreign pension funds would be tantamount to the unconditional recognition of foreign legal provisions in the above-mentioned fields, such issues should also be involved in the process of open coordination,
- J. whereas the automatic and full exchange of the information necessary for the levying of taxes is in the interest of all Member States, and whereas mutual assistance in tax collection is a logical corollary of this; whereas, under Articles 1, 3 and 9 of Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member State in the field of direct taxation⁽¹⁾, automatic exchange of information can be implemented without further legislative measures,
- K. whereas Member States must allow migrant workers to continue with an existing pension scheme, in accordance with the rules of European law and the Commission's analysis of their interpretation and application,
- L. whereas the refusal by an EET or ETT State of tax deductibility in respect of a worker's pension contributions paid to a foreign pension scheme is in conflict with EU law and constitutes a serious obstacle to cross-border worker mobility; whereas the Court of Justice of the European Communities has ruled against such discrimination; whereas the Commission is rightly considering proceedings for Treaty infringement,
- M. whereas the transfer of accumulated pension rights with the aim of continuing to accumulate the best possible pension for a migrant worker in his country of establishment may not be hindered by disproportionate tax obstacles in the Member States; whereas at the same time Member States have the right to impose certain requirements regarding the transfer of accumulated pension rights in order to prevent abuse of the rules and evasion of tax,

⁽¹⁾ OJ L 336, 27.12.1977, p. 15.

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- N. whereas the proposal for the establishment of pan-European pension funds is worthy of support, but can only overcome administrative barriers, and does not absolve the Commission and Member States of the duty of tackling the substantive problems too,
- O. whereas an intensive dialogue with the social partners and other operators in the pensions field is necessary in view of the importance of fiscal problems to the content and structure of occupational pension schemes for which they are responsible and which they manage,
1. Welcomes the Commission communication as a first step towards an internal market free of tax obstacles to the accumulation, management and payment of occupational pensions;
 2. Notes that the requirement for unanimity on decisions in the field of taxation makes it hard to achieve effective legislative measures rapidly at European level;
 3. Concurs with the Commission's analysis that Member States sometimes act in contravention of EC law regarding participation in pension schemes in cross-border situations; calls on the Commission to initiate proceedings as soon as possible before the Court of Justice of the European Communities on the basis of Article 226 of the EC Treaty in response to every case of tax discrimination regarding cross-border pension entitlements, and in the mean time to prepare other measures, including legislation, if it notes that insufficient progress has been made;
 4. Urges the Commission and Member States to develop, in cooperation with the European Parliament, a process of open coordination regarding the taxation of occupational pensions, with a view to the elimination of double taxation and double non-taxation, and with a view to the broadest possible application of the EET principle, by devising objectives, benchmarks and reporting and evaluation procedures, in the context of the agreements reached at the Stockholm and Göteborg European Councils on policy with regard to the ageing of the population and the mobility of workers. This coordination could relate to:
 - the tax levying system,
 - the extent of tax levied and the possibility of agreeing on a band width regarding the level of taxation of pension benefits,
 - the qualifying conditions for granting tax concessions,
 - mutual adjustments between Member States in respect of migrant workers,
 - transitional measures,
 - a so-called 'European Test' to examine changes in Member States' rules with a cross-border impact,
 5. Calls on the non-EET Member States to take steps as quickly as possible to introduce the EET system for occupational pensions, in order to promote convergence, reduce the opportunities for undesirable tax behaviour, avoid double taxation and remove obstacles to freedom of movement;
 6. Calls on Member States using the EET or ETT system not to allow the situation to reach the stage of infringement proceedings before the Court of Justice of the European Communities, but to permit migrant workers the deductability of pension contributions paid to the pension scheme which they were already subscribed to before they emigrated, and to permit non-migrant workers the deductability of pension contributions to pension institutions established in other Member States which are comparable in motive and intention, taking account of the requirements imposed by Member States;
 7. Calls on the Commission and the relevant Committee under Directive 77/799/EEC to make the proposal for automatic exchange of information operational as soon as possible;
 8. Calls on the Member States to consider, alongside bilateral and multilateral agreements for the avoidance of the double taxation and non-taxation of pensions, a process of enhanced cooperation of the type made possible by the Treaty amendments of Nice, and calls on the Commission to carry out preparatory work to investigate the possibilities to that end;

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9. Strongly urges the Council and the Member States to make rapid progress with the proposal for a directive on the activities of institutions for occupational retirement provision, which will ensure mutual recognition of occupational pension schemes and will significantly contribute to effective tax coordination action;
10. Calls on the Member States to make progress in assessing the possibilities for co-ordination of their tax policy in respect of occupational pension provision while continuing to respect the Member States' specific conditions for the granting of tax concessions for non-migrant workers;
11. Calls on the Commission, together with the Member States and the Pension Forum, to find an adequate solution to the tax obstacles hindering the transfer of accumulated pension rights to pension funds within and outside the Member States, a solution which combines the maintenance of pension rights with greater worker mobility;
12. Supports the proposal for pan-European pension institutions as reflected in the Commission's communication; calls on firms wishing to set up pan-European pension funds to launch initiatives to that end; calls on the Member States to facilitate and encourage this in other firms and sectors; asks the Commission to address the specific situation of frontier workers in the framework of this proposal; calls furthermore for a statute for a pension fund to be set up for migrant and frontier workers;
13. Calls on the Commission and the Member States to grant migrant and frontier workers easier access to information on the benefits and the drawbacks of cross-border pension schemes, so as to enable them to become more aware of their rights and also the difficulties which they might encounter concerning the tax treatment of cross-border occupational pension schemes; considers that such information should be provided inter alia within the framework of EURES; calls for the EURES network to be strengthened to enable those tasks to be carried out more effectively;
14. Urges the Commission to submit to the special European Council in Barcelona next spring an action plan for the coordination of taxation on pensions, as a follow-up to the plans which are to be prepared at the Laeken European Council;
15. Suggests that the Commission set up a scoreboard, adjusted regularly, to assess progress with the automatic exchange of information, assistance with collection and mutual recognition and supervision;
16. Instructs its President to forward this resolution to the Council and Commission and the governments and parliaments of the Member States.

18. Zimbabwe

B5-0759, 0774, 0787, 0788, 0799 and 0801/2001

European Parliament resolution on Zimbabwe

The European Parliament,

- having regard to its resolutions of 13 April 2000⁽¹⁾, 18 May 2000⁽²⁾, 6 July 2000⁽³⁾, 15 March 2001⁽⁴⁾ and 6 September 2001⁽⁵⁾ on the situation in Zimbabwe,
- having regard to the Agreement reached in Abuja on 6 September 2001 between the Committee of Commonwealth Foreign Ministers, including a number of African States, and the Zimbabwean Government to return Zimbabwe to the rule of law and end all illegal occupations of farmland,

⁽¹⁾ OJ C 40, 7.2.2001, p. 425.

⁽²⁾ OJ C 59, 23.2.2001, p. 241.

⁽³⁾ OJ C 121, 24.4.2001, p. 394.

⁽⁴⁾ OJ C 343, 5.12.2001, p. 304.

⁽⁵⁾ 'Texts Adopted', Item 13.