The impact of demographic trends and developments on pension schemes in Europe

The Netherlands

S.H. Kuiper (LL.M.)
VU University Amsterdam
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Questionnaire for the IX European Regional Congress of the International Society for Labour and Social Security Law to take place from 16 to 19 September 2008
Freiburg (Germany)
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Questions:²

I. “What old-age protection schemes exist in your country?”

The old age pension system in the Netherlands consists of three pillars: state/public pensions, occupational old-age protection and private (individual) pensions. See question II for a more detailed sketch of the system.

1. State or public pension

The first pillar is a mandatory flat-rate pay as you go public old age pension system, regulated by the General Old Age Act 1957 (Algemene Ouderdoms Wet 1957, AOW). Entitlement to state pension exists from the age of 65 onwards. For each year a person resides in the Netherlands between the ages of 15 and 65, two percent of a full rate state pension is accrued. A full entitlement results in a benefit of 50-90% of the net minimum wage. The percentage varies with regard to ones domestic situation (married, single or single parent). This results in a pension of about € 930.- (2008) per month for a person being single. The height of the state pension benefits is not related to the wage one earned during his or her working life, neither is entitlement to state pension depending on ones income or wealth. The benefits are registered and paid out by a governmental body (Sociale Verzekeringsbank). State pension is financed by premiums, to be levied by the Dutch Tax and Customs Administration (Belaastingdienst) as a part of the income tax.

2. Occupational old-age protection

The second pillar consists of a system of non-compulsory capital funded occupational pensions. Often a right to supplementary pension benefits is only obtained if the amount of the benefits exceeds state pension benefits (this barrier is called “franchise”). Although pensions in the second pillar are non-compulsory, it is estimated that 90% of the Dutch workers is participating in an occupational pension plan. Of the total old age income in the Netherlands about 40% comes from the second pillar. The rather high percentage of participation of employees in occupational pension plans is due to the fact that participation in a pension fund is quasi mandatory (see question V-7 below). An occupational pension is an employment condition and thus subject to negotiations by social partners. Until 2004 most of the second pillar pension plans had a defined

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² Questionnaire by T. Davulis for the IX European Regional Congress of the International Society for Labour and Social Security Law to take place from 16 to 19 September 2008 Freiburg (Germany).
benefit character and were on a final pay basis. Since then a transition to benefits on average career wage basis and defined contribution plans is visible. It is allowed and possible to create pension plans with a mixed character (defined benefit plans with defined contribution elements). An employer is allowed to offer an employee the possibility to make use of additional personal pension arrangement in the second pillar. These arrangements consist of optional pension facilities – offered by the employer – in addition to the basic pension scheme offered to an employee. Occupational pensions are regulated by a variety of laws. The most significant are the Pension Act 2007 (*Pensioenwet*), the Mandatory Participation in a Sectoral Pension Fund Act 2000 (*Wet verplichte deelneming in een bedrijfstakpensioenfonds 2000*), the Mandatory Participation in an Pension Scheme for Professional Groups Act (*Wet betreffende verplichte deelneming in een beroepspensioenregeling*) and tax legislation.

### 3. Private (individual) pensions

The third pillar consists of private individual pension saving facilities offered by insurance companies – since 2008 – banks. These pension facilities are not necessarily related to or depending on the existence of an employment relationship. Third pillar pensions are regulated by general insurance law which is not specifically aimed at pension savings.

The Dutch pension system

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<tr>
<th>First pillar</th>
<th>Second pillar</th>
<th>Third pillar</th>
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<td>Third tier: none</td>
<td>Additional voluntary occupational pensions</td>
<td>Voluntary private pension</td>
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<td>First tier: public flat-rate pensions based on 50 years of residency (Algemene Ouderdomswet AOW)</td>
<td>Sectoral pension scheme</td>
<td>Mandatory private pension: none</td>
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II. “How are the protection schemes designed in detail?”

A. State or public system

1. Algemene Ouderdoms Wet 1957 (AOW)

The state or public pension system is regulated by the General Old Age Act 1957 (Algemene Ouderdoms Wet 1957, AOW).

2. Insured persons for state pension

In order to be able to receive state pension benefits a person must have been insured. Insured persons are residents of the Netherlands older than 15 and younger than 65 years of age. A person younger than 65 years old who is not residing in the Netherlands but only working in the Netherlands is insured for state pension if he or she is obliged to pay income tax in the Netherlands. The insured period ends when one reaches the age of 65, at that age the insured risk occurs. When judging where a person resides, an assessment is to be made ‘with regard to all circumstances’. In Dutch case law this norm has been interpreted as follows: a person is residing in the Netherlands if the centre of ones social live is situated in the Netherlands. When judging the centre of ones social life, legal (e.g. registration at a municipality, type of immigration document), economic (e.g. owning a house) and social ties (e.g. visiting family) with the Netherlands are assessed.

In general, illegal immigrants and asylum seekers are not regarded as insured for state pension. More specific rules are codified in the Access to social insurance (categories of persons) decree 1999 (Besluit uitbreiding en beperking kring verzekerden volksverzekeringen 1999). Examples of other groups of people for whom this decree contains regulations are Dutch civil servants and their family members abroad, mobile flying or sailing staff not residing in the Netherlands, students temporarily outside the Netherlands and persons who exclusively perform work in the Netherlands and whose labour activities are temporarily interrupted.

2. Entitlement to state pension

Basic pension
A person who has reached the age of 65 and has been insured for state pension is entitled to state pension benefits. The period of entitlement starts with the day on which the age of 15 is reached and ends on the day preceding the day on which the age of 65 is reached. In order to be entitled to state pension it is not necessary to be insured at the moment the ensured risk occurs (thus the age of 65). The maximum insurance period is 50 years. For each year a person was not insured, a two percent cutback is applied. There is a one year minimum insurance period in order to become entitled to state pension. The period in which a persons is 15 years or older before January 1st 1957 (the date the AOW state pension facility entered into force) is regarded a period in which one is insured for state pension.

