INTERVIEW

Europe's social protection

The tumultuous situation in the European Union, led by political issues such as Brexit, populism and austerity, on top of changing regulations and reforms in the financial industry, has led to an increasing pressure on associations to speak up. Sunniva Kolostyak sat down with AEIP's permanent representative Aleksandra Kaydzhiyska and policy adviser on pension and financial affairs Christos Louvaris Fasois to navigate through the biggest pension issues for EU's member states

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AEIP, which stands for the European Association of Paritarian Institutions, represents jointly-managed institutions of social protection across Europe. It has published several key dossiers within the last year, focusing on the EU's big pension topics – the Pan-European Personal Pension Product (PEPP), EIOPA's *IORP Stress Test Report*, the calculation of the Solvency Capital Requirement, and the establishment of the European Supervisory Authorities (ESAs) to name a few.

Aleksandra Kaydzhiyska has had the role of permanent representative for the AEIP for almost a year, before which she worked as the policy adviser on pension and financial affairs, a role Christos Louvaris Fasois took over in January. The association hosted its annual conference on European sustainable social protection in Brussels in November, and the two explains that the team is fairly young, an added benefit which makes them see issues like intergenerational unfairness even more clearly.

Perhaps most vocally, AEIP has been an active voice and has taken on an important role in commenting on the IORP II Directive and its widely-debated delegated acts, which are secondary legislation drafted without the active involvement of the European Parliament or European Council in order to achieve full harmonisation of its rules across the EU.

Delegated acts

Kaydzhiyska says AEIP is very much against delegated acts. "Having delegated acts would open the door for some developments that pension funds would not have direct impact on and we want to avoid that because we think the responsibility should be at the national level."

She also points out that there are concerns about solvency. "The way Solvency II, for example, works makes sense for insurers, but pension funds are very specific and a different type of financial market actor. They have a very defined social purpose and added to that, they are subject to national social and labour law. So we don't really see the point of a strict regulation at European level."

This, Kaydzhiyska says, is because

regulations and framework are very different across the EU's member states. "It is very difficult to just draw one middle line and make everyone comply. We want a flexible, national base for social protection, specifically for pension funds. Each member state knows its own limitations and challenges."

Louvaris Fasois says the issue of delegated acts is that the European Commission is at risk of not understanding how pension funds work. "All these new regulations could lead to more administrative costs and possible extra data that needs to be disclosed," he says.

They both outline that for pension funds, it is crucial to be able to predict the regulatory environment. Because pension funds are long-term investors, they should be able to have this predictability. Rules cannot keep changing, they say.

AEIP is supported by industry players, such as PensionsEurope and German pensions association ABA, who have both been speaking up against the new regulations. But for all the opposition against delegated acts, how likely is it that it will remain when the directive is implemented in January 2019?

"For now, everything is up for debate," Louvaris Fasois explains. "From what we understand, regulators want to see how this implementation will move forward, so there will probably be a period of time where everybody tries to understand what's happening. And afterwards, I am pretty sure that the regulators will start the conversation again to get feedback."

Christos also points out that as the IORP II implementation is set to happen in January, countries have not had enough time to debate the directive on a national level, and so, are awaiting the reaction.

Kaydzhiyska says that if the European decision-makers consider the comments currently being heard from the industry as feedback, they would be aware that pension funds and stakeholders at a national level are having mixed feelings. "There is more or less a consolidated opinion that it is not good. At least on our side of the industry, no one really welcomes (delegated acts)."

VAT

Most recently, AEIP took a stance against unnecessary VAT burdens together with PensionsEurope, saying the current issue of unclear language in VAT regulations has created a discriminatory environment where some funds are burdened with paying fees other funds are relieved of.

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AEIP's position is that EU's VAT Directive needs revision. The exemption applied to pension funds normally applies to management services, Louvaris Fasois says, and is granted to DC schemes as the criteria is whether or not the member bears the investment risk.

The risk of a lack of political decision making, the associations said, is that the directive falls behind market practices and will fall short of the goal of providing clarity for the financial market.

Because of insufficient guidance for hybrid and DB schemes, where all or part of the risk is shifted from the employer to the fund itself or the employee, similar pension schemes in different countries face different tax treatments concerning the management services they procure, the two explain.

According to current case law, the European Commission rules that pension funds where members bear the risks can be considered as special investment funds and therefore fall within the scope of the exemption. As this is not applicable when the employer is responsible, regulations should be changed so that these too can be relieved from the VAT burdens. To be fully in line with the fundamental principle of neutrality, member states and fund characteristics should not lead to added costs for some, the two conclude.

"The VAT Directive has not kept up with developments in the pensions landscape. This leads to a different treatment of essentially similar pension funds. It is time to update the rules to ensure that all pension funds are exempt and that they respect the principles of non-discrimination and neutrality," Kaydzhiyska says.

"In that sense, we would like to create one uniform regime for all pension funds, as we consider the current regime to be discriminatory. We communicated this to the European Commission, that the current regime is hindering the proper functioning of pension funds because it's treating DB schemes in a discriminatory way."

A main area of focus is for the commission to provide clarity on the directive, regardless of the character of the schemes, as well as the member state in which the services are being received.

Louvaris Fasois notes: "The bottom line is that we want to create a level playing field for all pension funds, which of course helps the single market and in which all pension funds should have the same conditions." ■