# СРАВНИТЕЛЬНОЕ ПРАВО

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## Private pensions funds in North Macedonia and Russia*

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The article focuses on the reform of the pension systems in North Macedonia and Russia, which resulted in switch from one-pillar to multi-pillar pension systems, and current legal and institutional architecture in both legal systems with emphasis on private pension funds which are widely recognized as the core drivers for the improvement of the living standards of retirees. The article starts with the general overview of Macedonian and Russian pension systems which provides the necessary background for understanding of the legal regime of private pension funds. The general overview of the pension systems is followed by the detailed analysis of the legal status of private pension funds in both countries, with more attention being paid to the experience of North Macedonia where private pension funds play a more important role in the pension system. In Russia private pension funds have shown their positive effect, but their coverage in general is still moderate. The overview of general rules of taxation of contributions to private pension funds and pensions concludes the article. The comparative research allowed to make the conclusion that both countries have made different progress in moving to a three-pillar pension system especially from the viewpoint of the established legal and institutional framework, and the establishment and operation of the private funds, both mandatory and voluntary.

*Keywords:* pension system, mandatory pension, fully funded pension, voluntary pension, private pension funds, pension benefits, insurance contributions, taxation.

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## 1. Introduction

One of the goals of the pension system is to ensure an adequate level of income for retirees. Ageing puts serious pressure on pension finances, affecting public policies in states with all types of pension systems. Given any types of economics, governments are continuously seeking for replenishment sources of pension pays and searching the tools to reduce the budgetary gaps. Private pensions play a growing role in complementing retirement income from public sources worldwide, their importance in ensuring adequate pension provision is increasing[1]. Comparative study of legal frameworks in North Macedonia and Russia is of a particular interest due to their common experience of social security policy, state financing and transformative development from the one-pillar "pay-as-you-go" (PAYG) pension system to the multi-pillar system. The purpose of this paper is providing a review of brief historical aspects of the pension system before the reform, the reasons for the reform and the legal and institutional architecture of the present pension system in both counties with focus on private pension funds and the taxation of the pension benefits.

The article starts with the general overview of Macedonian and Russian pension systems which provides the necessary background for understanding of the legal regime of private pension funds. The general overview of the pension systems is followed by the detailed analysis of the legal status of private pension funds in both countries, with more attention being paid to the experience of North Macedonia where private pension funds play a more important role in the pension system. In Russia private pension funds have shown their positive effect, but their coverage in general is still moderate. The overview of general rules of taxation of contributions to private pension funds and pensions concludes the article.

The main research methods are comparative legal and historical legal methods combined with the systematic method that complements this traditional legal research aiming to reach a high level of abstraction in order to make sense of the differences and similarities between the legal systems compared and map out solutions to the legal issue under examination and drawing them in the conclusions.

## 2. Basic research

### *2.1. General overview of Macedonian and Russian pension systems*

Pension system in North Macedonia and Russia have a history of long existence, large coverage of the workforce and provision of pensions for insured persons. In Macedonia before the reforms were initiated in 1993 (Bornarova, Bogoevska, Trbojevikj 2013, 393) the pension system was comprised of public fund that was financed from the pension contributions of the employee's, the central budget and — for several years — by dividends from the shares of the public share companies and the dividends from units from the limited liabilities companies (Misheva, Ampovska, Todorova 2019, 998)[2]. Numerous

[1] According to the OECD Core Principles of Private Pension Regulation. 2016. Accessed March 26, 2022. https://www.oecd.org/finance/private-pensions/Core-Principles-Private-Pension-Regulation.pdf.

[2] The Public Insurance and Disability Fund in the 90-tees became an owner of shares and units in many attractive companies in the country. In 2012 the Government adopted the decision of the Management board

different reasons had impact on the pension system through the years — from the socio-economic changes in Macedonia in the early 1990s that resulted in financial difficulties in its operation to such demographic factor as the aging of the population that resulted in increase of numbers of retirees and extension of the period of payment of pension. All of them combined brought the pension system to the edge of its existence as actuary projections showed that solvency and sustainability issues are threatening the system if reforms were not introduced[3].