Extra allowance
A married person – see par. 4 below for a definition of ‘married’ – who becomes entitled to pension benefits before January 1st 2015 and whose spouse is younger than 65 years old, can be entitled to an extra allowance. Condition is that the income of the

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3 CRVB 7th of June 1989, RSV 1990/42.
spouse is not higher than the maximum allowance itself. This extra allowance was introduced in 1985. In the preceding period a married woman did not have her ‘own’ right to state pension. The entitlement of a married woman to AOW could only by realized via the partner. In 1985 this changed and a solution had to be found for the situation in which the younger partner – with no or a small income – was not yet entitled to state pension. The extra allowance was introduced, to prevent situations in which the total household income would drop below the minimum income standard. As of January 1st 2015 the extra allowance facility will be terminated. The termination has its origin in an individualizing society and the growing role of second and third pillar pensions (SVB, 2006, pp. 137-140).

### 3. Pension amount

**Basic pension**
The retirement benefits are inferred from the net minimum wage per month. The net minimum wage is the gross minimum wage (€ 1.335,00 as of 01/01/2008) minus deduction based on ones personal situation. The net state pension benefits are 70 % of the net minimum wage for an unmarried person entitled to state pension. The amount of state pension benefits varies along the lines of ones domestic situation (unmarried, married and unmarried with a child younger than 18 years). The net state pension benefits for a married person is 50 % of the net minimum wage. The net state pension benefits for an unmarried person with a child younger than 18 years is 90 % of the net minimum wage. For a person living outside the Netherlands the state pension retirement benefits are at the most 50 % of the net minimum wage.

When the AOW came into force in 1956, marriage was the common form of living together in the Netherlands. A married woman was supposed to be caring for her children and responsible for housekeeping. The man was the breadwinner which resulted in one income per family. That practice is mirrored in the AOW state pension regulations. The pension benefits for married couples in total is 100 % of the net minimum wage when both are entitled to a state pension. This means one minimum income for a family. An unmarried person receives a 20 % higher benefit than a married person. The higher efficiency of a two person household is an argument to explain this difference (SVB, 2006, p. 123).

**Extra allowance**
If a person is entitled to state an extra allowance (see above), this allowance is granted if the income of the spouse of the person entitled to state pension is less than € 1.187,57 (2008). The sum of the extra allowance is depending on the income of the spouse. If that income amounts to nil, a complete extra allowance is granted. Not as income is regarded an amount of 15 % of the minimum wage as well as one third of the income on top of this norm, if the income stems from labour. A complete extra allowance is 50 % of the minimum wage.

### 4. Marriage and state pension

Crucial for understanding the scope of AOW state pension is the definition of marriage. Two people of different sex or two people of the same sex can marry. In the AOW a registered partnership is equated with marriage, no difference is made between registered partners or married persons.
The definition of marriage for the AOW is widened by a legal fiction. As married is regarded an unmarried adult who conducts a joint household with an other unmarried adult, unless it concerns a blood relative in the first degree. The definition of marriage is narrowed down by another fiction. A person living durably separated from the person with whom he or she is married is regarded unmarried for state pension. In both cases it is necessary to determine if there is a joint household. A joint household exists if two persons have their main residence in the same house and they take care of each other, by means of making a contribution in the costs of the household or otherwise. A household is irrefutably considered to be a joint household if the persons concerned have their main residence in the same house and:
- they have been married with each other;
- a child has been born out of their relationship or a child from one of the two persons has been acknowledged by the other;
- they have obliged themselves reciprocally, in an appropriate agreement, to make a contribution the household, or,
- are registered as joint household by the administrative organ.

5. Extra voluntary insurance

It is possible to make use of an extra voluntary insurance facility for state pension. Firstly, it is possible for an insured person of 15 years or older (but younger than 65) to use the facility as from the day on which the mandatory insurance period – of at least one year – is terminated. For these persons the maximum period of voluntary insurance is ten years, although exceptions are possible. Secondly, this voluntary insurance facility can be used by an insured person younger than 65 who has not before been insured for state pension. He or she can use the facility to voluntary insure himself for state pension as from the age of 15 for the period in which he or she has not been insured.

6. Financing

The AOW state pension is a pay as you go system and is financed by premiums, general revenues and a reserve fund. The premiums are part of the income tax of persons aged 15-65 years. The premium percentage is 17.9 % (2008) of a persons taxable income with a maximum of € 31,231 (2008). Personal income tax deductions have influence on the total premium income and therefore the financing of state pension. Negative effects on the total premium income of these personal deductions are compensated by the government (Bijdrage in de Kosten van de Kortingen). These premiums – including the before mentioned government compensation – are not sufficient to finance the AOW. Shortfalls are paid in two ways: from the general revenues and by means of a special fund. The contribution from general revenues is to be determined annually. The height of these government contributions is increasing (2002: 11 million Euro; 2005: 2.7 billion Euro; 2008: 4.4 billion Euro). The before mentioned ‘special fund’ is the state pension reserve fund which was established in 1998. The government makes annual contributions (2.9 billion Euro in 2008) to this buffer fund to help financing state pension benefits from the year 2020 onward. In that year a peak in state pension expenditure is expected due to an ageing population.
B. Occupational old age protection

1. Pension as employment condition

A supplementary pension is based on a contract of employment (it is an employment condition) and therefore agreed upon by an employer (or employers’ representatives) and an employee (or employees’ representatives). The pension arrangements can be part of a collective labour agreement. Supplementary pensions are mainly regulated in the Pension Act 2007 (Pensioenwet), Mandatory Participation in a Sectoral Pension Fund Act 2000 (Wet verplichte deelneming in een bedrijfstakpensioenfonds 2000) and the Mandatory Participation in an Pension Scheme for Professional Groups Act (Wet betreffende verplichte deelneming in een beroepspensioenregeling).

The Pension Act is applicable to pensions agreed upon in civil employment contracts as well as to pensions agreed upon by a governmental body and a public servant. Subordination is one of the characteristics of a contract of employment. In the Pension Act a distinction is made between the contract of employment and other types of contracts in which one promises to do work for another in return for compensation (e.g. a service contract). Not all contracts of employment in which an employee works in subordination to an employer is an employment contract in which the parties can agree upon an occupation pension. On the other hand there are contracts due to which work is not performed in subordination to an other party but create the possibility to conclude a supplementary pension. An example of the first situation occurs when the employee holds (direct or indirect) shares representing a tenth of the capital of an undertaking. There are few persons who fall under the second situation. The Minister of Social Affairs has the ability to make a bill in which persons who are not regarded employees, are allowed to an occupational pension. The minister made use of this ability and appointed members of the clergy.

