

OPSG

# OCCUPATIONAL PENSIONS STAKEHOLDER GROUP

Own-initiative OPSG Discussion Paper

Pan-European Pension Product  
Market development, Challenges, Obstacles, Solution

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## 1. PEPP FROM THE “FUTURE OF PENSION INCOME STREAM” PERSPECTIVE

Pan-European personal pension products (PEPPs) are regulated by Regulation 2019/1238 of 20 June 2019 on the Pan-European Personal Pension Product (PEPP) (hereinafter referred to as the PEPP Regulation<sup>1</sup>) and Delegated Regulation 2021/473 of 18 December 2020 supplementing Regulation (EU) 2019/1238 of the European Parliament and of the Council with regard to regulatory technical standards specifying the information document requirements, costs and charges included in the price cap and risk mitigation techniques for the Pan-European Personal Pension Product (hereinafter PEPP RTS<sup>2</sup>), which focus on the areas of registration, cross-border provision of PEPP, distribution, information obligations, the savings and payout phases of PEPP, as well as investor protection and switching of the PEPP provider. The issue of taxation and taxation of PEPP is left to the individual Member States, although a recommendation to Member States on the tax regime for PEPP products is included in the PEPP Regulation.

The recital 19 of the PEPP regulation states:

*“A legislative framework for a PEPP will lay the foundations for a successful market in affordable and voluntary retirement-related investments that can be managed on a pan-European scale. By complementing the existing statutory and occupational pension schemes and products, **it will contribute to meeting the needs of people wishing to enhance the adequacy of their retirement savings**, addressing the demographic challenge and providing a powerful new source of private capital for long-term investment. This framework will not replace or harmonise existing national personal pension products or schemes, nor will it affect existing national statutory and occupational pension schemes and products.”*

Pan-European Personal Pension Products come at a time when debates are intensifying on the sustainability of pay-as-you-go (PAYG) pension schemes, the performance and cost-effectiveness of private personal and occupational pension schemes and the widening pension gap between the living standards of today's generation of pensioners and those of tomorrow's retirees. The PEPP

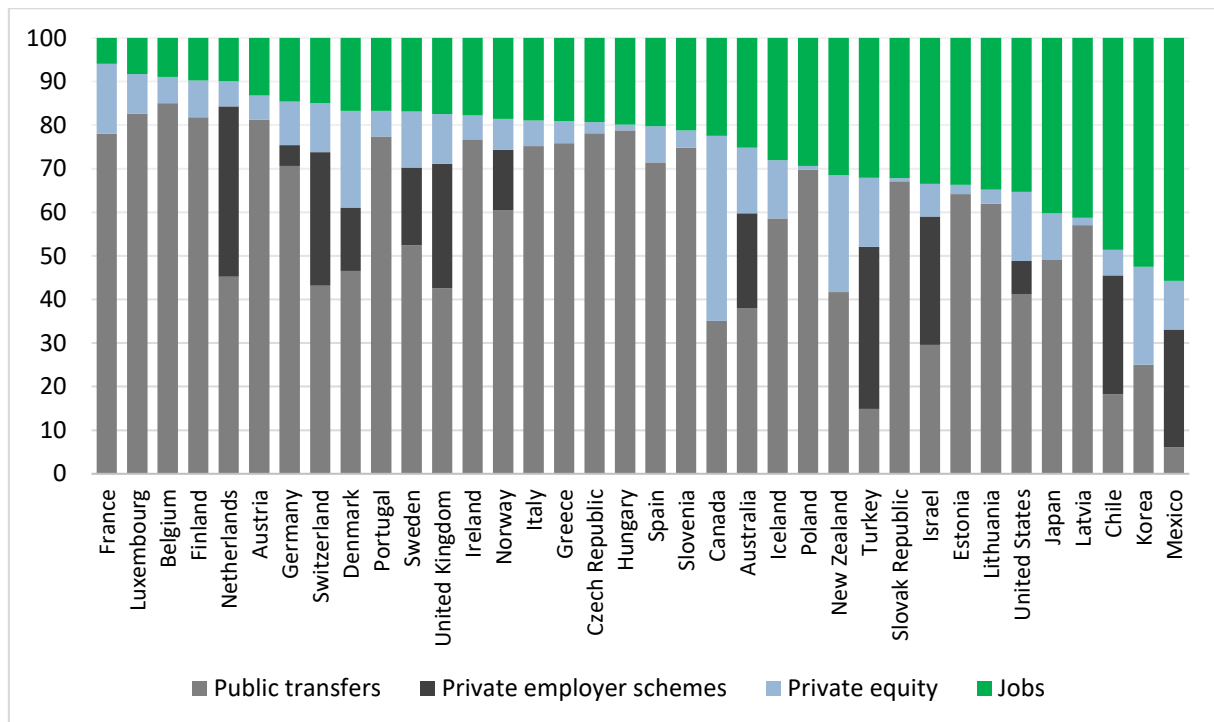
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<sup>1</sup> [https://eur-lex.europa.eu/legal-content/SK/TXT/?uri=uriserv:OJ.L\\_.2019.198.01.0001.01.SLK](https://eur-lex.europa.eu/legal-content/SK/TXT/?uri=uriserv:OJ.L_.2019.198.01.0001.01.SLK)

<sup>2</sup> <https://eur-lex.europa.eu/legal-content/SK/ALL/?uri=CELEX:32021R0473>

products could help diversify retirement income sources as current retirees rely on PAYG schemes and demographic changes will put more pressure on public transfer systems (see the figure below).

Figure 1 Income structure of pensioners in OECD countries



Source: Own elaboration based on OECD data, 2021

This situation is compounded by the evidence of significant differences in the performance of funded pension schemes, mainly due to sub-optimal design and disregard for the knowledge of optimal portfolio composition over the life cycle of an individual. At the same time, the "COVID-19" era can be called the era of digital transformation, which literally in a matter of months has revolutionized the way we communicate, the perception of how services (especially financial services) are distributed, and the access to digital content (from the gaming world to personal services, and even the functioning of entire service sectors, including retail).

PEPP products are certainly not intended to be, and will not be, a panacea for the many problems that the pension systems of EU countries with a significantly ageing generation are carrying into the next decades. But they are meant to be a mirror of how to design transparent, easy to understand, efficient and cheap products, supported by online distribution and algorithmic financial advice without conflicts of interest and human factor influence, properly and without political influences.

For a PEPP product to be a success story, it will need to meet 3 basic requirements: **simplicity (transparency), cost-effectiveness/performance, portability/flexibility.**

## 1.1. PEPP AS A SIMPLE, SAFE AND TRANSPARENT PRODUCT

This requirement is a response to the increasingly complex and sophisticated pension schemes in Member States, where there are different vesting conditions, different exemptions and solidarity mechanisms redistributing income and surpluses in a non-salaried way. The simplicity of the PEPP product lies in the clear link between the level of the expected pension and the level of contributions, the duration of savings and the riskiness of the investment strategy, which is based largely on the performance of broad market indices, applying the knowledge of lifetime savings strategies. This simplicity of the PEPP product is the key to its wide acceptance by future savers. The predictability is intended to be a response to volatile pay-as-you-go pension schemes that will offer lower income replacement rates as the population ages. A PEPP product must therefore be based on a stable regulatory position of supervisors, stable legislation and a clear relationship between the value of savings and market developments. PEPP products have thus also triggered the need to convince EU Member States to set up a pan-European network of pension entitlement/savings tracking systems (the pan-European "Orange Envelope"<sup>3</sup>). It is by providing information on expected pension entitlements across different pension schemes that every European should be able to better plan the level of contributions to supplementary pension schemes and PEPP products and have the information needed for retirement planning.