In Russia similar financial problems, accompanied by global trends of the 1990-s and introduction into the market economy, have developed the distributive pension system into a three-pillar. Major structural changes induced a shift from PAYG-system to a mixed one with funded elements (Vasilyeva, Shuraleva 2018, 471–472). By this time, the Russian pension system has not fundamentally changed its key parameters, which were before the reforms, using hybrid method of calculation of contributions, PAYG financial basis instead of funding. Changes in the sources of financing of the pension system occurred several times during 1998–2015: from contributions to general taxes and vice versa (Borda, Grishchenko, Kowalczyk-Rolczynska 2017, 50).

The legal and institutional architecture of the current Macedonian system started to build from 2000, following the reconstruction and extension of the one-pillar pension system to three-pillar pension system (Misheva, Ampovska, Todorova 2019). For North Macedonia, this model was suggested on behalf of the World Bank and was introduced also in other Middle East countries in Europe as part of the intensive pension reform of the pension system in EU (Misheva, Ampovska, Todorova 2019, 998).

Today, the pension system is based and operating within the following legal framework: the Law on Pension and Disability Insurance[4], the Law on Mandatory Fully Funded Pension Insurance[5], the Law on Voluntary Fully Funded Pension Insurance[6], the Law on Payment of Pensions and Pension Benefits from Fully Funded Pension Insurance[7] and a number of bylaws. The supervision for the fully funded pension insurance system is mainly through the institution The Agency for Supervision of Fully Funded Pension Insurance (referred as MAPAS). It has the capacity of a legal entity and is accountable for its work in front of the Assembly of the Republic[8]. Another relevant institutions are the Pension and Disability Insurance Fund of North Macedonia (PDIFNM), that administers

of the Public pension fund for selling the shares under public offer on regulated market (stock exchange). 2012. Accessed March 26, 2022. https://dejure.mk/zakon/odluka-za-davanje-soglasnost-na-prodazhba-na-akciite-na-fondot-na-penzisko-i-invalidsko-osiguruvanje-na-makedonija-na-javni-berzanski-aukcii.

[3] *Report on the developments in the fully funded pension insurance.* 2020. Skopje, The Agency for Supervision of Fully Funded Pension Insurance (MAPAS). P. 17.

[4] Law on Pension and Disability Insurance. *Official Gazette* 53. 11.04.2013. Accessed March 21, 2022. https://www.slvesnik.com.mk/home.nspx.

[5] *Official Gazette of Republic of Macedonia* 29/2002, 85/2003, 40/2004, 113/2005, 29/2007, 88/2008, 48/2009, 50/2010, 171/2010, 36/2011, 98/2012, 13/2013, 164/2013, 44/2014, 192/2015, 30/2016, 21/2018, 245/2018; *Official Gazette of Republic of North Macedonia* 180/2019, 103/2021. Accessed March 21, 2022. https://www.slvesnik.com.mk/home.nspx.

[6] *Official Gazette of Republic of Macedonia* 7/2008, 124/2010, 17/2011, 13/2013; *Official Gazette of Republic of North Macedonia* 103/2021. Accessed March 21, 2022. https://www.slvesnik.com.mk/home.nspx.

[7] *Official Gazette* 11/2012, 147/2015, 30/2016, 103/2021. Accessed March 21, 2022. https://www.slvesnik.com.mk/home.nspx.

[8] Art. 1 Law on Mandatory Fully Funded Pension Insurance. Accessed March 21, 2022. https://mapas.mk/regulations/laws/?lang=en.

the publicly managed social security scheme and allocates the pension insurance contributions between the first and the second pillar and allocates the contributions and data on membership to the selected mandatory pension fund[9]. Other relevant institutions are the custodian banks, the insurance companies, the Public Revenue Office (PRO), the Pension and Disability insurance Fund (PADIFNM) that performs centralized collection of contributions and submits the total contributions.

The Russian system of supervision is mainly presented by the Pension Fund (PFRF) and the Central Bank (CBRF). The PFRF is a non-budgetary state fund, with the main tasks including ensuring, together with the tax authorities, the collection of insurance contributions and control over it; capitalization of own funds, attraction of additional sources of financing, investors; organization and maintenance of individual accounts of insured persons in the system of compulsory pension insurance. The CBRF is both a regulator and a supervisory body for NPFs and investment funds: it sets the rules on the collective investment market and monitors their observance. Considering the social significance of participants in the collective investment market, and primarily NPFs, the CBRF pays special attention to the issues of their financial stability and reliability, countering unfair practices and protecting the rights of consumers of financial services (Roik 2015, 186). The tax authorities are also partly involved in the administration of the pension system as since 1 January 2017 they administer contributions on the mandatory pension insurance[10].

