UNICE
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PROPOSED DIRECTIVE REGULATING THE ACTIVITIES OF INSTITUTIONS FOR OCCUPATIONAL RETIREMENT PROVISION

UNICE POSITION ON THE COUNCIL COMPROMISE OF 4 JUNE 2002

1. The realisation of an internal market for occupational pension funds has moved forward several steps during 2002. **UNICE welcomes the political agreement** reached by the Ecofin Council on the directive for occupational pension funds in early June. The agreement is a breakthrough with respect to the history and controversy of this directive, and a great success of the Spanish Presidency and the Commission. It is also a substantial accomplishment in the creation of a single market for capital, which will bring long-term benefits to all market participants.

2. The greater integration of the market for occupational pensions will be assured thanks to:
   - **Making the prudent man principle the guiding investment rule**, which is instrumental to achieving reduced capital costs, higher returns on pension investments and alleviated pressure on public sector pension schemes;
   - Allowing the pension funds to **offer their services across the borders** by applying the **home state control** rule.

3. Liberalised EU legislation for occupational pension institutions is a remaining key measure in the Financial Services Action Plan in order to obtain more integrated capital markets in Europe, lower capital costs and increased competitiveness for European companies. **UNICE therefore urges the Council and the Parliament to adopt the directive during the fall and to avoid any watering down of its compromise text in a conciliation process**.

4. It is understood that the prudent man principle is not applied in several member states and that quantitative restrictions will be maintained as familiarity with it is developed throughout the institutions. Taking this into account, **UNICE asks the Member States to use quantitative restrictions to the least extent and the shortest time possible**. The application of the prudent man principle without quantitative restrictions is the investment rule which can best:
   - Assure the most efficient matching of assets and liabilities;
   - Boost the achievement of a single capital market, a key component of the Lisbon process aimed at increasing competitiveness of the European economy;
   - Facilitate the creation of cross-border pension funds.

5. As stated in its position of 6 March 2002, UNICE would welcome a more general acceptance of the prudent man principle by all Member States. UNICE therefore regrets that the political agreement on the directive contains the right for Member

States to require the application of more stringent investment rules not only to institutions located in their territory but even to foreign institutions in the event of cross-border activity. In view of the possibility for the Member States to apply quantitative investment restrictions, **UNICE urges the Commission to regularly review the application of investment rules by the Member States** and to report on whether the application of the quantitative restrictions by the Member States is impeding the cross-border provision of occupational pension schemes or the realisation of a single capital market for the EU. A transitional period for introducing the prudent man principle, as suggested by Parliament in its first reading, is supported by UNICE.

6. **It is essential that the current compromise be adopted this year**. Bringing the benefits to employees and employers as well as enhancing the sustainability of public finance, as explained in detail in UNICE position of 6 March 2002, this directive will prove important to the development of the effective second pillar of pension systems in many Member States and thereby help alleviating the pressure from the population time-bomb.

7. Finally, UNCE wishes to remind all participants that this directive seeks to improve the functioning of the capital markets, and, as such, should be treated as an important financial services measure.

8. However, for the directive to have its full-intended effect, **elimination of tax obstacles to cross-border provision of occupational pensions is necessary**. Today, these constitute a significant impediment to cross-border labour mobility in Europe. Serious consideration should be given to elimination of these obstacles upon the implementation of the IORP directive. In its position paper of 5 July 2002 on the European Commission's communication on the elimination of tax obstacles to the cross-border provision of occupational pensions (COM (2001) 214 final), UNICE urged both the Commission and the Member States to work out a comprehensive solution to this problem.

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