



General remarks on the “Green Paper towards adequate, sustainable and safe European pension systems” of the European Commission

By presenting the “Green Paper towards adequate, sustainable and safe European pension systems” on July 7 2010, the Commission took up an intense debate that has been going on for quite some time in many Member States. It has also defined an initial political focus that will leave its mark on the future debate of the topics highlighted in the document. The aim of offering the citizens of the European Union adequate, sustainable and safe pensions is one of the key objectives of European policy both today and in the future. The political challenges associated with this goal have already been taken up by the European Union, national governments and the social partners to a different extent. The Commission was right in assuming in its Green Paper that the responsibility for pension provision lies with the Member States. In many Member States, social partners, companies and employees have increased their efforts during the past few years to open roads towards at least partial compensation for the frequently declining benefit levels of national pension schemes. These efforts must not be jeopardized by any activities undertaken at the European level resulting from the Green Paper.

The actual design of pension systems in the Member States is highly diversified. This is due to the equally diversified national systems of social security, labour law, and the organization of the labour markets.

Although the analysis made by the Commission in its Green Paper is basically correct, and although most of the targets described in the first part of the Green Paper can only be subscribed to, many of the specific goals raised by the Commission with respect to an additional private component are not adequate, in particular, as regards occupational pension schemes. The European social partners – the European Chemical Employers Group (ECEG) and the European Mine, Chemical and Energy Workers’ Federation (EMCEF) – share the concerns expressed in the Green Paper with respect to insufficient pension provision for employees, as well as the inadequate preparations made by companies and employees as a whole, as well as society, with respect to demographic change. For this reason, we cannot avoid discussing these issues at the European level in order to meet our responsibility for an intense exchange of experience on this topic. However, the definition and implementation of the actual measures to be taken must always be the responsibility of the Member States. Any existing rules on this issue, and any possible further developments of this topic must always keep track of the extremely different national systems, especially as regards occupational pension schemes, and must by no means jeopardize their possible future development and enhancement.



EMCEF and ECEG want to express their disagreement with the procedure followed by the Commission. The social partners should be consulted in a different way, and with a clearly different weight, than that of the wider public because the subject of the consultation clearly concerns the “social policy field”. Indeed, a clearer role for social partners is required. The consultation document does not take into consideration the role of social partners, in fact the social partners are only mentioned once.

Key concerns of the European chemical social partners

1. A careful distinction must be made **between the different pillars of the pension system** – statutory, occupational and individual pension schemes. Even though all of them (more or less – the 3rd pillar private pension systems less) pursue the same social policy goals, their design, their degree of being affected by the developments described in the Green Paper, are too different to be described in equal terms.
2. Institutions for Occupational Retirement Provision (IORPs) are **social institutions organised by the employers and employees** that do not sell any **financial market products traded on the free market**. Occupational pension schemes do not **cross borders**. Therefore, a pan-European “level playing field” is neither required nor does it make sense.
3. Occupational pension schemes are a proven, reliable pillar of the pension system **which corresponds to the objectives in terms of sustainability, safety, portability, and information** – there is no need for additional regulation at the European level. Rather, **regulating the individual pillars** of the pension system at the European level **threatens** to jeopardize the **equilibriums** between statutory, occupational, and private pensions.
4. An **additional regulation** of occupational pension schemes by the EU, for example, by stipulating higher capital requirements or requirements on the financial investment strategies, **would overstrain the institutions and carriers of occupational pension schemes financially**, and thus also the **purpose of occupational pensions**. As a result, the **success and the amount of occupational pensions would be jeopardized** – and the same applies to the social policy objectives of the EU and its Member States.
5. The **principle of subsidiarity** must be respected. European rules can be considered to be useful only if they bring about a considerable added value compared to the existing national systems.