Pension systems in two countries are parts of their social insurance systems and have the following structures:

— insurance based on generational solidarity (first pillar);
— mandatory fully funded pension insurance (second pillar);
— voluntary fully funded pension insurance (third pillar).

In Macedonia the first and second pillar are compulsory and are based on two components: solidarity characteristic for the first pillar and funded component associated with the second pillar (Bornarova, Bogoevska, Trbojevikj 2013, 396). The first pillar relies on mandatory contributory system that is publicly managed. It is called pay-as-you-go (PAYG) system and its main feature is that contributions from existing pension insured employees (the future pensioners) pay the pensions of current pensioners.

The second pillar is the mandatory[11] fully funded pension insurance, and it represents insurance based on capitalization of assets, on the principle of defined contributions, where there is a close relationship and dependence between the volume of invested funds — contributions and future pension benefits earned by each person based on market laws.

Voluntary fully funded pension insurance comprising the third pillar is also a pension insurance based on capitalization of the fund assets and on the principle of

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9 Art. 8 Law on Pension and Disability Insurance. Accessed March 21, 2022. https://www.slvesnik.com.mk/home.nspx.

10 Art. 431, 432 of the Tax Code of the Russian Federation. Hereinafter all Russian laws, statutory instruments, and court rulings are given in connection with the inquiry system "ConsultantPlus". Accessed February 14, 2022. http://www.consultant.ru.

11 In theory and practice the terminology varies and it could be found as compulsory or occupational (following the EU Directive 2003/41/EC. Accessed March 26, 2022. https://ec.europa.eu/info/law/institutions-occupational-retirement-provision-iorp-directive-2003-41-ec/law-details_en#:~:text=Directive%202003%2F41%2FEC%20of%20the%20European%20Parliament%20and%20of,Date%20of%20entry%20into%20force%2023%20September%202003).

defined contributions, but on a voluntary basis. Therefore, the amount of the pension benefit is not defined in advance and depends of their contributions and accumulated funds. This insurance may include all persons who want to provide a higher volume of material security in addition to the compulsory insurance, as well as all persons who are not covered by compulsory insurance (in the first and second pillar), as well as providing for the establishment and financing of professional (occupational) pension schemes.

For the insured persons who participate in a one-pillar system, the total paid contribution remains in the PDIFNM (for 2020, it was 18.8 % of the gross salary). For the insured persons who are included in the two-pillar system, the PDIFNM distributes the paid contribution between the first and second pillar. The amount of the contribution, which is transferred to the mandatory pension fund, is 6 % of the gross salary, and in the PDIFNM remains the contribution in the amount received as the difference between the total contribution for pension and disability insurance and the contribution paid to the mandatory pension fund for 2020, it was 12.8 % of the gross salary (12.8 % = 18.8 % – 6 %)[12].

The Russian *mandatory pension insurance* consists of insurance pensions (the first pillar) and funded pensions (the second pillar). Employers pay insurance contributions to the mandatory pension insurance system at a rate of 22 % of the gross salary. 6 % transfer to pension savings for fully funded pension of insured persons born in 1967 or later (the second pillar) and 16 % form the insurance pension of the first pillar, or in case of the employee's choice to participate in one pillar, the total 22 % are spent on the insurance pension. Since 2002 the second pillar developed rapidly, strengthening its position every year. But in 2013 the Government introduced the moratorium on pension savings until 2014, now extended until 2024. This means that all pension contributions today form only the insurance pension without funded part[13].

All pension savings formed earlier since 2002 till 2014 continue to be invested by managing companies or private pension funds and will be paid in full amount. But due to the small period of savings, funded pensions are able to provide a replacement rate of 2 % of average earnings (Grishchenko 2016, 6). Calculations also indicate that the average cumulative return on investing of the pension savings over 12 years was 159 %, which is lower than the inflation rate of 207 % over this period (Pudovkin 2016, 261).