PEPP regulation requires providers to test the suitability, cost-effectiveness, safety, risk and performance of the PEPP continuously during 3 different phases. The first stochastic testing is performed during the design phase before the product even reach the market. The second stochastic testing is performed before the product is sold to the individual saver (pre-contractual phase). The third stochastic testing is performed on an ongoing annual basis, where the PEPP manufacturer has to test whether the PEPP product meets the designed and planned performance criteria on each client account. This level of transparency and safety and performance testing is unique.

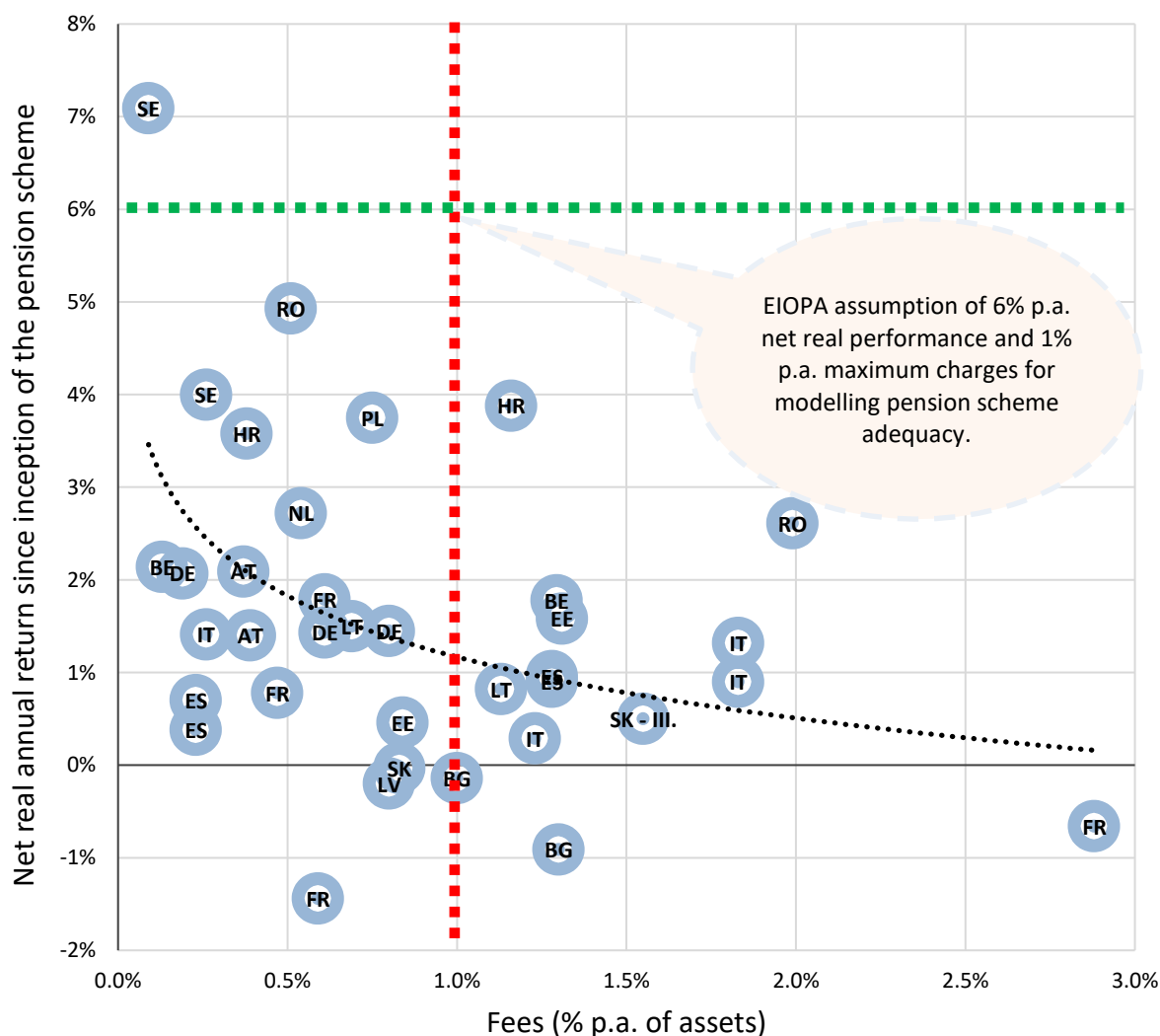
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<sup>3</sup> The European Commission, together with EIOPA, has launched an initiative to create linked Pension Tracking Systems (PTS) and a Pension Dashboard. Both initiatives are available here: [https://www.eiopa.europa.eu/content/eiopa-consults-development-of-pension-tracking-services-and-pension-dashboards\\_en](https://www.eiopa.europa.eu/content/eiopa-consults-development-of-pension-tracking-services-and-pension-dashboards_en)

## 1.2. COST-EFFECTIVENESS AND PERFORMANCE OF PEPP

PEPP must be cost-effective and generate returns. Without this key feature, the PEPP product will sit on shelf and will never reach the market recognition. Current private or quasi-private funded pension schemes across Europe have fundamentally different performances and cost-effectiveness (see figure below), indicating that future generations of pensioners will enjoy different living standards. It is the review of the performance of existing pension schemes and the design of PEPP products to outperform existing pension schemes at no significant cost that should increase the attractiveness of the product ('Best practices analysis' should be the key to benchmarking existing national products against PEPP benchmark products to ensure scaling up).

Figure 2 Annual net real returns and charges in private pension schemes in selected EU countries



*Source: own calculations based on the database "Pension Savings- the real return", Better Finance, (data from 2000 or start of the pension scheme until 2021)*

Existing pension schemes fundamentally differ in costs. They charge from of 0.17% in the Premium Pension Scheme in Sweden to 4% per annum in Italy. Such differences put pressure on expected replacement rates and these differences explain why the PEPP regulation has capped the fee charged by the Basic PEPP to maximum 1%. The figure above presents the findings of annual research report from Better Finance on Real Return of pension vehicles. However, it should be noted that it is not methodologically quite straightforward to compare state run funded pension schemes (like the PPM in Sweden) to a third pillar individual pension schemes where the providers must cover costs of contributions collections or different suitability and operational rules. Presented figure should thus serve as an example of variability in costs and returns that are in many cases the result of pension design and governance rules in particular country.

