

**The Danish Confederation of Professional Associations, Salaried Employees' and Civil Servants Confederation, The Danish Confederation of Trade Unions, The Confederation of Danish Employers, Local Government in Denmark, Confederation of Danish Employers' Associations in Agriculture, Danish Regions**

## **The Social Partners joint view on the proposal for a directive on improving the portability of supplementary pension rights.**

### **Introduction**

The social partners in Denmark endorse the main intention of the proposal which is facilitating cross-border portability of supplementary pensions in the European Union.

Labour mobility is an important element of the Danish Flexicurity-system and workers' free movement is a key element of the EU internal market. The Danish Social Partners find that lowering obstacles to labour mobility in the area of supplementary pensions is part of an important feature of fostering workers' free movement within the EU.

While agreeing on the overall purpose of the proposal the Social Partners in Denmark view the EU Commissions proposal for a directive on improving the portability of supplementary pension rights with serious concern.

The Danish Social Partners recommend the articles on transferability in the draft directive to be changed to avoid undermining of the collective features of the Danish supplementary pensions schemes. If this is not done the Danish social partners prefer that the directive focus on securing acquired rights.

In the view of the social partners the current draft proposal will fundamentally change the Danish Labour Market Pensions System – a system that has been built up over the last 100 years by the social partners. The Danish Pension System received the following comments in the latest review carried out by the European Commission:

“The strategy for ensuring adequacy and financial sustainability of pension provision seems appropriate. The reforms needed to achieve the adequacy and solidarity objectives have been put in place over the last decade with support from a broad majority in Parliament. A budget policy leading to quick debt reduction has already been sustained for some years and all major parties support the continuation of this policy until 2010, when the public debt will have been largely eliminated. A further rise in employment will be difficult to achieve in view of the limited labour force reserves, but it is not implausible given Denmark's proven track record in employment. In particular, the incentives for older workers to defer their retirement could be further strengthened.

In sum the pension system seems to be financially sustainable in the long term under present policies with a fairly equitable sharing of the burden between generations. Building up occupational pensions will increase replacement rates in the future and thereby alleviate potential pressure for increases in public pension rates. Yet, the sustainability calculations hinge critically on maintaining large surpluses in public finances during this decade. Further labour market reforms would seem to be needed to ensure the assumed increase in the labour supply, which in turn is needed for ensuring the debt reduction strategy necessary for financial sustainability.”

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This note explains the concern of the social partners in Denmark and it has been handed over to the Commission at the meeting between the Social Partners in Denmark and representatives from the Commission in Copenhagen 25 April 2006.

**This note explains the joint view of the above mentioned social partners in Denmark. Each organisation has in addition to the views expressed in this note separate views on the proposal for a directive.**

### **The Supplementary pensions System in Denmark**

In 2002 and 2005 the EU Commission received country reports report on adequate and sustainable pensions. The descriptions on Denmark are annexed this note.

In the country summaries the Danish supplementary pensions system has been described by the following:

“The second pillar consists mainly of occupational schemes based on collective agreements at the sectorial level which are fully funded defined-contribution schemes. These schemes have been expanded significantly since the 1980s and now cover more than 80% of the employed workforce. While based on individual accounts, these trade-union initiated schemes have important solidarity elements, in particular invalidity insurance and the absence of health criteria for qualification purposes. In addition, they do not present barriers to labour mobility, thanks to immediate vesting and transferability between schemes. The normally regressive distribution effects and public budget costs of tax incentives for supplementary pension provision are moderated by the fact that tax exemption only applies to income tax at a standard rate and that returns on investments are taxed. In 2002, the statutory Special Pension Savings scheme was redefined as a savings scheme without any redistribution objective and based on individual accounts. “

The Social Partners largely agree on the description of the Danish system.

However the description should be supplemented by stressing, that the Danish Supplementary Pensions System secures supplementary pensions for up to 96 pct. of the workforce according to the latest publication from the Ministry for Economics and Business Affairs<sup>1</sup>. The high coverage is primarily due to the fact that the supplementary pensions in Denmark are established as a part of the collective agreements negotiated by the social partners. More than 85 pct. of the workforce in the private sector and more than 99 pct. of the workforce in the public sector are covered by collective agreements.

The supplementary pension scheme is hereby an obligatory element of the employment contract. It is an important characteristic that the mandatory feature also covers the choice of pension fund. The individual worker can not decide to join another pension fund than the one in the collective agreement.