*Voluntary pensions* in Russia within the third pillar are available to public and private corporations and individuals. Despite the growth of all indicators private pension provision in the last 10 years, today only 3.7 % of retirees receive voluntary funded pension. This system provides a replacement rate of 8 % of average earnings. But the low prevalence (according to the CBR, 6.2 million of insured persons and 1.5 of retirees in 2021) makes its overall effect insignificant (Pudovkin 2016, 262).

### *2.2. Private pension funds in North Macedonia*

The private pension funds in North Macedonia include the funds from the second and the third pillar — the mandatory fully funded pension funds and the voluntary fully funded pension funds. By its legal nature the pension funds (mandatory or voluntary) are

[12] *Report on the developments in the fully funded pension insurance.* 2020. P. 42.
[13] All about funded pension by PFRF. 2020. Accessed March 23, 2022. https://pfr.gov.ru/branches/belgorod/info/~0/3592.

an open-end investment funds, which are established and operate in accordance to the Law on Investment Funds[14], unless otherwise regulated by the Law on Mandatory Fully Funded Pension Insurance or the Law on Voluntary Fully Funded Pension Insurance[15]. Both mandatory and voluntary pension funds are managed by pension company — a joint stock company (Art. 5, the Law on Mandatory Fully Funded Pension Insurance), established by financial institutions with large capital and experience, whose sole activity is managing the funds' assets and representing the pension funds. In the reformed pension system, there is a possibility to establish three types of pension companies: Mandatory, Voluntary, or Mandatory and Voluntary Pension Fund Management Company. These companies are established, and they operate in accordance with the Trade Company Law, unless otherwise stipulated with the *lex specialis*.

Under Macedonian legislation these two types of funds are separately regulated, although the comparative law is also familiar with regulation of both funds in one law[16]. Having separate regulations seems justified especially if we have in mind the *differences between these two funds, apart from the general features of the fully funded pension insurance.*

### *2.3.1. Features of the fully funded pension insurance*

The main feature of the fully funded pension insurance in Macedonian pension system is that it is based on the principle of accumulating funds from contributions to individual accounts, which are further invested and the realized return on investment, reduced by the operating costs of the system, is fully added to the funds accumulated on individual accounts and the future pension depends on the accumulated funds on the individual account and on the life expectancy at retirement. But unlike savings accounts in banks, where interest rates are known in advance, the rate of return for pension funds depends on the success of their investment policies and it is not known in advance and the members get no explicit guarantees for the returns they may expect. Although empirical results confirm, in general, that long-term pension savings are better invested into capital markets than kept in a bank savings account, the practice in numerous countries has shown problems and challenges, leading to poorer performance of private pension funds[17]. One

[14] *Official Gazette of RNM* 12/2009, 67/10, 24/11, 188/13, 145/15, 23/16, 31/2020. Accessed March 20, 2022. https://www.slvesnik.com.mk/home.nspx.

[15] During 2020, the Government of the Republic of North Macedonia adopted two decrees with legal force regarding the application of the provisions of the laws related to the fully funded pension insurance that apply during the state of emergency in the country in conditions of a coronavirus pandemic as well as amendments to the existing bylaws related to the mandatory and/or voluntary fully funded pension insurance. These decrees are: 1) Decree with legal force for application of the provisions of the Law on Mandatory Fully Funded Pension Insurance during a state of emergency (*Official Gazette of RNM* 94/20120 of 07.04.2020. Accessed March 20, 2022. https://www.slvesnik.com.mk/home.nspx), and 2) Decree with legal force for application of the provisions of the Law on Payment of Pensions and Pension Benefits from the Fully Funded Pension Insurance during a State of Emergency (*Official Gazette of the RNM* 94/20120 of 07.04.2020. Accessed March 20, 2022. https://www.slvesnik.com.mk/home.nspx).

[16] Law on Mandatory and Voluntary Pension Funds. *Official Gazette of Republic of Croatia* 49/1999, 63/2000, 103/2003, 177/2004, 71/2007, 124/2010. Accessed March 22, 2022. https://www.hanfa.hr/regulativa/mirovinski-fondovi. — Starting from 2014 the regulation of these two funds in Croatia has been separated in two different laws.