### 1.3. PORTABILITY AND FLEXIBILITY

Europeans should live (study, work, retire) in Europe regardless of the borders. However, the approach of national governments is based on an outlived idea that life in a pension scheme environment happens only within their territorial jurisdiction. That is why PEPP products are supposed to bring freedom in life planning for highly-flexible young Europeans. For example, a German working in Italy and living in Bulgaria should not create any obstacle for his/her ability to save for retirement. The principle of saving "without problems". The 'no hassle principle' is intended to be an example of how products can be designed where, even with a tax advantage linked to income from one EU Member State, a European can benefit from one PEPP product across Europe. The current dogma that pension savings/entitlements are created where a person's income comes from is to be bridged by making the pension product follow the working person without restrictions. Also, in the payout phase, the PEPP product is supposed to be flexible and allow for different forms of drawdown of savings. Its simplicity and predictability should enable every European to make decisions based on knowledge of their own PEPP product.

*Currently (as of 1<sup>st</sup> May 2024), there is only one PEPP provider registered in the EIOPA PEPP register (<https://pepp.eiopa.europa.eu/>). The PEPP provider (roboadvice company Finax) has started providing the PEPP products on 22<sup>nd</sup> September 2022.*

*As of 1<sup>st</sup> May 2024, there were only 2 PEPP products registered for 4 countries. One Basic PEPP and one alternative PEPP product that is offered in Slovakia, Czechia, Poland, Croatia.*

*Based on the unified methodology for calculating Synthetic Risk Indicator, the Basic PEPP has SRI at level 4, while the Alternative PEPP product is less risky alternative with SRI at level 3.*

*Based on publicly available information on the amount of PEPP savers, as of 1<sup>st</sup> June 2024, there were almost 7500 PEPP savers in 4 countries. At the same time, almost 100 companies from 3 countries (Slovakia, Czechia, Croatia) contribute on behalf of their employees into the PEPP products.*



## 2. ANALYSIS OF PEPP IMPLEMENTATION INTO NATIONAL LEGISLATION

A key issue for the development of the PEPP market is the setting of an accommodative environment in the individual member states. As the recital 10 of the PEPP regulation states:

*As the internal market for personal pension products is fragmented and diverse, the impact of PEPPs might be very different across Member States, and the target audience might be equally varied. In some Member States, PEPPs might offer solutions for people who do not currently have access to adequate provisions. In other Member States, PEPPs could broaden the consumer choice, or offer solutions to mobile citizens. However, PEPPs should not aim at replacing existing national pension systems, since it is an additional and complementary personal pension product.*

The analysis is therefore oriented on the friendliness of the market environment in analyzed EU countries and tries to answer whether the national treatment of PEPP products doesn't create even deeper fragmentation of the pension products markets and makes the internal market even more diverse.

### 2.1. METHODOLOGY

In order to analyze and compare the friendliness of the environment for PEPP products across EU countries, we have collected information on the national laws and regulations of PEPP products in each EU country from March 2023 to December 2023.

In order to analyze the friendliness of the environment, we set 10 partial indicators and categorized the collected data into the following areas:

1. Law passed;
2. Employer benefits equal to similar scheme/plan;
3. Employer benefits;
4. Employee benefits equal to similar scheme/plan;
5. Employee benefits;
6. Possibility to transfer from/to other pension plans;

7. Returns taxation favorability; (0 strict taxation / 2 favorable taxation);
8. Pay-out restrictions (age); - 0 strict age restrictions / 2 loose age restrictions;
9. Pay-out forms flexibility;
10. Limits on contribution.

For each area, we have analyzed the legislative text and evaluated the national rules for PEPP products with the aim to set the value for each indicator within 10 defined areas. The overall score defining the friendliness of the national regulation from the perspective of the PEPP saver (potential saver) is the sum of partial scores for each indicator covering respective area.

The result of the analysis for each area is characterized by assigning a particular score.

For the categories '*1. Law passed*', '*2. Employer/Employee benefits equal to similar scheme/plan*' and '*6. Possibility to transfer from/to other pension plans*', the score can take binary values ('True' / 'False') and thus the score can be 1 (True) or 0 (False).

In cases where the score for the area '*1. Law passed*' was 0 (the national law on PEPP was not adopted), the respective country was removed from further analysis. This was the case for 3 countries (Belgium, Germany, Portugal).

The scores for remaining areas were assigned based on the analysis as follows:

- 0 - conditions are less favorable compared to the country average (red color);*
- 1 - conditions are comparable to the country average (yellow color);*
- 2 - conditions are more favorable compared to the country average (green color).*

Please note that the information collected reflects the situation between March and December 2023 and may have changed in some countries. Results for areas 7 to 10 are not specifically presented in this study.

We aggregated the values from each category to obtain an overall environmental friendliness score for PEPP products. The overall score for each country defining the level of friendliness of the environment for PEPP products can obtain values ranging from 0 (minimum) up to 16 (maximum). The higher the overall score, the more friendly legislative environment for the PEPP providers offering the PEPP products on the particular market.

We present the results through EU maps that capture the values in the respective categories for each country.

## 2.2. LAW ON PEPP IMPLEMENTED WITHIN NATIONAL LEGISLATIONS

At the end of 2023, only 3 countries (Portugal, Germany and Belgium) had not adopted national regulation of PEPP products, in particular Articles 47 and 57 of the PEPP Regulation. The other countries had a provision in their legislation for the existence of PEPP products.