There are, amongst others, specific laws governing the supplementary pensions of
- members of parliament, ministers секретaries of state, members of a local government (Algemene pensioenwet politieke ambtsdragers),
- the military (Kaderwet militaire pensioenen).

2. Pension definition

There are three types of supplementary pensions: old-age pension, disability-pension and survivors-pension. These pensions have in common that they are financial benefits and not benefits in kind. A pension in the Pension Act is defined as “old age pension, disability pension or survivor’s pension, as agreed between employer and employee”. “Old-age pension” is a financial, fixed benefit for the employee or former employee intended as a source of income in old age. “Disability pension” is a financial, fixed benefit due to disability of the employee or former employee, entitlement for which exists after the period in which the employer is obliged to pay wages (the first 104 weeks of sickness or shorter if the contract of employment ends within this period) has ended or the period of entitlement to benefits due to the Sickness Benefit Acts (Ziektekostenwet) ends. “Survivor’s pension” is a “partner’s pension” or “orphan’s pension”. “Partner’s pension” is a financial, fixed benefit for the spouse, registered partner or partner, or the former spouse, former registered partner or former partner, resulting from the death of the employee or former employee. “Orphan's pension” is a financial, fixed benefit for a child of whom the deceased employee or former employee was a
parent in a family law relationship, or for the deceased or former employee's stepchild or foster child, as a result of the death of the employee or former employee.

The Supreme Court has qualified benefits that have the following characteristics a pension:
- the benefit is named ‘pension’;
- the benefit has been incorporated in the regulation in which also the regular pension has been taken;
- the benefit is carried out by the pension fund/insurer which carries out also the "regular" pension scheme;
- the amount of the benefit has been coordinated on the amount of the regular pension.

When judging the question whether or not a benefit can be regarded a pension, it is of importance that these benefits are financed in advance (capital funded) and entitlement to benefits does not cease to exist after dismissal. Also the intention of the parties contracting the benefits will be taken into account. In the Pension Act an other distinction, next to old age, survivors and disability pension, is made between. It is the distinction between ‘life-long pensions’ and temporary pensions. If a pension agreement provides for an old-age pension, the agreement has to determine that that pension will be paid out to the pensioner for life, unless the old-age pension provides solely for a benefit up until reaching the pensionable age for state pension or reaching the pensionable age for the lifelong occupational pensions. Any stipulation in contravention of this is null and void.

The Pension Act distinguishes early retirement benefits from pension benefits. Financial, fixed benefits for a former employee connected with early retirement and intended as a source of income during the period of old age, are not regarded pension within the definition of the Pension Act, if:
- the benefits are based upon an agreement between an employer and an employee and the agreement only provides in entitlement to benefits for workers reaching a certain age during the term of the benefit scheme,
- entitlement to benefits ends no later than upon the date the worker is entitled to state pension benefits, reaches the pensionable age for the lifelong old-age pension or dies (if earlier) and
- the period for which the employer and employee agreed upon the scheme is five years or shorter.

3. Three types of pension arrangements

The Pension Act allows pension arrangements to be designed as defined benefit schemes as well as defined contribution schemes, although the Dutch legislator uses an other distinction: uitkeringsovereenkomst, kapitaalovereenkomst and premieovereenkomst. An employer is obliged to inform an employee about the character of his or her pension scheme and he has to use one of the three above mentioned ‘labels’.

An uitkeringsovereenkomst is a defined benefit scheme. The employer and the employee who agree upon this type of pension scheme agree upon periodical benefits the employee (or his next of kin) will receive, when a certain age is reached. Until recently most of these schemes were on a final pay basis in which the benefit was 70 %

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of the final wage (including AOW). An alternative for this final pay schemes is – and is mostly used since 2004 – a defined benefit schemes in which the pensionable earnings on which the benefits are calculated are based on the average of the wage earnings.

A kapitaalovereenkomst is a pension scheme in which the employer promises a defined capital to an employee when her or she reaches the pensionable age. This capital has to be used by the employee – ultimately on the pension date – to buy pension benefits. It is the employers duty to make sure that the contributions in the pension scheme are sufficient to achieve the promised capital. Since it will not be certain what pension benefits can be bought with the capital, the height of the pension benefits is the employee’s risk during the period the pensionable age has not yet been reached.

A premieovereenkomst is a defined contribution scheme. These defined contribution schemes exist in three variations. There are schemes where the contributions are invested until the pension date. This has the result that an employee is uncertain about the amount of his pension benefits and is risk bearer for reaching the pension age as well as the risk bearer for the returns on investments. An other option is that each contribution is used to buy an insured capital that is to be used ultimately on the pension date to buy pension benefits. This results in the pension fund/insurer being the risk bearer of the investments and the employee for being the risk bearer for reaching the pension age. The third variation is a scheme on the basis of which each contribution in the defined contribution scheme is used to buy pension benefits. This results in the pension fund/insurer being the risk bearer for the investments of the capital as well as for the employee reaching the pension age.

4. Pension fund/insurer

Employers are not obliged to offer a supplementary pensions to their employees as an employment condition. In 1996 73 % of all employers in the Netherlands offered a pension scheme to their employees, in 2001 this overall percentage has risen to 84 %. When a more closer look is taken and the size of a company is taken in account, it becomes clear that 99 % of the companies with more than 50 employees offered a pension arrangement as employment condition to their employees in 2001. For companies with 200 or more employees this percentage was, in the same year, even a bit higher: 100 % (SER, Pensioencommissie, 2002).

If an employer offers a supplementary pension to an employee there is an obligation for the employer to separate the capital allocated as pension capital from the company capital. This can be done by means of a (collective) insurance policy with an insurance company (it is not necessary that the insurance company holds office in the Netherlands). It can also be done by the employer by setting up a company pension scheme, joining an existing sectoral pension scheme or by setting such a scheme up together with other employers. These schemes have to be executed and managed by a pension fund or (other) institution for occupational retirement provisions as described in directive 2003/41/EC (these “other institutions” do not yet exist in the Netherlands, see question V-2).

The percentage of employees in the Netherlands participating in a pension scheme is rather high. This is due to the fact that participation in a sectoral pension fund is quasi mandatory. Sectoral pension funds are set up by collective agreements between

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5 It has been predicted that this percentage has risen. New data are not available yet (Kamerstukken II 2007-08, 30 413, nr. 104).
employers and employees in a sector of industry or for a specific profession. The Minister of Social Affairs can make affiliation to a sectoral pension fund or pension fund for a professional group mandatory for all or for certain workers in a sector or with a specific profession. In case of sectoral pension funds the minister can only make this decision at the request of sufficiently representative (judged by the minister) social partners. An exemption from the obligation to be affiliated is, under certain conditions, possible.