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<sup>1</sup> Ministry for Economics and Business Affairs, Økonomisk Tema nr. 2, November 2005, Pensionsopsparringen i Danmark, p 20,

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Employees who are not covered by supplementary pensions are in general employees with a limited connection to the labour market. They have a yearly income which is low and they will in general receive a (fairly) high compensation from the public pensions (based on legislation), when they retire.

The obligatory characters of the supplementary pensions make it possible for an individual worker to be covered by a supplementary pension on ordinary terms without being subject to prior health examination. In this way the Danish System cover workers who due to their health-situation could not be covered on ordinary terms.

It is an important feature of the Danish obligatory supplementary pension schemes that they preserve the element of life long revenue based on a collective solidarity approach. However some elements of sum payments have been allowed.

Another element of the Danish supplementary pensions is that the obligatory pension schemes all are based on the UNI-SEX-principle. In consequence savings are redistributed from men to women. It is therefore important that a coming directive does not undermine the obligatory characters of the supplementary pensions in Denmark.

All the pension funds secure dormant pension rights for the individual who stop contributing for one reason or another. For all the systems that are built on collective pension funds each individual has a sense of responsibility by adopting the bargaining result each time the collective agreement is negotiated.

### **Brief history on the establishment of Labour Market Pensions in Denmark**

The labour market pensions system where contributions are paid by both employers and employees goes back to the beginning of the 20 century.

<b>Year of establishment</b>	<b>Name of the pensions fund</b>
1900	Pension fund for workshop white collar workers in steel industry.
1912	Pension fund for bank wage-earning and salaried employees.
1917	PFA pension fund for white collar workers in private industry.
1919	Pay as you go pension system for state civil servants. Establish by law.
1928	Pension fund for visiting nurses.
1940	Pension fund for veterinaries.
1946	Pension fund for doctors.
1947	Pension fund for chemist's assistants.

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1953	Pension fund for graduate engineers.
1954	Pension fund for architects.
1955	Pension fund for physiotherapist.
1958	Pension fund for Danish B. Sc. in engineering. Pension fund for nurses and other hospital staffs. Pay as you go pension system for local government civil servants. Establish one-sidedness by the municipalities as employers.
1960	Pension fund for masters of Arts, masters of Science.
1961	Pension fund for lawyers, solicitors.
1961	Pension fund for economists.
1965	Pension fund for laboratory technicians.
1966	Pension fund for certified nurse-midwife.
1968	Pension fund for white collar workers in Danish Regions.
1970	Pension fund for graduates in agriculture.
1972	Pension fund for legal professions and university economists.
1976	Pension fund for drivers in Capital traffic.
1977	Pension fund for social workers.
1978	Pension fund for kindergarten and pre-school teachers.
1979	Pension fund for bank sektor.
1980	Pension fund for chemist's assistants.
1989-	Life Insurance funds for skilled and unskilled workers covering more than 9/10 of the labour market. <sup>2</sup>

However it was in 1989 in the public sector and in 1991 in the private sector that the second pillar supplementary pensions was agreed upon covering the largest groups of workers on the labour market (skilled and unskilled workers).

The local and regional employer's organisations together with the trade unions agreed in 1989 on establishing a funded pensions system for all their employees. In 1991 the private employers together with their trade union counterparts reached agreement on the establishment of a funded pensions system for all their employees (skilled and un-skilled workers).

Since then the Social Partners has continually been adding resources to the different funds every time the collective agreements has been renegotiated. That has normally been every second, third or fourth year.

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<sup>2</sup> The Ministry of Social Affairs, National Strategy report on pension system 2002 p.2

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Today many pension funds have merged, new have developed and others are working under new names. A new list of all the pension funds can be drawn up like the one above. But it has been suppressed to ease the reading of the note.

**Labour market pensions as part of Danish economy**

The main purpose from the public and private employers when covering all their area with pension funds was to secure individual workers a lifelong base income after he/she had stopped working. The other main purpose was to reduce and limit the public expenditure on social service.

Both private and public employers normally have regarded the revenues paid into pension schemes as a proper use of the funds available. A very important aspect in this connection is that the employees make priority of contributions to the pension schemes in the collective bargaining rounds.

Since the main pension obligations to the workforce in Denmark do not stem from a pay-as-you-go-system but is based on funded schemes - it has increased and facilitated the capital supply in Denmark benefiting the entire economy.