*Figure 1 Adoption of national legislature regulating PEPP products*



Source: Own elaboration, 2024

Legend:  National law passed  
 National law not-passed

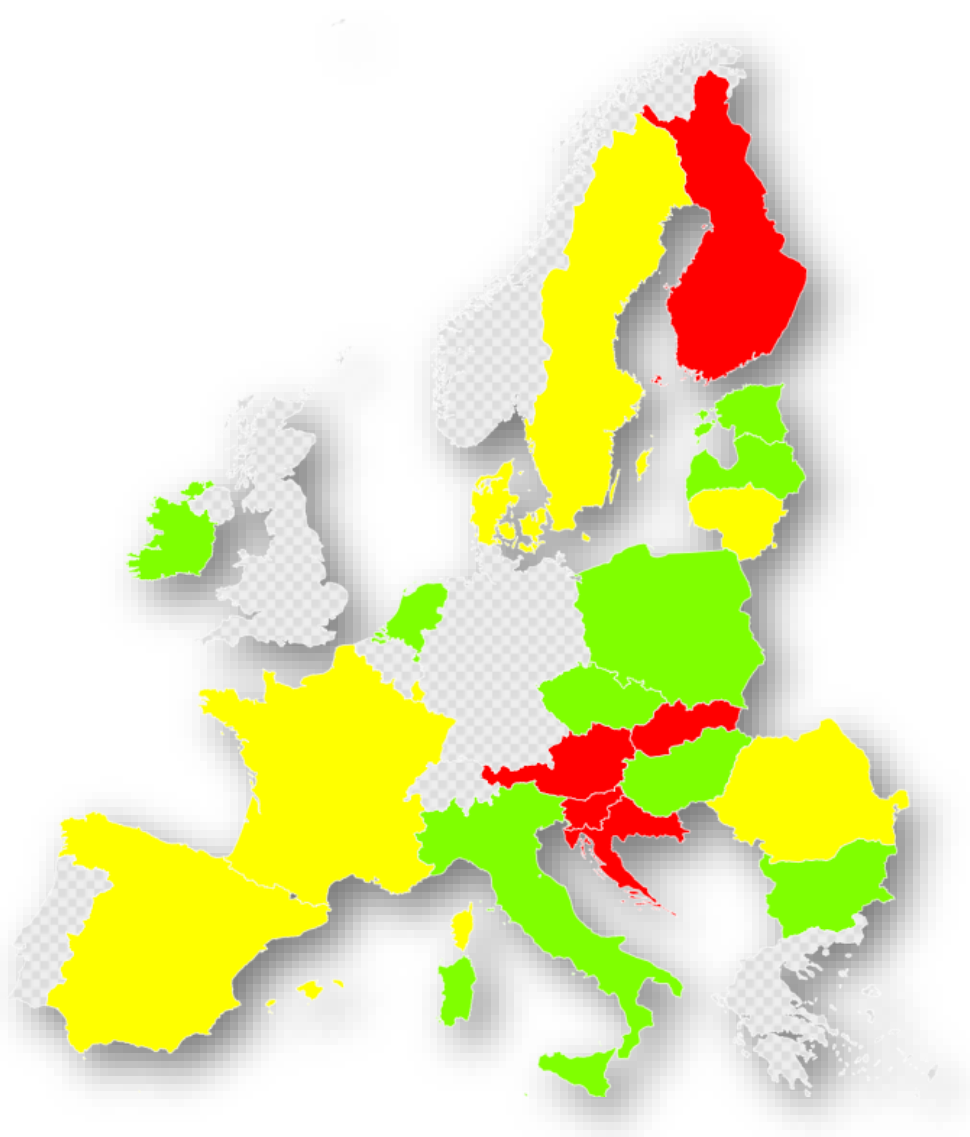
However, the above presented state of implementation of PEPP products in Member States' legislation does not reflect the qualitative condition of implementation. Some Member States have created a separate statutory regulation, while other countries have only defined a new private personal pension product in the existing legislation in addition to the existing regulation of similar domestic pension products.

The development of the market is thus limited mainly by restrictions from Germany and Belgium as strong economies where the PEPP product has the potential to grow. On the other hand, implementation of PEPP products into national pension legislation has been often as a part of wider pension changes (reforms) as is the case of Portugal as well as Germany.

### **2.3. DIRECT AND INDIRECT STATE SUPPORT FOR PEPP PRODUCTS**

When examining public direct and indirect support for pension products (including PEPPs), we compared conditions across countries in terms of whether they incentivize (encourage) private saving for retirement using either direct (state subsidy) or indirect (tax incentives) support.

*Figure 2 State support (direct/indirect) for private pension products*



Source: Own elaboration, 2024

The figure above highlights in red the countries whose direct and indirect public support for private retirement saving is below the average of analyzed countries. Countries with an average level of support are highlighted in yellow and countries with above-average public support for private retirement savings are highlighted in green.

As the Commission's recommendation to Member States on the tax treatment of PEPP products was mainly aimed at ensuring that PEPP products have comparable conditions with similar products in the country concerned, we can expect to see significant differences in the support for saving in

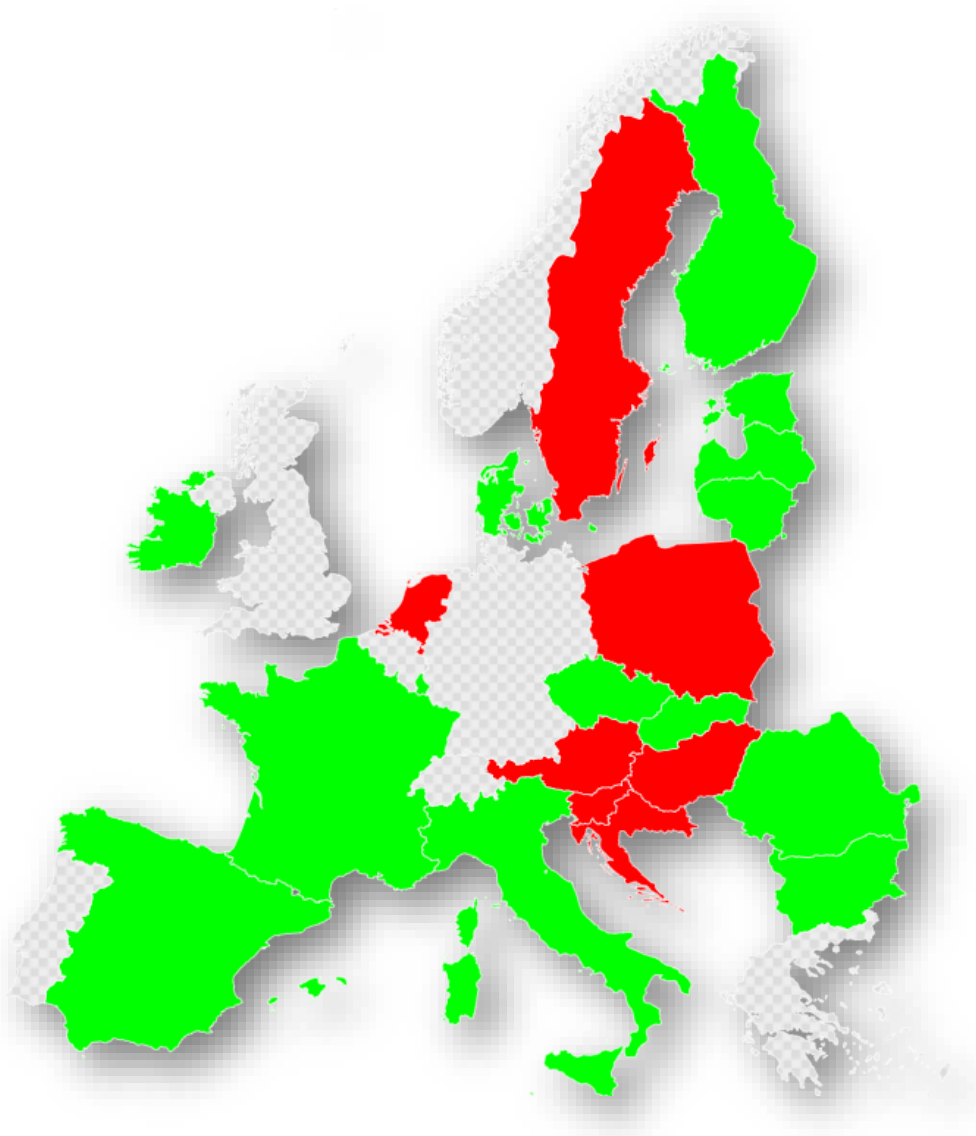
PEPP products between Member States. It may be the case that saving in a PEPP product will be very advantageous in one country and not in another. The Czech Republic and Slovakia are good examples. In the Czech Republic, private pension savings are strongly encouraged both on the side of savers as well as their employers up to almost 15% of annual income. In Slovakia, by contrast, public support for private saving is below average and tax relief is only granted for individual contributions up to around 1% of annual income. At the same time, labour migration between the two countries is at above-average level and therefore a PEPP product would be an excellent solution for two-way labour migration.