5. Minimum age start participation / Retirement age

There is a minimum age for the start of the acquisition of supplementary old-age pension rights. If an employer contracts, or has the obligation to contract, a supplementary pension scheme with his employees, the employer is obliged to offer his employees the possibility to acquire supplementary old-age pension rights if they are 21 years or older. This minimum age does not concern disability or survivors pension. In the event an employer offers one or more employee(s) a pension facility, the employer may not fail to make an offer to another employee – belonging to the same group of employees – based on the fact that employee has not yet reached a certain age, unless the employee younger than 21.

There is no prescribed retirement age for supplementary pensions. Usually the retirement age in the Netherlands is between sixty and sixty five. A retirement age for supplementary pensions of seventy or higher has (negative) fiscal consequences. A high pension age could lead to high pensions; the legislature is of the opinion that there is no need for pensions higher than 100 % of the last salary (used to calculate pension rights). An occupational pension facility is, since 2006, only fiscally facilitated if it is aimed at ending the pension accrual period at the age of 65. If one stops working before the age of 65 the pension benefits are actuarial recalculated (lowered). The period in which pension benefits are firstly received by the beneficiary should start ultimately on the age of 70 in order to be fiscally attractive.

6. Financing

Occupational old age pension schemes have to be capitalised schemes. Capitalisation has to start at the moment an employee starts participating in the pension scheme and the acquiring of pension rights has started. Disability and survivors pension schemes are allowed to be schemes on risk basis or capitalised schemes.

A pension scheme is financed by payment of premiums by the employer. These premiums can be paid by the employer, the employee or by both. An employer is allowed to deduct the employees share of the total pension premium from his or her gross salary. An employer and the insurance company or pension fund administering the pension plan are obliged to make an agreement on how the premium obligations of the employer are calculated. The length of this premium calculation period is at most one year. An employer has to pay premiums within a month after the end of each quarter of a year. The total premium for one year has to be paid within six moth after the end of a calendar year.

There are specific financial assessment regulations for pension funds (Financieel Toezichtskader Pensioenwet, FTK) and for insurance companies (Wet op het Financieel Toezicht (Financial Supervision Act)). According to the regulations for pension funds, funds have to have sufficient technical provisions to ensure that the liabilities
correspond to the financial commitments of the fund. The investments of the pension fund are to be valued in the same way as the pension obligations of the fund (market valuation).

It is necessary that pension premiums are sufficient to cover the costs of the pension scheme. Pension premiums are compiled of four elements. The premiums consists of the actuarially necessary premium for the pension duties, a possible raise to let the pension fund keep the legally necessary minimum capital, a raise for costs to execute pension scheme and payment for indexation. Indexation is a system whereby pensions are increased at regular or irregular intervals. If the pension scheme is a defined benefit scheme executed by a pension fund the part of the premiums for the standard pension scheme paid by employees is to be the same amount or the same percentage of the remunerations take into account for the pension calculations for all participants in the scheme.

A pension fund is obliged to have sufficient own funds. A pension fund has sufficient own funds if the fund can guarantee with a 97.5 % probability that the value of the fund is not lower than the height of the technical provisions. This funding ratio is between 125 en 130 %. There is also a regulatory minimum of own funds a pension fund need to have. This funding ratio is 105 %.

If a pension fund foresees or should have had foreseen that the funding requirements would not be met, a recovery plan has to be made. There are long term and short term recovery plans. A long term plan is mandatory if a pension fund does not meet the regulatory own funds requirements. In this plan the pension fund has to describe how the funding requirements will be met within a maximum of 15 years. A short term plan is necessary when the minimum regulatory requirements are not met. In this short term plan a pension fund describes how the minimum regulatory requirements will be met within three years. The FTK obliges a pension fund to invest in accordance with the prudent person / prudent man rule (art. 135 PW; art. 18 (1) Directive 2003/41/EG).

The Financial Supervision Act demands that an insurer has sufficient technical provisions and contains a minimum solvency margin. Technical provisions of the insurer are to be determined at such a level that the liabilities correspond to the financial commitments of the insurer. The rules to determine the height of the provisions are rather technical and therefore left aside in this paper.

7. Tax aspects

Second pillar pension savings can qualify for a fiscal attractive regime if they qualify as a Pension Act pension. This attractive regime entails that pensions in the contribution and accumulation phase are exempted from tax. In the withdrawal phase the pension is taxed in the year of receipt; the exempt-exempt-tax (EET) rule in the Wage Tax Act (Wet LB 1964). The maximum yearly pension accrual rate for an employee participating in a final pay old age pension plan is two percent of the yearly salary. If one is participating in an old age pension plan with benefits on an average career wage basis the maximum accrual rate is 2,25 %. Pension accrued due to a defined benefit pension plan has to be proportionate in time and is maximised at 70 % of the final salary after 35 years of accrual. Tax rules allow pension accrual up to 100 % of the final salary for people who work longer than 35 years. The pay out phase of the old age pension has to start ultimately at the age of 70 or sooner if 100 % of the final salary and
one is 65 years or older. Pension benefits can be paid out before the age of 65 if the benefits are – downwards – actuarial adjusted.

C. Private (individual) pensions

The third pillar consists of individual pension savings facilitated by private insurers. These pension facilities are not necessarily related to or depending on the existence of an employment relationship. Third pillar pensions are regulated by general insurance law, not specifically aimed at pension savings.

Since January 1st 2008 banks are, in addition to life insurance firms allowed to facilitate a third pillar pension product: a fiscal attractive blocked savings account. The savings are paid out in a period between 5 and 20 years and can be used to buy – as far as old age products are concerned – a life insurance. This facility broadens the scope of pension products in the third pillar. It also creates an extra possibility for pension savings of self-employed, whose situations will not always differ significantly from employees but are mostly excluded from accruing rights to occupational pension benefits.
III. “What is the current demographic development in your country?”

