Netspar Network for Studies on Pensions, Aging and Retirement

The solidarity provision legally unravelled

"Solidarity provision provides a measure of fairness in proposed new pension provision but needs to be better defined"

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The solidarity provision is a mandatory buffer for occupational pensions in the proposed new pension legislation. It will share profits and losses on investments and accommodate changes in life expectancy and deaths between different generations. But it also elicits various legal questions, such as possible infringement of competition law and whether voluntary schemes should also have a solidarity reserve.

Principal Findings

- Expand the solidarity provision's definition to include accrued pension rights.
- Pensioners should be just as well informed about the provision as pension scheme participants.
- The provision should not be used to share lifelong expectations but only to prevent fluctuations due to financial losses.
- The age-based share from the solidarity reserve does not breach the obligation for equal treatment based on age.
- Individuals have no recognisable claim on a part of the solidarity reserve.
- Individual claims in the case of transferred pension rights are also not clear.

Provider Type of premium agreement	Pensionfunds not mandatory	Mandatory industry pension fund and pension fund for professional workers	Insurer	PPI	Foreign IBPV/IORP
New contract	mandatory	mandatory	mandatory	mandatory	mandatory
Improved premium agreement	not possible	optional	not possible	not possible	not possible

Key Takeaways for the Industry

- The concept of the solidarity reserve justifies infringing competition law.
- The proposed restriction of the solidarity reserve to mandatory sector pensions or a pension fund for professionals is not adequately argued.

Want to know more? Read the paper **'De solidariteitsreserve juridisch ontrafeld'** **(Dutch only)**