## **2.4. DOES THE PEPP HAVE THE SAME CONDITIONS WITH OTHER PPPS?**

Additional analysis was focused on evaluating the difference of legal and fiscal conditions between the national PPPs and PEPP. From the methodological point of view, the evaluation was based on logical binary score <TRUE; FALSE>. If the conditions are very similar (same), the score was 1 (TRUE), otherwise the score was 0 (FALSE). The results are presented in the figure below.

*Figure 3 Similarity of conditions for PEPP and PPP savers*

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Source: Own elaboration, 2024

Legend:  Same / Similar conditions  
 Different conditions

Analysis of the equivalent conditions to similar private pension products in member states shows that 14 countries (out of 21 countries) applied same or, similar local conditions for PEPP savers compared to the conditions for PPPs savers. 7 countries (out of 21 countries) applied different

conditions for PEPP savers, which in many cases were not as favorable as the conditions for PPPs savers.

We preliminary conclude that member states prefer „national“ PPPs and have restrained approach towards offering the PEPP products the similar treatment compared to national PPPs.

**Our recommendation is to elaborate an in-depth study analyzing the state support for voluntary private savings including the differences in the state support for PEPP products compared to the similar national PPPs.**

**We also recommend further investigation on how the recommendation on the same tax treatment of similar products in member states have been adopted.**

The analysis of state support for PEPP products should be explored in two ways. Firstly, to examine the implementation of the Commission's Recommendation within national legislation (vertical approach), i.e. within the law of the Member States, in order to identify whether PEPP products are at a disadvantage compared to similar products in each country. The second direction of the review is to compare the fiscal (direct and indirect) support for PEPP products between countries in order to identify differences in countries' approaches to the promotion of private savings (horizontal approach). In this way, it will be possible to propose harmonization measures and further steps to promote private saving and remove barriers to the development of the PEPP market within particular country as well as among countries.

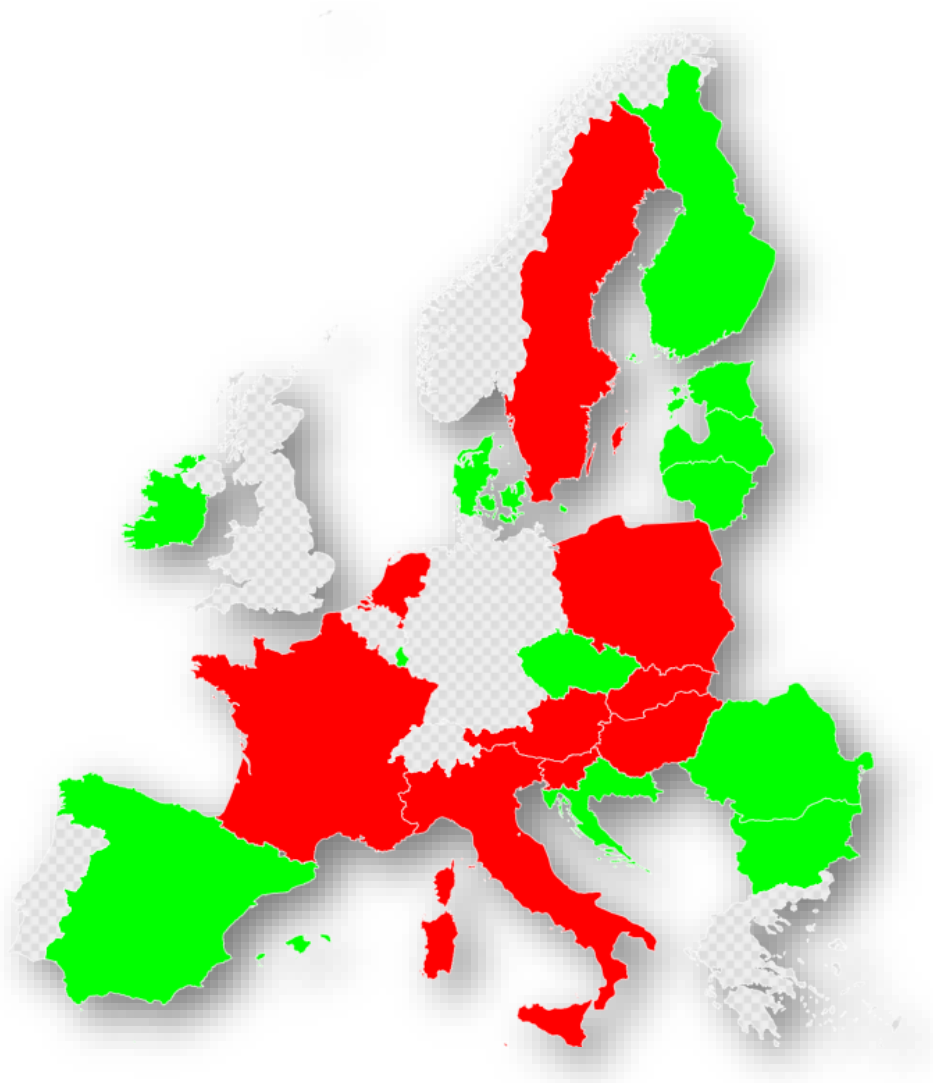
## **2.5. SUPPORTING EMPLOYERS TO CONTRIBUTE TOWARDS PEPP PRODUCTS**

PEPP could be seen as a good employment benefit, where the employer could contribute towards the PEPP product signed by an individual. Therefore, we have investigated, whether member states have applied the same conditions also for PEPP products compared to the local PPPs that allow and support employers to contribute on behalf of their employees. We have not analyzed, whether the employer has the possibility to negotiate the product conditions on behalf of his/her employees.

From the methodological point of view, the evaluation was based on logical binary score <TRUE; FALSE>. If the conditions were very similar (same) compared to the local PPPs and allowed employers contributing on behalf of his/her employees, the score was 1 (TRUE), otherwise the score was 0 (FALSE). The results are presented in the figure below.



*Figure 4 Direct and indirect fiscal incentives for employers to contribute towards PEPP*



Source: Own elaboration, 2024

Legend:  Same / Similar conditions  
 Different conditions

On the basis of the analysis, it can be argued that 12 countries (out of the 21 countries analyzed) have the same conditions for providing tax support for the employer even if it contributes to the PEPP product on behalf of its employees. 9 countries (out of the 21 countries analyzed) do not

provide the same conditions for the employer's contributions compared to a similar national PPP products.

These results suggest that the implementation of the Commission Recommendation on equal tax treatment of PEPP products with similar national PPP products has been applied mainly to individual contributions of PEPP savers and many countries have exempted employer contributions from the support of PEPP products.