[17] *15 years of private pension funds in Serbia: Past developments and Reform recommendations.* 2022. Belgrade, Serbia: Republic of Serbia, Fiscal Council. P. 5.

of these countries is North Macedonia where due to poorer performance second-pillar revisions are being considered. There are number of accountholders who receive lower pensions than others in their age cohorts who did not join the second pillar. They have sued the government following which in June 2017, the Macedonian government created a committee to develop proposals for addressing the problem of low second-pillar pensions (Fultz, Hirose 2018, 17).

Other features are: that the funds in it are privately and competitively managed, so that the paid contributions are invested by specialized licensed pension companies that manage pension funds, diversification of investment risks (including international diversification), the right to personal choice and the initiative of the individual, the right to transfer from one pension fund to another together with the savings and the high degree of transparency (Mustafai 2017, 75).

### *2.3.2. Main differences between the mandatory and voluntary private funds*

The Mandatory Pension Fund consists of the contributions and assets of the members, the assets of the retired members and the returns from the invested contributions and assets, reduced for the fees collected from the mandatory pension fund (Art. 1 (2) Law on Mandatory Fully Funded Pension Insurance). On the other hand, a Voluntary Pension Fund is comprised of assets derived from voluntary contributions (herein after: contributions) made in the name and on behalf of the Voluntary Pension Fund Members and the returns on investments of those contributions, decreased for the fees charged from the Voluntary Pension Fund (Art. 5 Law on Voluntary Fully Funded Pension Insurance)[18].

With regard membership in the mandatory fully funded funds there are two categories of insured persons who are members of the second pillar: mandatory members and voluntary members (Art. 94 Law on Voluntary Fully Funded Pension Insurance). Mandatory members are the insured persons who have been employed, i. e. who have joined the mandatory pension and disability insurance, for the first time, after January 1, 2003 and were born after January 1, 1967; insured persons who have been employed, i. e. entered into compulsory pension and disability insurance, for the first time after January 1, 2019 and who on the date of accession are under 40 years old. The category voluntary members consist of: insured persons who were employed for the first time, before January 1, 2003, who by their own choice by concluding a membership agreement entered into a mandatory fully funded pension insurance and were born after January 1, 1967; insured persons who were employed for the first time, before January 1, 2003, who voluntarily joined the mandatory fully funded pension insurance, were born before January 1, 1967 and who signed a statement for extension of membership in the mandatory fully funded pension insurance.

While the membership in the mandatory funds is related to membership in the PDIFNM, this is not the case with the membership in the voluntary funds. A member of a Voluntary Pension Fund may become any person if aged at least 18 years of age and holds a Voluntary Individual Account or any person that is participant of Occupational

[18] The membership is regulated with the amendments to the Law on Mandatory Fully Funded Pension Insurance. *Official Gazette of the Republic of Macedonia* 245/2018 of 28.12.2018; 180/2019 of 02.09.2019. Accessed March 22, 2022. https://mapas.mk/regulations/laws/?lang=en.

Pension Scheme and holds an Occupational Account[19]. The basis of the membership is contractual and there is legal obligation for the pension company to conclude the contract with every person over the age of 18 years and under the age of 70 years. The contractual freedom of the pension company is limited with this imperative norm which only implies to the relative character of the principle of freedom to regulate the obligations (Galev, Dabovikj Anastasovska 2018, 345). Having in mind that this is contract by its legal nature, the general law on contractual relationships will be applicable in this case, and that is the Law on Obligations[20], as general, basic and systematic law in the area of obligations, as stated in its article 16 and 17. In cases of compulsory entering into contract where one or both parties are bound to enter the contract, the other interested party may request that the contract be entered into without delay (Art. 19 (1) Law on Obligations).