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Source: Statistics Netherlands, CBS Statline 2007 (cbs.statline.nl)
Description of the survey

Source: Statistics Netherlands, CBS Statline 2007 (cbs.statline.nl)

Population. Observations (except for households until 1995) are based on information received by Statistics Netherlands from the municipal population registers (GBA). The population figures (number of inhabitants) given in this publication relate to the resident (‘de jure’) population: persons who habitually reside in the Netherlands and who are recorded in a municipal population register. In principle, all persons residing in the Netherlands for an indefinite period are entered in the population register of the municipality of usual residence.

Households. Until 1981 statistical information on households was based on the census. For 1981-1987 statistical information on households was based on the labour force survey (EBB). The EBB is a sample survey among the registered population of the Netherlands, excluding the so-called institutional population (those who are living in institutions and homes). From 1995 statistical information on households is based on information obtained from the municipal population registers. These statistics succeed of the Annual Household Statistics. The latest statistics on households provide information on private and institutional households.

Accuracy and reliability. In a limited number of cases the data received by Statistics Netherlands are incomplete. In such cases the missing data are estimated.

Release policy. In February / March provisional figures of the most important subjects of the previous year (in case of population dynamics) and per 1 January of the current year (in case of population size) respectively, will be added in this publication. In September / October the provisional data will be replaced by final data. The figures may differ from previously published provisional data of Statistics Netherlands.

Used external sources. The figures are based on information as reported to Statistics Netherlands by the municipal population registrations.

Population by sex. Data refer to 1 January.

Population by marital status. Data refer to 1 January.

Married. Including separations and from 1999 on including partners in registrations of partnership.

Divorced. Excluding separations.

Population by age. Data refer to 1 January.

Demographic burden. The proportion of all persons aged 0 to 20 years and 65 years or older to persons in the economically active age group (20 to 65 years).

Total demographic burden. The proportion of all persons aged 0 to 20 years and 65 years or older to persons in the economically active age group (20 to 65 years).

Green burden. The proportion of all persons aged 0 to 20 years to persons in the economically active age group (20 to 65 years).

Grey burden. The proportion of all persons aged 65 years or older to persons in the economically active age group (20 to 65 years).

Population growth. Figures of 2005 are provisional.

Total population growth. Live births minus deaths plus immigration minus emigration including net corrections plus other corrections.

Total population growth, relative. Total population growth (live births minus deaths plus immigration minus emigration including net corrections plus other corrections) per 1,000 of the total population on 1 January.

Live births. Live births refer to babies who have given a sign of life after the delivery, irrespective of the duration of the pregnancy, and who are entered into the municipal population registers of a Dutch municipality.

Deaths. Person declared dead by an authorized doctor.

Natural increase. The number of live births minus the number of deaths within a given period.

Natural increase, relative. Natural increase (live births minus deaths) per 1,000 of the total average population.

Immigration. People moving to the Netherlands from another country.

Emigration incl. net adm. corrections. Emigration including administrative corrections. People leaving for another country plus people removed on administrative grounds, minus people entered on administrative grounds.

Net migration incl. net adm. corr. The number of people arriving minus the number of people departing, including the balance of administrative corrections. (administrative entries minus administrative removals).

Net migration, relative. Net migration (immigration minus emigration including net administrative corrections) per 1,000 of the total average population.

Other corrections. Other corrections consist of entries in and removals from the municipal population register other than births, deaths, arrivals, departures, administrative corrections or municipal border changes.
IV. “What is the impact of demographic development on each of the pension schemes?”

The Dutch population is ageing. People are becoming older and fewer children are born each year. The baby boom generation will eventually reach the age of 65 (AOW state pension age). The “grey” burden/pressure – the proportion of all persons aged 65 years or older in relation to persons in the economically active age group of 20-65 years – increased from 14 % in 1950’s to 23.6 % in 2007. It is estimated that the grey pressure will be 43 % in the year 2040 (Ewijk, Draper, Ter Rele, & Westerhout, 2006, p. 33).

The former Dutch finance minster noted that the key point of the impact on public income and expenditure is that “elderly, on average, are net recipients from public funds. Younger age groups are net contributors, except the very young. This means that demographic ageing has a negative impact on the government's budget” (Zalm, 2006). The Netherlands Bureau for Economic Policy Analysis (hereinafter CPB) backs up his conclusions.

The aging of the Dutch population drives up the government expenditure on first-pillar pensions. Ageing has the effect that the income generated by labour market participation decreases, which leads to a reduction of the base from which the growing government expenditure is financed. Ageing also has the effect – according to the CPB – that the amount of pension benefits received by the population increases which leads to an increase of revenues from income taxation (Ewijk, Draper, Ter Rele & Westerhout, 2006). Bovenberg & Knaap state that ageing leads to a tighter labour market, higher wages and higher public spending on public pensions. These developments, together with others, puts pressure on the rates of return that occupation pension funds can expect. They predict that due to the fact that pension benefits are tied to the level of wages, a tight labour market at the peak an aging population exacerbates the funding problems that pension funds experience (Bovenberg & Knaap, 2005).

The second pillar is capital funded. Due to the increasing ‘grey pressure’ pension funds switched from defined benefits occupational pension schemes on a final pay base to schemes on an average wage base. In 1998 66.5 % of the participants in a pension scheme had a defined benefit final pay scheme and 25 % had an average career wage defined benefit scheme. In 2006 these percentages shifted to 10.1 % final pay and 76 % average career wage (Pensioenmonitor DNB). The two largest pension funds in the Netherlands (ABP (209 billion euro end 2006) and PGGM (90 billion euro)) made this shift in 2004.
Statistics state pension
Source: Statistics Netherlands, CBS Statline 2007 (cbs.statline.nl)

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Description of the survey
Source: CBS Statline 2007 (cbs.statline.nl)

Beneficiaries. The numbers concerns the pensions paid due to entitlement to the Emergency Pension Act (Noodwet Ouderdomsvoorziening) (1947-1956) and the AOW (Algemene Ouderdomswet (1957>). On the first of April 1985 the AOW is adapted to European Equal Treatment Law. The AOW benefit for spouses is individualized.

Sources are 1947: Rijksverzekeringsbank; 1956: SVB en de Raden van Arbeid; 1986: SVB.

Total paid benefits. The total paid benefits concern the Noodwet Ouderdomsvoorziening (1948-1956), Algemene Ouderdomswet (1957>). Sources are annual reports and government registrations (SVB).
### Description of the survey

This survey does not contain information about occupational pension plans executed by insurance companies.
V. “Which measures were taken or are scheduled for the future in the face of demographic changes? How they have to been evaluated? What is the focal point of these measures?”