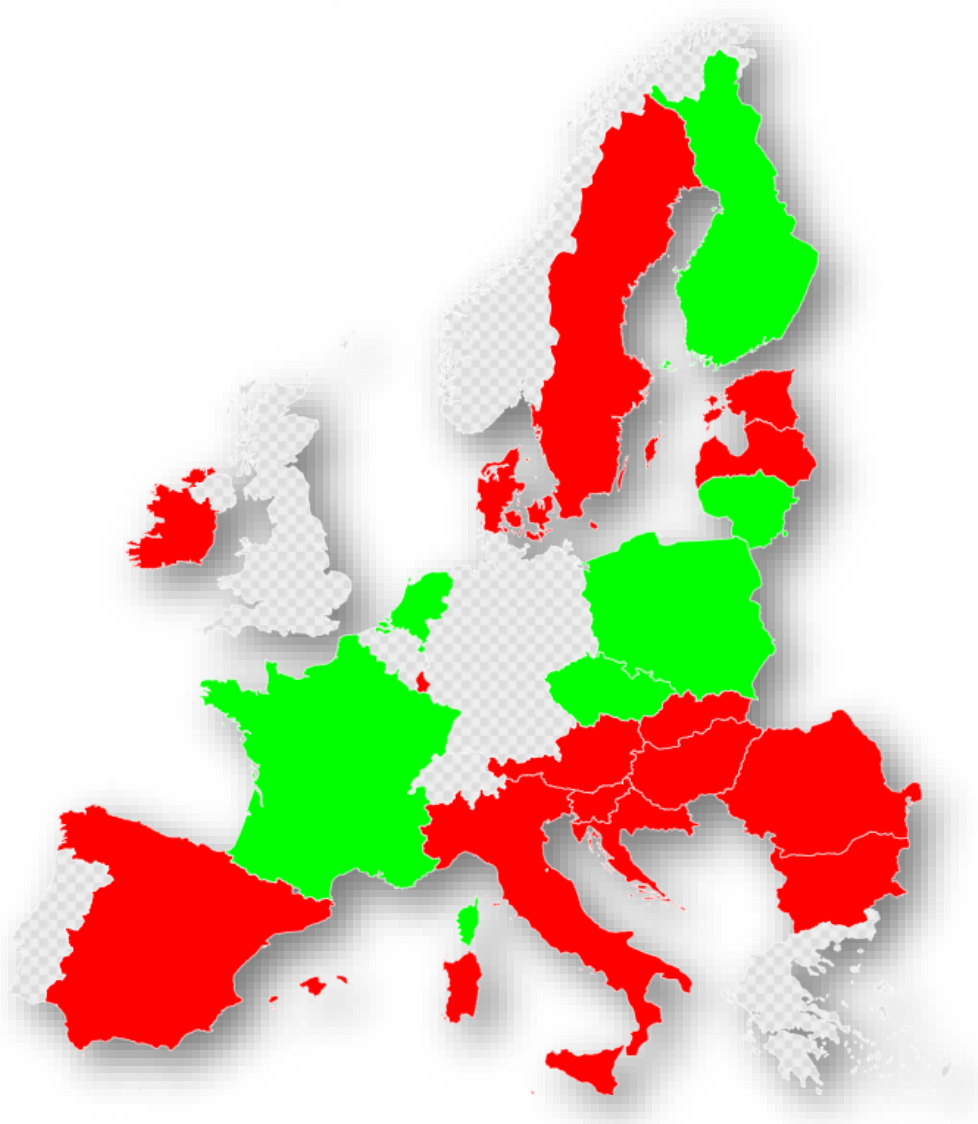
**We recommend a detailed examination of the rationale for the unequal treatment of PEPP products for employer contributions that want to use the PEPP product as an employee benefit.**

## **2.6. ABILITY TO SWITCH FROM/TO NATIONAL PPP PRODUCTS TO PEPP**

We have compared whether the national laws of the countries analyzed allow for the transfer of savings from PPP products to PEPP products and vice versa.

From the methodological point of view, the evaluation was based on logical binary score <TRUE; FALSE>. If national law allows switching between PPPs and PEPP, the score was 1 (TRUE), otherwise the score was 0 (FALSE). The results are presented in the figure below.

*Figure 5 Ability to switch between PPP and PEPP*



Source: Own elaboration, 2024

Legend:  Switching between PPP and PEPP possible  
 Switching between PPP and PEPP not possible

From an economic point of view, we need to recognize the potential of PEPP products to crowd out national PPP products that provide lower value for money. Where national legislation does not allow for the transfer of savings from a national PPP product offering lower value for money to a PEPP product offering higher value for money, the expected added value for the consumers is not achieved. If this is compounded by low (or no) tax support for employers, savers miss out on huge

added value and PEPP products cannot materialize their potential to achieve higher pensions for savers across the EU.

## 2.7. FAVORABLE PEPP MARKET CONDITIONS – OVERALL SCORE

The overall friendliness of the environment for PEPP products in terms of national legislation is based on an assessment of the 10 areas presented in the Methodology chapter.

A very friendly environment for the development of the PEPP market in a given country means that PEPP products have the same terms and conditions as similar national PPP products, the saver has the possibility to switch between products, the taxation of returns is friendly (EET taxation regime), the saver has flexible drawdown options in retirement.

Following table presents the scores for individual areas analyzed. Overall score is a sum of partial scores for each area.

Table 1 Overall score - favorable national market conditions for PEPP products

Country	BE	BG	CZ	DE	DK	EE	ES	FI	FR	EL	HR	HU	IE	IT	LU	LT	LV	NL	PO	PT	RO	SK	SI	SE
Law passed	0	1	1	0	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	0	1	1	1	1
Employer benefits equal to similar scheme/plan		1	1		1	1	1	1	0		1	0	1	0	1	1	1	0	0		1	0	0	0
Employer benefits		2	2		1	1	1	2	0		2	1	2	0	0	1	2	0	0		1	0	0	0
Employee benefits equal to similar scheme/plan		1	1		1	1	1	1	1		0	0	1	1	1	1	1	0	0		1	1	0	0
Employee benefits		2	2		1	2	1	0	1		0	2	2	2	1	1	2	2	2		1	0	0	1
Returns taxation favorability		1	1		2	1	2	0	1		0	1	2	2	1	1	0	0	0		1	1	1	0
Pay-out restrictions (age)		1	1		1	2	2	0	1		2	0	1	1	0	2	2	0	1		0	1	0	0
Pay-out forms flexibility		1	2		1	0	1	0	2	2	2	1	2	2	2	2	2	1	2		2	1	1	2
Possibility to transfer from/to other pension plans		0	1		0	0	0	1	1		0	0	0	0	0	1	0	1	1		0	0	0	0