### *2.3.3. The private funds through the prism of pension companies and funds and the number of members*

According to MAPAS[21], we may say that on the financial market there are only three pension companies that manages 6 pension funds. One pension company manages one mandatory and one voluntary pension fund. In the Macedonian pension industry, the first two private pension funds were established in 2005 as a mandatory pension funds and later in 2008 and two voluntary pension funds at the same time were established, under the same pension companies (Sava pension company and KB first pension company). Nowadays there are 3 pension companies, the last company was established in 2019[22]. The pension company may start working after obtaining two types of permits from MAPAS, first permit is issued for establishment of the company and the second permit is a working permit (Art. 37 Law on Voluntary Fully Funded Pension Insurance). The number of insured in the second pillar continuously increases, which is expected given the mandatory membership for all new employees. Thus, a total of 128 031 subscribed in the second pillar in 2006, at the end of 2014 their number increased to 373 251 contributors, representing an increase of 332.66 % (Patoska, Dimeski 2015, 483–484). As of 31st December 2020 the total number of members and temporary assigned insured persons to the mandatory pension funds was 529 983, compared with 2019 the number of the members in the second pillar has been increase for 4 % or 22 427 members[23]. According to the main webpage of MAPAS, the current membership and net assets values of the mandatory and the voluntary pension funds has been increased. As from 29.03.2022, the mandatory pension funds have 555 503 members and net asset value of 108.31 billion denars, the voluntary pension funds have 27 916 members and net asset value of 2.93 billion denars[24].

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[19] Accessed March 20, 2022. http://mapas.gov.mk/mapas-en/pdf/law/LAW%20ON%20VOLUNTARY%20FULLY%20FUNDED%20PENSION%20INSURANCE%20011007.pdf.

[20] *Official Gazette of Republic of Macedonia* 18/01, 78/01, 04/02, 59/02, 05/03, 84/08, 81/09, 161/09, 23/13, 123/13. Accessed March 20, 2022. https://www.slvesnik.com.mk/home.nspx.

[21] Accessed March 6, 2022. https://mapas.mk/reports-and-statistics/ffpi-reports/?lang=en.

[22] Accessed March 29, 2022. https://mapas.mk/wp-content/uploads/2022/01/registar-na-zadolzitelni-penziski-fondovi-2021.pdf.

[23] MAPAS report on the developments in the fully funded pension insurance for 2020. Accessed March 20, 2022. https://mapas.mk/izveshtaj-za-sostojbite-vo-kapitalno-finansiranoto-penzisko-osiguruvanje/pg.37.

[24] Accessed March 29, 2022. https://mapas.mk.

### *2.4. Private pension funds in Russia*

According to Russian legislation, a private pension fund is a special legal form of a non-profit organization in the field of social security, its exclusive competencies are activity on private pension provision; activity as an insurer for compulsory pension insurance. According to the CBR, there have been 41 private pensions funds by the end of 2021. The funds carry out each of the two activities independently of another. If the fund is engaged in the mandatory pension insurance, it accumulates *pension savings* (3 trillion rubles in 2021), invests them (the maximum return of 7.44 % showed the NPF of Sberbank, the inflation rate in Russia was 8.39 %) and pays funded pensions to those retirees, who preferred to transfer their savings to private funds (almost 13 million in 2021). If the fund is engaged in the voluntary pension system, it accumulates *pension reserves* (1.5 trillion in 2021), investing them (the maximum return of 4.39 % showed the NPF of Sberbank) and paying private pensions to voluntary contributors (57 million in 2021)[25].

In order to invest pensions savings and pension reserves, funds conclude and terminate trust agreements with managing companies. Managing companies are required to have licenses for all types of activities in which they carry out transactions with pension savings and reserves. The difference is that assets in which pension savings can be invested, and the structure of the investment portfolio are strictly regulated in legislation, while assets for pensions reserves have only general framework of limitations (for example, the value of pension reserves placed in one asset can't exceed 15 % of the total value of pension reserves etc.) (Art. 24.1 of Federal Law No. 75-FZ of May 7, 1998 "On Non-State Pension Funds").

According to Federal Law No. 49-FZ of March 7, 2018 "On Amendments to Certain Legislative Acts of the Russian Federation on Regulating the Activities of Non-State Pension Funds", the NPF shareholders are obliged to compensate losses to their clients. If it turns out that the funds on client accounts have decreased due to deliberate investment in low-quality assets in someone's interests, the fund's shareholders will be required to compensate the losses and to pay additional lost amounts to the client's personal accounts. Over the past 20 years, the number of NPFs has decreased by 75 % (from 282 in 2002 to 41 in 2022) due to the tightening of legal requirements for NPFs and requirements for the quality of investments (assets) of NPFs by the CBR[26].

In Russia, as mentioned above, savings of insured persons for funded pensions accumulated since 2002 till 2015 could be transferred from the PFRF to the NPFs on the basis of a written application of insured person under the contract with the chosen NPF. Participation in voluntary pension systems also implies the conclusion of an agreement with the NPF.