Focal point
The objective of the government – as concluded in 2004 – is to make the net labour participation grade 40 % for people of the age 55-64. The participation percentage was 41.7 % in 2006. This is mainly due to the raise in labour participation of woman between ages 55-59. The Dutch government has the aim to meet the EU Lisbon-criteria of 50 % labour participation in the year 2010. To meet the Lisbon aims an estimated increase of 0.8 % of the net participation grade per year is necessary.

1. “Were the measures taken for the extension of working life within the legal frameworks of old-age protection system? (e.g. raising the retirement age, the extension of rehabilitation, deductions of early retirement benefits)”

1. State pension

1. Raising retirement age. In recent history no measures were taken to raise the age on which one is entitled to state pension. Although the retirement age has not been raised in recent history, although proposals have been made to do so. In 1987 it was concluded that changing the retirement age for state pension should only be considered when the labour market is tight, and then only if the increase in the pension age is to be implemented in a ten year period. In 1993 a change of the state pension age was reconsidered by the Scientific Council for Government Policy (WRR). An argument against raising the pension age was that the measure would not necessarily lead to a longer working life for all employees (WRR 1993). In 2005 the Social Economic Council of the Netherlands (SER) concluded that a rise in the retirement age for state pension, regarding the status of the labour market, is not necessary. It was considered that raising the retirement age would only have a marginal effect in the short term since only a small percentage of the people older than 55 years old were still participating in the labour market. The SER concluded that it is possible that demographic changes, the social-economic situation and the situation of the labour market could make it necessary to reconsider the answer on the question whether or not to raise the AOW retirement age.

2. Flexibilisation of the AOW retirement age. No measures were taken or are scheduled to introduce the possibility to choose ones individual state pension retirement age. On instigation of the parliament the SER researched the flexibilisation of the state pension retirement age. The conclusions were that the possibility to choose for a lower AOW retirement age could lead to a lower state pension. These lower pension benefits could harm the income position of people whose only income is state pension. The introduction of this choice could – as predicted by the SER – possibly lead to an increased use of other social security measures (e.g. the Work and Social Assistance Act). The introduction of the choice for a higher state pension retirement age has also been considered by the SER. It was concluded by them that the state pension retirement age is not a burden to continue working after the age of 65. The choice of an individual for a higher retirement age would therefore not necessarily lead to a higher net pension profit for that individual. It might even be financially preferable for an individual – the SER concluded – not to postpone the date on which state pension benefits are received. Besides these arguments it was considered that a flexible AOW retirement age would
lead to high administration costs (SER, 2002) (SER, 2005). The Council of state is of the opinion that a higher state pension age could be of positive influence of the participation of elderly people in the labour process (RvSt, 2007).

2. Occupational old-age protection

1. Pension Act. In 2007 the Pension Act entered (partly) into force. This act is not aimed at changing the role of the government in the relationship between and the coherence of first, second and third pillar; the Pension Act is mainly an update of older legislation. A measure that was introduced in the new act to extend the working life of people is the ‘accrued right guarantee’ of article 18 Pension Act. It guarantees, if the salary on which occupational pensions are based is lowered, that the pension rights accrued under the pension agreement up to the moment of lowering the salary are to be retained. A stipulation in contravention with this rule is void. If an employee wants to work less, pension entitlements are not a threshold to do so. See question V-5 for changes in the fiscal regime.

2. A new pension entity. The Dutch government is making plans for a new corporate entity that can execute pension plans. Introduction of this new entity is not (directly) inspired by demographic changes. It nevertheless could be of influence on the duration of a workers working life and is a measure taken within the legal frame work of old-age protection. The reason of this influence being the exploration of possibilities to create (new) pension facilities by this entity for self-employed by the government. However, the primary aim of this new entity is making the Netherlands more attractive as a place of business for international pension organisations. The new entity (called ‘API’) is to be an institution for occupational retirement provisions as described in EC directive 2003/41/EC. The regulatory framework will be a mixture of the legal framework for insurance firms and pension funds and is aimed at making maximum use of the regulatory liberties granted in the before mentioned directive. The new entity is allowed to ring-fence assets and execute multiple pension schemes.

3. Private (individual) pensions

1. January 1st 2006 the life-course savings scheme (levensloopregeling) was introduced (fiscally facilitated), partly as compensation for the repeal of the fiscal facility for pre-pension arrangements (see question V-5 for other changes in the fiscal regime). The idea of the life-course savings scheme is that people are enabled to take leave during the rush hour of their life or on a moment of their choice. Employees are allowed to save at the most 12 % of their yearly gross salary; employers are allowed to contribute to the saving scheme. The idea is that the period of leave during a career – which is to be financed by one’s own savings in the account – makes people work till a later age instead of opting for early retirement. Contrary to this idea the, fairly new, life-course Savings scheme is up till now mainly seen as means to finance early retirement. Plans are made for a new version of life-course savings scheme (Levensloop 2.0). The intention is to transform the scheme to a fiscally more attractive savings account from which one can withdraw funding for a period in which a person is (partly) deprived from income due to e.g. leave, wage reductions, schooling, starting a business or unemployment. Usage of the savings account is to be made possible for employees and self-employed (Bovenberg, 2007).
2. **Pension facilities offered by banks.** Since January 1\(^{st}\) 2008 banks are, in addition to life insurances offered by insurance firms, allowed to facilitate a third pillar pension product: a fiscally attractive blocked savings account. Introduction of this new entity is not (directly) inspired by demographic changes. It nevertheless could be of influence on the duration of a workers working life and is a measure taken within the legal framework of old-age protection. The reason of this influence being the extension of facilities for self-employed. The savings are to be paid out in a period of 5 to 20 years. The savings can be used to buy – as far as old age products are concerned – a life insurance. This facility broadens the scope of pension products in the third pillar and creates an extra possibility for self-employed for pension savings.

2. "*Were the measures taken for the extension of working life outside the legal frameworks of old-age protection system?*

   a. *Labour law related measures: eg. abolishment of age limitations, measures of vocational training for elderly persons*"

1. **Age limitations**

On May 1\(^{st}\) 2004 an act concerning equal treatment in labour relations on the ground of age (*Wet gelijke behandeling op grond van leeftijd bij de arbeid*) entered into force. This act implemented EC directive 2000/78/EC of November 27\(^{th}\) 2000 (the framework directive for equal treatment in employment and occupation).