The specific questions raised in the Green Paper “Adequate, sustainable and safe European pension systems” of the Commission are commented as follows by ECEG and EMCEF:

2. Is the existing pension framework at the EU level sufficient for ensuring sustainable public finances?

Yes. The EU legislation in several policy areas affects pension policies on the national level. Pension is only a part of future public expenditure. In our opinion, the open method of coordination and the Stability and Growth Pact are sufficient frameworks to ensure the sustainability of pension systems. Here, it would be helpful to look at good practices and results in other Member States

5. In which way should the IORP Directive be amended to improve the conditions for cross-border activity?

The diversity of pensions in the EU Member States is not compatible with the establishment of a single market for pensions. This applies, in particular, to occupational pensions (and their various links to labour and social law) even more than to private provision. There is no single system that would be capable of simultaneously accounting for the national requirements, objectives and provisions for occupational pensions in all 27 Member States – nor is there a need for such a system.

An occupational pension scheme, as a social institution, does not cross borders. The specific social policy and company-specific objectives are not open to EU provisions targeting the creation of a single market. And even the need for such a system has not been identified.

The social policy goals of securing adequate, sustainable and safe pensions, as listed by the Commission in its Green Paper – which we as the European social partners of the chemical industry support – can be better achieved without comprehensively changing the IORP Directive and without creating a transnational market in this field.

8. Does current EU legislation need reviewing to ensure a consistent regulation and supervision of funded (e.g. backed by a fund of assets) pension schemes and products? If so, which elements?

The Commission is right in calling for adequate, sustainable, and safe pensions for the citizens of the European Union. Any regulatory measures would have to serve



these social policy objectives. Accordingly, pan-European standard regulations and supervision will only make sense if national measures can be proven not to make sense, i.e. if they do not ensure compliance with the social policy objectives of pension provision.

IORPs, as social institutions, have to be clearly delimited from other, private pension products offered on the financial markets. Contrary to financial market products, occupational pensions are not characterized by third-party interests. Rather, the focus is on safeguarding employees' rights and employers' interests at the level of labour law. This concept clearly excludes the idea of a pan-European market of occupational pensions including standard rules.

We regret that a recent European Court of Justice ruling on pensions is undermining the autonomy of social partners and opening up the institutional market for commercial partners. In its judgment (C-271/08) the ECJ condemned Germany over the practice of local authority employers to award contracts for pension services on the basis of a selection laid down in collective agreements. It was the European Commission who decided to refer Germany to the Court, considering that the award of contracts for pension services by public authority employers should be conducted with the tendering procedures required by EU public procurement law. Another worrying case is pending (C-437/09, AG2R Prévoyance v. Beaudet Père et Fils).

10. What should an equivalent solvency regime for pension funds look like?

Again, one would first have to point out that any measures taken must first be subjected to the question in how far they offer adequate, sustainable and safe pensions. Pension funds must serve this social policy objective, and their regulation must be tailored to this goal. IORPs do not offer any financial market products. For this reason alone, Solvency II cannot be applied to IORPs.

The solvency rules existing for the IORPs have caused considerable concerns. Any further regulations that would include IORPs into Solvency II, for example, would be associated with extremely high financial burdens, and thus jeopardize the purpose they pursue. The capital to be accumulated would be tied up, and would not be available for investment and innovation, the competitiveness of a company would not be improved, and no job would be secured.

11. Should the protection provided by EU legislation in the case of the insolvency of pension sponsoring employers be enhanced and if so how?

In general, the protection of pensions against insolvency of the sponsoring employers is increasingly addressed by Member States. Therefore there is no need for EU



legislation other than ensuring the exchange of best practice models via the open method of coordination.

14. Should the policy coordination framework at EU level be strengthened? If so, which elements need strengthening in order to improve the design and implementation of pension policy through an integrated approach? Would the creation of a platform for monitoring all aspects of pension policy in an integrated manner be part of the way forward?

The existing institutions concerning pension policy cooperation are sufficient. There is no need to establish any new institutions beyond SPC and the Commission's Pension Forum for second pillar pension provision. As the Green Paper mentions, most pension reforms of the last decades have aimed at improving sustainability of pension systems.