

The BVG of 1982 and the architecture of the second pillar

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The Federal Act on Occupational Retirement, Survivors' and Disability Pension Plans (BVG in German, LPP in French) was adopted on 25 June 1982 and entered into force on 1 January 1985. It made occupational provision compulsory for employees whose annual salary exceeds an entry threshold, which is linked to the maximum AHV pension. Only a band of salary is compulsorily insured. A coordination deduction, intended to take account of the part of income already covered by the first pillar, is subtracted from the salary, while an upper limit caps the insured salary for the compulsory minimum.¹ The result is a minimum standard that leaves employers free to provide more generous benefits.

The distinction between the compulsory minimum and the supra-mandatory part runs through the whole system. Many pension funds, especially those of large employers, insure the entire salary and offer benefits well above the legal minimum. These "envelope" funds (*umhüllende Kassen*) must show that their benefits are at least as high as those calculated under the BVG for each insured person. A shadow account records the minimum entitlement, which the fund must always respect. Because the supra-mandatory part is governed by the regulations of the fund, a pension fund can apply a lower conversion rate to the total capital as long as the minimum entitlement remains covered.² This technique allowed many funds to reduce their effective conversion rates long before the legislature acted.

Pension funds must take the legal form of a foundation, a cooperative or an institution of public law. In practice the foundation dominates. Its governing body, the foundation board, must be composed of equal numbers of employer and employee representatives, a principle known as *Parität*. The board is responsible for the strategic management of the fund, the choice of the investment strategy and the supervision of the executive.

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Its members are personally liable for damage caused intentionally or negligently.³ The system therefore entrusts large sums to boards that combine company managers, trade unionists and employees from the shop floor, assisted by professional managers, pension actuaries and investment consultants.

A further feature of the second pillar is its decentralisation. Each employer must either establish its own pension fund or join an existing one, usually a collective foundation offered by an insurer, a bank or an independent organisation. Contributions are paid jointly by employer and employee, with the employer bearing at least half. Retirement credits rise with age, which makes older employees more expensive to insure and has been criticised as an obstacle to their employment. The savings accumulate in individual retirement accounts, credited each year with interest at least equal to the minimum rate fixed by the Federal Council.⁴ At retirement, the accumulated capital is converted into a lifelong pension by means of the conversion rate.

1 Notes

1. Federal Act on Occupational Retirement, Survivors' and Disability Pension Plans of 25 June 1982 (BVG, SR 831.40), in force 1 January 1985, in particular Art. 2 (compulsory insurance), Art. 7 (entry threshold) and Art. 8 (coordinated salary). Thresholds are adjusted periodically by the Federal Council. To be verified. ↩
2. On the principle of comparison with the BVG minimum (shadow account, Schattenrechnung) and the freedom of envelope funds to set lower conversion rates for supra-mandatory capital, see Art. 49 BVG and the case law of the Federal Supreme Court on envelope pension funds. To be verified. ↩
3. On the legal forms of registered pension institutions (Art. 48 para. 2 BVG), the parity principle (Art. 51 BVG), the non-transferable tasks of the supreme body (Art. 51a BVG) and the liability of persons entrusted with administration and management (Art. 52 BVG), see the federal legislation. To be verified. ↩

4. On the obligation of employers to join a registered pension institution (Art. 11 BVG), the employer's share of contributions (Art. 66 BVG), the age-related retirement credits (Art. 16 BVG) and the minimum interest rate (Art. 15 BVG), see the federal legislation. To be verified. ↩

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