In this act the Dutch government made use of the possibility in the directive (article 6) to enable justification of differences of treatment on grounds of age. Regarding pensions this has had the result that in the before mentioned equal treatment act the use of age criteria in actuarial calculations or the admission or entitlement to retirement benefits does not constitute discrimination on the grounds of age. The retirement benefits for which this opt-out possibility is used, are benefits from an occupational pension scheme as far as the benefits are received in addition to state pension.

Article 6 of the directive has also been used in the Netherlands to allow “pension dismissal”: according to the equal treatment act it is not regarded discriminatory to terminate a contract of employment due to fact that the employee reaches the age on which he or she is entitled to state pension benefits (age 65). Pension dismissal at a higher age is not regarded discriminatory if the law determines so or if the parties contracting an employment agreement agree upon such a higher age. The result of using article 6 of the directive in this was is that the contract of employment is automatically terminated when the “normal pension age” (65) is reached by an employee. Working after that age is only possible with consent of the employer.

In the *travaux preparatoire* of the age discrimination act the following is mentioned regarding the estimated socio-economic effects of the act.\(^6\) "The socio-economic impact of the bill will probably be modest. The impact can be defined, however, in a qualitative sense, but is difficult to quantify in macroeconomic terms. The bill can make a contribution to raising the labour force participation of the elderly people. If the elderly will work or continue working longer, social security costs could be reduced."\(^7\)

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\(^{6}\) *Kamerstukken II* 2001-02, 28 170, nr. 3, p. 16.

\(^{7}\) Translation by me.
2. Social security measures

A series of social security measures aimed at stimulating elderly people to participate in the labour process has been taken by the government. The Unemployment Insurance Act (UIA) (Werkloosheidswet) is the legal bases to insure employees and unemployed against the financial consequences of unemployment. In August 2003 the maximum period in which benefits are to be received was limited to 5 years – the so called vervolguitrering-facility was repealed.

As of October 1st 2006 the maximum period for receiving unemployment benefits is shortened from 5 years to 38 months. As of October 2006 the insurance benefits are in the first three months 75 % of the wage (with a maximum) and thereafter, 70 %. This decrease of the UIA benefits is intended to act as an incentive for a beneficiary to search actively for work. Before January 1st 2004 elderly UIA beneficiaries – persons of 57.5 years of age and older – did not have the obligation to apply for jobs. Since that date the job-search requirement is applicable to most UIA beneficiaries, even elderly people as long as they reach the age of 57.5 years after January 2004.

In 2009 a temporary income scheme for unemployed elderly persons is to be introduced (Inkomensvoorziening oudere werklozen, IOW). It replaces the current income scheme for elder an employees partially incapable of work (Inkomensvoorziening Oudere en gedeeltelijk Arbeidsongeschikte Werkloze werknemers, IOAW). People as from the age of 50 who became unemployed after October 2006, can qualify for this temporary scheme. The benefits can be received if the period in which UIA unemployment benefits are not longer received. Benefits for elderly individuals on the basis of the temporary scheme are 70 % of the net minimum wage. Benefits stemming from this temporary scheme are – as opposed to benefits due to the old schemes – influenced by the income of the partner.

If a person’s income or assets is not sufficient to provide for oneself there is the possibility to apply for social assistance benefits (Wet Werk en Bijstand). In order to receive social assistance benefits one has to meet certain minimum requirements (income, value of ones assets, residing in the Netherlands et cetera). When the benefits are received there are obligations, for example the obligation to be registered as a job seeker, apply for jobs and to participate in trainings to find work. Since 2004 municipalities executing the social benefits scheme are prohibited to categorical exclude elderly from these obligations. Since then exclusion is only possible on an individual basis.

3. Vocational training

The Dutch government aims, as mentioned above, at meeting the EU Lisbon-criteria. This means that there is the aim to educate 80 % of the working population to a certain minimum grade. In order to meet the criteria 50,000 workers on a yearly basis have to be trained (Verhulp&Baris 2007). Measures taken to educate these people are not specifically aimed at elderly persons (but they are neither excluded). Besides these general measures it is made possible for municipalities to apply for a subsidy to support elderly people (of the age of 55 and over) receiving social assistance benefits to train them to find paid work.
b. “Labour market policy oriented measures: e.g. measures for improvement of employment opportunities of elderly persons”

1. Fiscal facility elderly persons (Specifieke arbeidskorting ouderen)

There is a tax exemption for income generated by work. The maximum exemption depends on one’s age. In the year 2007 this exemption was, for people under 57 years of age € 1,392, for the age, 57, 58 or 59 € 1,642, for the age 60 or 61 € 1,890, for the age 62, 63 or 64, € 2,138 and for people of 65 years or older, € 1,001. This exemption has been introduced in 2002 to stimulate elderly people to keep participating in the labour process.

2. Working conditions

In 2007 the Working conditions act (ARBO Wet) has been revised. The aim is to make it easier for an employer and an employee to tune the working conditions to the needs of the relevant working sector. In the period 1999-2007 social partners and the government made working condition covenants in which measures are concluded to improve working conditions, reintegration in the labour process and (sick)leave. On the other hand a critical stand is taken against specific facilities for elderly people in employment conditions as extra days off (Visser & Van der Meer, 2007, pp. 52-53; CGB, 2006; CGB, 2007). The possibilities of using a so called Work Ability Index-network are explored. This network – which is not specifically aimed at elderly persons – is aimed at tracking the mental and fiscal state of individual workers so they can be coached in order to participate longer in the working process.

3. Extra subsidies for human resource measures aimed at elderly persons

In 2005 a temporary subsidy facility for companies and organisations who try to stimulate human resource management aimed at elderly people is created. For the period 2007-2008 subsidies could be requested for initiatives that stimulate “age conscious” human resource measures in companies.

c. “Other measures”

A broad range of measures outside the legal framework of old-age protection other than labour law or labour market measures have been taken by the government. These measures are closely related to labour policy oriented measures and mostly concern empowerment of elder employees by creating awareness for participation of elderly people in the labour process. An example is the creation of three taskforces (Regiegroep grijs werkt, Task Force Ouderen, Actieplan terugdringen werkloosheid 45-plussers), an expert centre (Landelijk Expertisecentrum voor Leeftijd, Landelijk Centrum Diversiteitsmanagement) and a series of websites (www.senior-power.nl; www.leeftijd.nl; www.opleidingenberoep.nl).
3. “Alongside with the raise of the retirement age, were the measures taken for restriction of benefits, in particular by change of principles of calculation of pensions and their adjustment? eg. reduction of the level of benefits, deprivation of particular types of benefits”

See question 4.