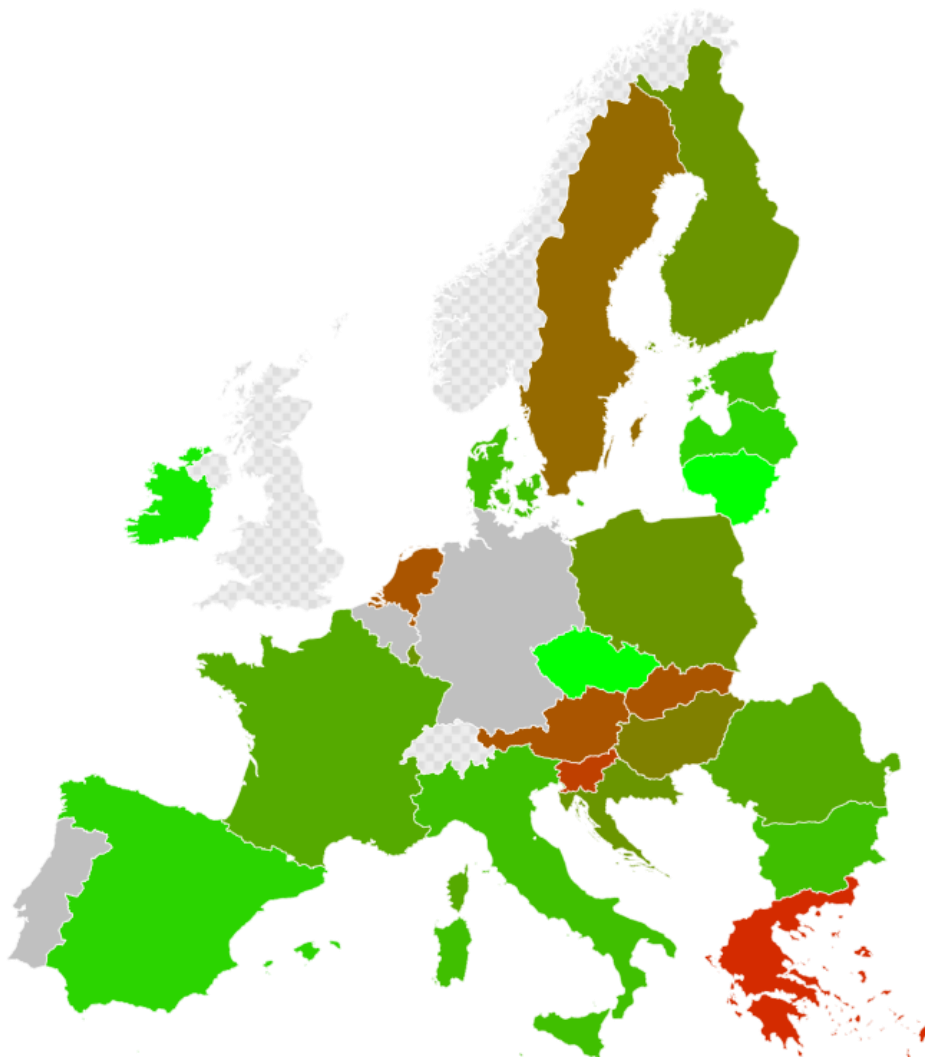
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Limits on contribution		0	1		1	1	1	2	1		0	1	0	1	1	2	0	0	1		1	0	1	2
Overall score	0	10	13	0	10	10	11	8	9	3	8	7	12	10	8	13	11	5	8	0	9	5	4	6

Source: Own elaboration, 2024

The figure below presents the overall score for the assessment of the friendliness of the environment for PEPP products in the respective member state. The greener the colour, the higher the score. The redder the colour, the worse the conditions for PEPP market development in the respective country.

Figure 6 Friendliness of the environment for the development of the PEPP market



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Source: Own elaboration, 2024

A closer look at the figure above suggests that national rules for PEPP products make the single market a diverging market. Thus, the example of PEPP products suggests that we are united in terms of product conditions but divergent in the development of the PEPP market.

**We recommend that the review of PEPP regulation should include an examination of the rationale for the divergent approach to PEPP market development across Member States. Unifying market conditions is the way to achieve greater added value for future pensioners.**

### 3. FURTHER RECOMMENDATIONS FOR IMPROVEMENTS OF PEPP REGULATION

#### 3.1. FAIR TAX TREATMENT OF PEPP PRODUCTS ON NATIONAL LEVEL

Analysis of national legislation regarding the position of PEPP products on national level has shown that the PEPP products do not possess equal treatment in several EU countries. Closer investigation of tax treatment for PEPP products compared to national PPPs is therefore necessary precondition for any further action.

**We recommend that EIOPA and the EC increase their efforts to achieve a fair tax regime for PEPP products and ensure non-discriminatory tax treatment of PEPP products.**

On the other hand, any actions that might seek equal horizontal tax treatment of PEPP products (among countries) may not lead to a disadvantage of existing **occupational** pension products against the PEPP.

#### 3.2. SIMPLIFICATION OF ADVICE FOR BASIC PEPP

The Basic PEPP was designed as a simple and safe pension investment product. So, no mandatory personal advice was initially envisaged. During the final vote of the PEPP regulation, the Parliament members decided to make it mandatory; which makes the Basic PEPP less simple and more costly to implement.

The PEPP regulation in its recitals 30 and 37 sets that the (30) *advice should be given to prospective PEPP savers by PEPP providers or PEPP distributors prior to the conclusion of the PEPP contract taking into account the long-term retirement nature of the product, the individual demands and needs of the PEPP saver and the limited redeemability. **Advice should particularly aim at informing a PEPP saver about the features of the investment options, the level of capital protection and the forms of out-payments.*** (37) *Before concluding a PEPP contract, prospective PEPP savers should be given all the necessary information to make an informed choice. Prior to the conclusion of the PEPP contract, retirement-related demands and needs should be specified and **advice should be provided.***

Further details on the mandatory advice provision is set in the article 34 of the PEPP regulation. Considering the fact that Basic PEPP is a simple and safe product that is tested by the manufacturer

as well as by respective regulator before it reaches the market and the PEPP providers and distributors do provide precontractual information, mandatory provision of advice increases the costs of the PEPP products. This might limit the ability of PEPP providers to cover the costs of the distribution.

**We recommend that the mandatory advice for a Basic PEPP to be removed from the regulatory requirements and substituted with the obligation to provide cost-effective online tools allowing potential PEPP savers to assess the suitability of the basic PEPP before making the decision (online tools for personalized pension benefit projections for the basic PEPP).**

Simplification of requirements set in the Article 34 of the PEPP regulation and its replacement by cost-effective online tools and calculators based on the accepted technical documentation that is part of the PEPP registration process at the level of national regulator would decrease the pressures on the cost structure of the PEPP providers and distributors.

### 3.3. LEVEL PLAYING FIELD FOR THE BASIC PEPP DISTRIBUTION

Third party promotion and outsourcing of marketing activities are quite complicated for the PEPP products. There are different approaches toward regulation:

- ▶ Allowed for other financial products (no restriction for the activities of bloggers, affiliates, third parties if the marketing materials contain the information that it promotes the financial product and its manufacturer);
- ▶ Unclear regulation for PEPP due to wide definition of „distribution“ where the PEPP regulation copies the IDD, however several exceptions were not implemented (compared to the IDD);
- ▶ PEPP considers business referral as a form of marketing and distribution and thus limits „unauthorized“ bodies from the distribution (in fact marketing) of the PEPP products.

We suggest equal treatment (level playing field) for PEPP products marketing and distribution comparable to the IDD requirements. The difference between PEPP regulation and IDD are presented below.

#### **PEPP REGULATION (art. 10)**

‘PEPP distribution’ means advising on, proposing, or carrying out other work preparatory to the conclusion of contracts for providing a PEPP, concluding such contracts, or assisting in the administration and performance of such contracts, **including**:



- ▶ **the provision of information concerning one or more PEPP contracts** in accordance with criteria selected by PEPP customers through a website or other media;
- ▶ **and the compilation of a PEPP ranking list, including price and product comparison, or a discount on the price of a PEPP**, when the PEPP customer **is able to directly or indirectly** conclude a PEPP contract using a website or other media.