**Moving between the different pension funds when changing jobs**

The legislation covering obligatory supplementary pension schemes in Denmark stipulate a possibility to change pension scheme in connection with a change of employment relationship. This obligation has led to an agreement on transfer of acquired pension rights in the case of job change covering all the obligatory pension funds. The agreement has the nick name "Change Job Agreement". The agreement gives the necessary flexibility to the labour market and secures that the worker can transfer his acquired pension rights to the scheme covered by his new job without been penalised or having his rights reduced.

It is a fundamental principal that the individual worker is not obliged to move his acquired pension rights to the scheme mandatory to his new job – but he can do so if he would like to.

And old agreement between state and local government secure the same possibility for civil servants in state and local government irrespective of whether the move from state to local government or visa versa.

**Main problems with the directive on supplementary pensions**

**1. Speculations against main purpose of the pensions fund**

The main purpose for the trade unions and the employer organisations when covering the labour market with pension funds is to ensure that every individually worker is secured a life long supplementary income when retired.

If the Directive imposes an individual right for an outgoing worker to move acquired savings to pension schemes in countries with much more weight on lump sum payments, the Directive will threat the extensive coverage of supplementary pensions in Denmark.

The Directive will in this way open for speculations against the pension funds and all the problems concerning adverse selection would come true.

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It will be open to men or women who would try to avoid funds established on the UNISEX-principle. Some people would tend to leave funds which guarantee lifetime payments for funds that pay out the savings over a shorter period. In the latter case the period between the payments stop and death will have to be covered by the publicly funded pensions (first pillar) with detrimental effect on public finances.

It will also result in the exclusion of a large proportion of workers from being covered on ordinary terms because of their health situation. Today - by virtue of the obligatory character of the pension schemes - they are covered on ordinary terms.

**2. The right to move to a pension fund free of choice**

It will not be possible to keep the obligatory system of supplementary pension in Denmark if the directive allows the individual worker to move to a pension scheme free of choice.

Today almost all employees are covered by supplementary pension schemes which are fixed in the collective agreement covering their employment relationship or in their employment contract.

In Denmark it is mandatory that a right to move to a new pension scheme is limited to the pension scheme fixed by the new employment relationship.

**3. The directive makes the European court of justice competent in the area of supplementary pensions**

Disputes concerning some of the issues dealt with in the directive are now solved in the ordinary system for handling legal disputes on the labour market in Denmark. When the directive comes into force the disputes can be taken to the European Court of Justice. In this way the directive opens up for court cases and interpretations not foreseen when adopting the directive.

In the Danish Labour Market Legal System the Social Partners exercise influence through arbitrating judges from the two sides of industry. This system has for more than 100 years proved functionally in daily life.

**4. The directive creates uncertainty about the Danish pension system**

The directive gives rise to serious concern on both sides of industry concerning the stability of the pension system in the long run. Given the long-perspective nature of pension savings and the extraordinary need for stability in this area the Social Partners would be very reluctant to make further priorities in the area of supplementary pension if they do not have the proper assurance for the revenues paid into the pensions system.

Building pension rights takes a very long time and requires a lot of faith of the future terms when the pension should be paid to the beneficiary.

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**5. The proposal creates disproportional problems compared to the effects of the Directive.**

Given the remarks on points 1-4 the social partners in Denmark find that the proposal for a directive creates disproportional problems for the Danish pension system compared to the minor effects the proposal might have on the mobility of the workforce.

**What do the Danish Social Partners want from the European Commissions directive?**

- A. **First demand:** For pension funds based on collective agreements the social partners can demand that a transfer of acquired savings can be limited to pension funds with similar character. In this connection an obligation could be placed on the minimum of the savings used on lifelong disbursement and/or the safety for the future administrations.
- B. **Second demand:** When a worker changes job he/she can only transfer the acquired savings to the pension scheme fixed by the new employment contract and not to a pension scheme of individual choice.
- C. **Third demand:** The social partners in Denmark find that securing acquired rights compared to establishing rights for transfers is a better way to reduce obstacles to labour mobility in the field of supplementary pension.
- D. **Fourth demand:** The total directive should have the possibility to be implemented through collective agreement as for instance it was formulated in the working time directive.
- E. **Fifth demand:** The receiving pension scheme in connection with a job change should not be allowed to demand the fulfilment of extraordinary terms as a condition for obtaining rights according to the pension scheme. New members should have the same rights and obligations as old members. If a medical examination has been accepted by the former pension fund the new fund must accept the member on these terms.
- F. **Sixth demand:** The pension fund should only be obliged to give information to its members.