


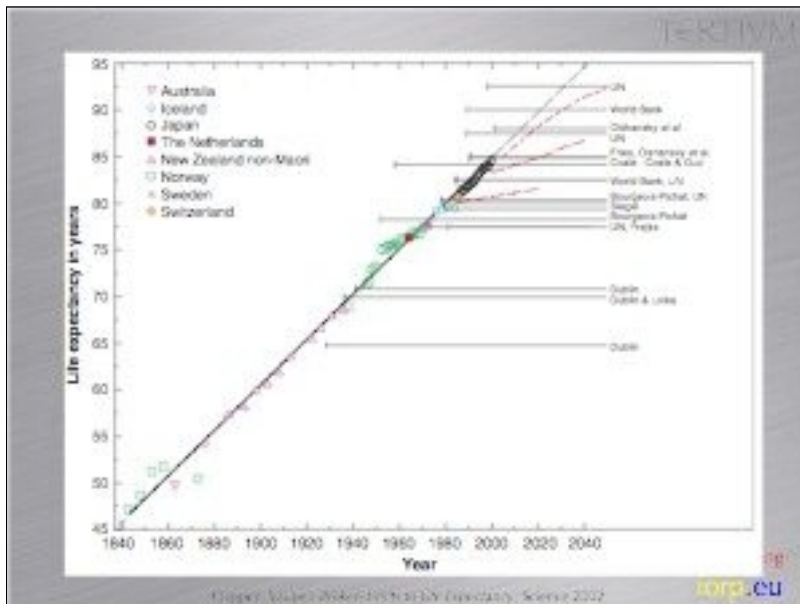
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foreign banks in retirement

Pension funds 2nd pillar borderless - A Swiss perspective

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A Pensions Directive

Outlining the scope and features of
Directive 2003/41/EC on the activities and
supervision of institutions for occupational
retirement provision (IORP)

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Profile

- Binding to EU25 & EEA (N, FL, IS)
- Not applicable to Switzerland
- Applicable only to 2nd pillar systems
- To be transformed into national law by September 23, 2005
 - infringement proceedings against Belgium, Cyprus, Czech Republic, Finland, France, Italy, Lithuania, Slovakia, **Slovenia**, Spain, **UK**

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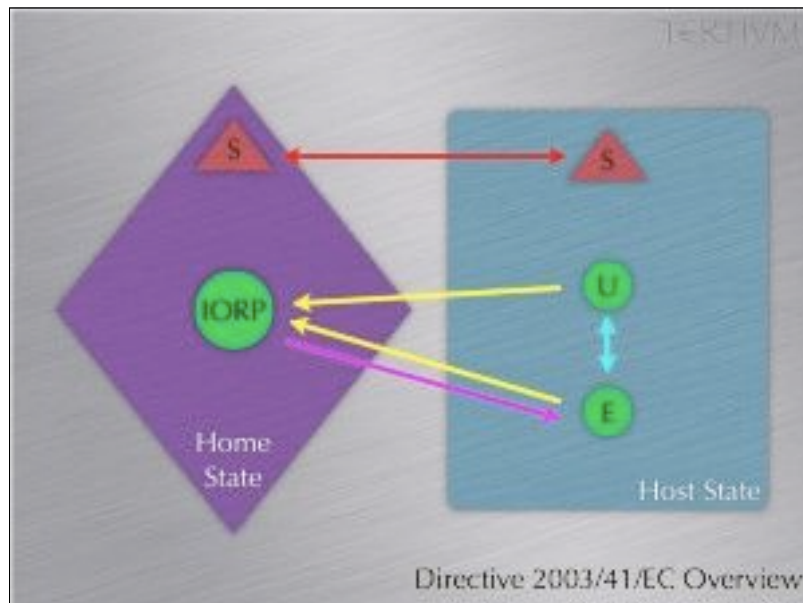
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Profile

- Coordination: no change in **applicability of relevant social & labour law** to local employment contracts
- But: definition of conditions for design, supervision and cross-border activity of **Institutions for Occupational Retirement Provisions (IORP)** which are **legally independent** from their sponsoring undertakings

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A New Competition

- Separation between regulation of the relevant social & labour law and regulation of pensions institutions
- New opportunities for regulatory competition to attract retirement funds
 - Ireland
 - Luxemburg
 - Liechtenstein

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Pool of Advantages

- Pooling of assets under management
- Pooling of liabilities / self insurance
- Economies of scale in administration
- Efficient MIS & reporting (IAS 19!)



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Taxation case law

- ▶ **Bachmann** (C-300/90): ECJ decided in 1992 that subjecting the deductibility of invalidity & sickness contribution or pension payments to stay within the country is permissible if required to ensure the cohesion of the relevant fiscal system (in case: Belgium).
- ▶ **Danner vs. Finland** (C-116/00): ECJ in 2002 reversed that outcome and supported deductibility on the basis of the existing double taxation treaty and the Mutual Assistance Directive (77/7999/EEC). In essence, it supported the **EET principle** (Exemption of contributions, Exemption of pension fund income, Taxation of retirements).
- ▶ Confirmed in **Skandia vs. Sweden** (C-422/01): ECJ maintained that even deductibility deferred until benefits payments is not admissible under the prohibition of discrimination.

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EET Principle



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Investment rules I

- Application of prudent person rule
- Material investment policy statement
- Investments “predominantly” in assets traded on regulated markets, taking into account “proper” diversification
- No active investment requirements prescribing certain investments
- Investments in the sole interest of members & beneficiaries

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Investment rules II

- No prevention admissible (unless prudentially justified) of investment in -
 - up to 70% of assets in shares, negotiable securities traded as shares & corporate bonds
 - up to 30% of assets in currencies other than those in which the liabilities are expressed
 - risk capital markets
- No restrictions on appointment of managers or custodians in other member states

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The Swiss view



- Directive not applicable to Switzerland
- Swiss multinationals forced to maintain redundant structures for Swiss & European employees
- Current competitive advantage of Swiss service providers erodes over time
- Swiss regulation will receive no innovation boost (cf IMF critique)

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EPF business case

EFRP mgmt cost savings assumption	158p
EFRP performance increase assumption	308p
Risk insurance cost (self insurance) saving p.m.	€ 100
3rd party (insurance) admin fee saving p.m.	€ 145
NPV of 5 years running cost	€ 1.6 Mio
NPV of 5 years cost savings	€ 2.7 Mio
Required platform investments	€ 1 Mio

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Industry consequences

- Consolidation of pension services, either by -
 - in house consolidation, or
 - outsourcing to 3rd party provider
- Increased cost pressure on asset management industry
- Loss of business for insurance industry

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Expected direction

- Starting September 23rd, 2005 ...
- market for cross border pensions & services in the EU
- moves from Niche to Mass market!



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Your speaker

TERTIVM



- Christian Dreyer
- Education:
 - Pol. Science HSG
 - LL.M. (EU Law)
Edinburgh University
 - CFA Charterholder
- Managing Partner of
TERTIVM

Christian Dreyer, Managing Partner, TERTIVM

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