



ANNEX 42

Labour law and Consumer protection principles usage in non-state pension system

by
Prof. Dr. Heinz-Dietrich
Steinmeyer





General Remarks

- In private – non state – pensions systems usually three „actors“
- Employer /company
- Employee
- Provider of pension system
- ❖ depending on the model used
 - ✓ insurance company
 - ✓ pension fund
 - ✓ investment company



General Remarks

- Means different legal relations
- Labor contract between employer and employee
- Possibly contract between employer and provider
- Possibly contract / legal relation between provider and employee



General Remarks

- Current stage of Azerbaijan strategy
- Non-State pension funds as the central institutions and administrative bodies to implement voluntary fully funded pension provision.
- Pension plans striving for target benefit levels (no DB, no pure DC, but hybrid); the plans are to be “sponsored” by individuals or by companies on behalf of their employees
- Investment plans, asset allocation and portfolio management designed and managed to reach the agreed target.
- Options for the pay-out phase are flexible to cover adequacy risk, longevity risk and liquidity risk at different stages of retirement



Task

1. Legal matters involved in the relation between customers and financial institutions (e.g. contract law, consumer protection)
2. Legal matters involved in the relation between employees and companies regarding pension provision (labour law)



Labour Law

- In a pure DB plan
 - ✓ Obligation of employer to provide benefit
- In a pure DC plan
 - ✓ Obligation of employer „only“ to provide contributions
- In a hybrid plan
 - ✓ Some guarantee of pension amount



Labour Law

■ Issues:

- Conditions for receiving benefits
 - Vesting periods
 - Revocation of rights
 - Adjustment of benefits and system according to economic situation
- ✓ Instruments depend on the way system has been introduced



Labour Law

- Possible legal basis of introduction
 - Individual labour contract
 - Collective agreements between trade unions and employers / employers associations



Labour Law

- Other legal means / issues
 - State law for protection of employees
 - Maximum vesting periods
 - Rules on leaving the company before retirement
 - Indexing of benefits according to inflation
 - ✓ non relevant in case of lump sum
 - Insolvency protection

- ✓ Depends on the benefit system and on basic legal construction



Labour Law

- In case of only contributions paid by employer
 - Rules on leaving company before retirement
 - Insolvency protection



Contract law /Consumer Protection

- Issue of legal relation between employee and fund
- depends on the type of legal construction
- ✓ does the employer „buy“ the pension product or
- ✓ does the employee „buy“ the pension contract?
- ❖ In the latter case more consumer protection necessary



Contract law /Consumer Protection

- In case of choices for the employee
 - How to pick the right product
 - Terminating insurance contracts and its effect
 - Terminating labour contract and its effect
 - ❖ continuation by employee on his own
 - ❖ continuation without contribution
 - ❖ discontinuation
 - Insolvency protection issue



- Generally
- ④ Use of the fund by the employee
- ④ Draw early or only at retirement?
- ④ Lump sum or annuity?
- ④ Hybrid system and „guarantee“?
- ④ Maybe interrelation with public funds
- ④ Long term contracts in insurance are needed