4. “What were the measures taken concerning the personal coverage of the different old-age pension schemes?”

One of the more significant changes concerning the restriction of benefits is the change from defined benefit occupational pension schemes on a final pay base to schemes on an average wage base. In 1998, 66.5% of the participants in a pension scheme had a defined benefit final pay scheme and 25% had an average career wage defined benefit scheme. In 2006 these percentages shifted to 10.1% final pay and 76% average career wage (DNB, 2007). The two largest pension funds in the Netherlands (ABP (209 billion euro end 2006) and PGGM (90 billion euro)) made this shift in 2004.

In recent years the number of defined contribution schemes, is slightly increasing (from 0.5% of persons participating in such a pension scheme in 1998 to 3.6% in 2006 (DNB, 2007)). This is supposedly due to the International Financial Reporting Standards which demand that enterprises show their pension obligations on their annual statement of accounts.

The Pension Act has had the effect that the scope of people allowed to participate in an occupational pension scheme has been narrowed down. As from January 1st 2007 people who are (a) personal holder of shares representing at least one-tenth portion of the issued share capital of the employer's company, (b) indirect personal holder of shares representing at least one-tenth portion of the issued share capital of the employer's company or (c) holder of depositary receipts for shares, issued through the mediation of a trust office of which the holder represents at least one-tenth of the board, representing at least one-tenth portion of the issued share capital of the company are not longer allowed to participate in an occupational pension scheme.

The Pension Act also broadened the scope of people allowed to participate in an occupation pension scheme. The above mentioned minimum age for the start of the acquisition of supplementary old-age pension rights was introduced by the Pension Act. It was not unusual, until the introduction of this minimum age, pension schemes contained a higher age than 21 as start of the acquisition period of supplementary old-age pension rights.

5. “What measures were taken or will be taken with regard to financing method of the different pension schemes? eg. with regard to financing by contributions, financing by taxes, shift from contributions-based system to capital covered”

1. State Pension
Brief history. The debate about the sustainability of AOW state pension began in the 1980’s. It was then predicted that the number of recipients of state pension would have been doubled by the year 2030. In debate (1987) was the introduction of contributions for pensioners, increasing or abolishing the contributions ceiling, increasing the retirement age and a decrease in the benefits for unmarried pensioners to 50% of the minimum wage. In 1993, 1994 and 1995 the indexation of the AOW benefits was suspended. In 1997 the AOW reserve fund and in 1998 the AOW savings fund (see question II above) was introduced. A ceiling was put on the AOW contributions in 1998. In 1998 this was 15.4%, now it is 18.25% of taxable income and only paid by those aged under 65. In 2004 the AOW was financed for 85% out of premiums.

Taxation of pension benefits for retirees with a high income. The Dutch government made the proposal to introduce an extra contribution in 2011 intended to improve the financial basis for state pension. The contribution is to be paid by retirees and levied over the second pillar pension benefits higher than € 18,000. This means that retirees with an income during their working life of more than € 38,000 (married/living together) or € 43,000 (single) are paying the extra contributions. If an employee keeps working after the age of 63 a bonus is granted. This bonus equals the extra contributions if one keeps working till the age of 65. It is the intention of the government to make exceptions on these age limits (due to heavy work or entrepreneurship).

2. Occupational old-age protection

New fiscal regime (Witteveenwijzigingen en Wet aanpassing fiscale behandeling VUT/prepensioen en introductie levensloopregeling). In June 1999 and in January 2006 the fiscal regime for second pillar pensions has been fundamentally changed. A pension has to be in accordance with this new scheme to be a fiscal attractive pension (a pension on which the EET-rule is applicable). This regime introduced the – above mentioned – maximum pension accrual rates of 2% (final wage based pensions) and 2.25% (average career wage based pensions). This results in a ‘complete’ pension of 70% of the salary after 35 years of participation in a pension plan. An occupational pension facility is under the new regime only fiscally facilitated if it is aimed at ending the pension accrual period at the age of 65. If one stops working before the age of 65 the pension benefits are actuarial recalculated (lowered). The period in which pension benefits are received by the beneficiary should start ultimately on the age of 70 in order to be fiscally attractive. The EET-rule is since the change of tax legislation no longer applicable on temporary pensions (pensions to bridge the period between the moment a person stops working and reaches the state pension age). In addition to the limitation of fiscally facilitated temporary pensions new fiscal limitations on pre-pensions arrangements were introduced. The EET-rule is no longer applicable on newly contracted pre-pension arrangements since January 1st 2005. Since January 1st 2006 the EET-rule is also no longer applicable on pre-pension arrangements contracted before 2005.

6. “What measures were taken or about to be taken concerning the relationship between state or public pension schemes and non-public schemes? eg. promotion of enterprise old-age protection schemes by the state, promotion of private (individual) pension schemes by the state,
supplementation of contributions-based pension schemes by capital covered schemes”

See question V-1.

7. “Is there a legal obligation for an old-age protection outside the legal frameworks of old-age pension schemes? eg. under the law or collective bargaining agreement”

A person is not obliged to participate in a third pillar pension product. There is also no obligation for an employer to offer his employee a pension plan. But, as written above, a rather high percentage of the employees in the Netherlands do offer a pension plan. This is due to collective bargaining. When employers’ and employees’ organisations for a sector or specific profession agree upon a pension scheme, they can request the minister of Social Affairs and Employment to declare participation in a specific pension fund mandatory. Making participation in the fund mandatory has the affect that the fund has to accept all employees who work in the sector or have a specific profession. This creates solidarity between workers regardless of age, sex or health. It is possible for an employer to – under strict conditions – request exemption from participation. An exemption is only granted when the employer offers his employee the possibility to participate in another – but more or less equal – pension scheme.

VI. “Are there constitutional guidelines or limits for demographic changes related reshaping of old-age protection system in your country?”

No.
References