#### **IDD DIRECTIVE (art. 2 (1) (1) and (2))**

‘Insurance distribution’ means the activities of advising on, proposing, or carrying out other work preparatory to the conclusion of contracts of insurance, of concluding such contracts, or of assisting in the administration and performance of such contracts, in particular in the event of a claim, including:

- ▶ the provision of information concerning one or more insurance contracts in accordance with criteria selected by customers through a website or other media;
- ▶ and the compilation of an insurance product ranking list, including price and product comparison, or a discount on the price of an insurance contract, when the customer is able to directly or indirectly conclude an insurance contract using a website or other media;

#### **Exception:**

- ▶ (2) For the purposes of points (1) and (2) of paragraph 1, the following shall not be considered to constitute insurance distribution or reinsurance distribution:
- ▶ (a) the provision of information on an incidental basis in the context of another professional activity where: (i) the provider does not take any additional steps to assist in concluding or performing an insurance contract; (ii) the purpose of that activity is not to assist the customer in concluding or performing a reinsurance contract;
- ▶ (b) the management of claims of an insurance undertaking or of a reinsurance undertaking on a professional basis, and loss adjusting and expert appraisal of claims;
- ▶ (c) the mere provision of data and information on potential policyholders to insurance intermediaries, reinsurance intermediaries, insurance undertakings or reinsurance undertakings where the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract;
- ▶ (d) the mere provision of information about insurance or reinsurance products, an insurance intermediary, a reinsurance intermediary, an insurance undertaking or a reinsurance undertaking to potential policyholders where the provider does not take any additional steps to assist in the conclusion of an insurance or reinsurance contract.

**We recommend aligning the distribution requirements for the basic PEPP with the IDD requirements that would allow more efficient distribution of the basic PEPP products using offline distribution channels using PEPP distributors.**

### **3.4. NEGOTIATING THE PEPP CONDITIONS ON BEHALF OF CONSUMERS OR GROUP OF POTENTIAL PEPP SAVERS**

PEPP is quite well positioned to become the „employment benefit“ product. However, current regulations effectively restrict the employers to act on behalf of its employees when it comes to the negotiation of PEPP products as an employee benefits.

- ▶ Several MS allow employer's contribution towards PEPP under the same conditions as national PPPs (or even quasi-occupational pension products).
- ▶ PEPP regulation (***see recital 24***) sets the ability to negotiate „on behalf“ of PEPP savers and sets example (*„...such as an independent savers association, acting on behalf of that group provided that this is done in compliance with this Regulation and applicable national law and that PEPP savers subscribing in this way obtain the same information and advice as PEPP savers concluding a PEPP contract either directly with a PEPP provider or through a PEPP distributor.“*).
- ▶ However, **employers** who are clearly not in conflict with employee interests are removed from the referral process and negotiation of PEPP products on behalf of savers.
- ▶ Many countries, including Croatia and Czech Republic has prepared laws that would incentivize employers to contribute to a PEPP of their employees. Many employers would conclude an agreement with PEPP providers about the conditions on paying contributions to the PEPP accounts of their employees. The employer would then communicate to its employees that it has concluded such contract with a PEPP provider and can provide such benefits. It is then up to the employee to decide whether to open a PEPP account with such PEPP provider.
- ▶ The activity of the employer would be more of a general nature, providing information about arrangement with the PEPP provider and the PEPP product. The employer could also inform its employees that it provides such a benefit.

**We recommend that the PEPP regulation should clearly recognize that activities consisting of the provision of data and information on potential PEPP costumer, mere provision of information of a general nature on PEPP product (referral activities), and advertising/marketing the PEPP**

**product by the employer does not constitute a PEPP distribution under Article (2) (8) of the PEPP Regulation.**

### **3.5. DEFINITION OF „RESIDENCE“ AND PROMOTION OF THE PEPP PRODUCT FOR CROSS-BORDER WORKERS**

- ▶ Cross-border employees or self-employed persons carrying out work abroad for a foreign client temporarily raise many practical issues. For example, the government introduces tax reliefs that can be claimed by an employer if it contributes to its employee's account but puts in a condition that it must be a sub-account of the employer's residence country. Cross-border employees cannot claim these benefits because they cannot open a sub-account as they have no 'residence' in the employer's residence country.

**We recommend that it would be helpful if the PEPP Regulation also regulates the status of cross-border employees on this subject matter.**

- ▶ Client can only open a PEPP sub-account in the member country where he/she resides.
- ▶ When onboarding, PEPP provider asks the client in which country he/she resides, also explaining that this is the country where the client lives, works and pays taxes. *(If the client chooses a country in which the PEPP provider does not provide a PEPP sub-account, the client is refused and not allowed to open a PEPP sub-account.)*

Example:

*Number of cases in practice where the client has declared that he is domiciled e.g. in Slovakia, is a Slovak citizen and has a permanent residence in Slovakia as registered in his identity document, but subsequently he has indicated as his tax domicile the Member State other than Slovakia in which the PEPP provider do not offer a sub-account.*

*Should it be possible to open a sub-account for such a client? PEPP providers do not possess the available data in order to evaluate whether the client is working/studying abroad only temporarily or whether he/she plans to settle there permanently. Or whether the client is permanently residing in Slovakia, live in Germany for studying or is also settled there, but only as a temporary resident.*

**We see that the clarification of a „residence“ is needed directly in the PEPP regulation if the PEPP shall become EU-wide pension products that „travels with the EU resident (permanent residence, temporary residence or current residence).**

### 3.6. LIFTING FEE CAP FOR A BASIC PEPP

- ▶ Several OPSG members are of the view that in order to attract more PEPP providers and secure wider distribution channels (PEPP distributors), lifting the fee cap above 1% p.a. of AuM would be a short-term solution, noting that Article 45 of the PEPP Regulation requires the European Commission to review the adequacy of the level of the fee cap every two years from the date of application of the Regulation, *“taking in account the actual level and changes in the actual level of costs and fees and the impact on the availability of PEPPs”*.
- ▶ On the other hand, some other members consider that lifting fee cap for Basic PEPP would on the other hand decrease the value for money of PEPP products and the basic PEPP might become less attractive for buyers as national PPPs might become more competitive.
- ▶ Current PEPP provider is charging the fee at the level 0.6% p.a. of AuM plus the VAT<sup>4</sup> which equals 0.72% p.a. of AuM. Any action in respect to the increasing the fee cap for the Basic PEPP should be subject to a detailed scrutiny of the costs structure associated with the PEPP product management as well as distribution.
- ▶ Lifting fee cap for a basic PEPP thus must be supported with a clear evidence that the potential PEPP providers are restricted by the current distributional channel costs that cannot be covered by the current fee cap at 1% p.a. of AuM.

According to Article 45, the Commission is empowered to amend the fee cap by adopting delegated acts *“in light of its reviews with a view to allowing appropriate market access for PEPP providers”*.

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<sup>4</sup> <https://pepp.eiopa.europa.eu/>

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