According to the Law on Non-State Pension Funds in the Russian Federation, an agreement is concluded between the NPF and the contributor, while the contributor can be both a legal entity or an individual. A person who is identified by the contributor as a recipient of a non-state pension is a participant. If the contributor has concluded an agreement in his favor, he is both a contributor and a participant.

The agreement determines the pension scheme, in compliance with the Pension Rules of the NPF, the amount and frequency of payment by a contributor, the procedure

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[25] Pension funds and collective investments. 2022. Accessed March 04, 2022. http://www.cbr.ru/rsci.

[26] Pension Funds. 2022. Accessed March 4, 2022. http://www.cbr.ru/RSCI/activity_npf.

for applying for a pension, the procedure for assigning and paying, the conditions for succession (inheritance), the procedure for maintaining a pension account — accounting for pension contributions and accrual of income, the procedure for terminating a contract and receiving a redemption amount. Pension schemes may provide for the payment of a pension for a number of years specified in the agreement; for lifetime, or with the condition of the subsequent payment of a lifetime pension to the surviving spouse in the case of death of the participant during the payment period.

### *2.5. Taxation of private pension funds in North Macedonia and Russia*

Taxation is one of the important fiscal policy instruments that can be used by the states to motivate individuals and the employers to join pension schemes with participation of private pension funds. From the tax law perspective, the key issues are taxation of contributions to private pension funds and taxation of pensions paid from private pension funds. Both countries, North Macedonia and Russia, use taxation to support the development of the three-pillar pension system and provide in their legislation stimulating rules in taxation.

#### *2.5.1. Taxation in North Macedonia*

Pension funds are financial intermediaries which offer social insurance by providing income to the insured persons following their retirement, death and disability benefits. The private pension (mandatory and voluntary) funds, the management pension companies, the custody banks, MAPAS, the insurance companies are part of the reformed Macedonian pension system and they play important role at the national financial market in general. Therefore, there are certain specifics in the taxation rules that refer to this subject matter.

##### 2.5.1.1. Taxation of contributions to private pension funds

The specifics of taxation of pensions and pension benefits from the second (private mandatory pension funds) and the third pillar (private voluntary pension funds) are according the Law on Pensions and Pensions Benefit Payment from Fully Funded Pension Insurance[27], but the general provisions of pension taxation, exemptions and deductions on personal income (in this case pension incomes) are under the Law on personal income tax. Therefore, the individual and legal persons may exercise right to personal and corporate income tax reliefs and exemptions.

The pensions that are received from the public pension fund (state pension insurance) are the monthly income to the pensioner, these personal incomes are exempt of taxation. But, the pension income from the second pillar, depending the way that are paid off, may be subject to taxation. According to the article 50 of the Law on Pensions and Pensions Benefit Payment from Fully Funded Pension Insurance. "Second pillar pensions that are paid through programmed withdrawals and annuities are subject to personal income tax according to the Law on Personal Income Tax[28]. The pension company or the insurance

[27] *Official Gazette of Republic of Macedonia* 11/2012, 147/2015, 30/2016, 103/2021. Accessed March 23, 2022. https://mapas.mk/regulations/laws/?lang=en 1624957865531-e6dacaf8-03b5.

[28] *Official Gazette of Republic of Macedonia* 241/18, 275/19, 290/20, 85/21. Accessed March 20, 2022. https://www.slvesnik.com.mk/home.nspx.

company that pays the pensions has the obligation to calculate and pay the personal income tax in the name and for the account of the pension beneficiary".

The voluntary contributions that are made to the individual account and / or professional account are exempt from the personal income tax. The taxation of the pension benefit from the voluntary fund depends of the pension fund income. The income from the voluntary individual account and/or professional account is variable and depends on the income of the voluntary pension fund and the fees paid by the pension company that manages the voluntary pension fund. According to Article 12 Paragraph 1, point 36, Law on Personal Income Tax there is exemption for the paid contribution to a voluntary pension fund for one calendar year, for employees and for a taxpayer earning income from self-employment, in the amount of up to two average monthly gross salaries in the Republic of Macedonia, published in January of the current year according to data from the State Statistical Office. The personal income tax for payments through the pension scheme is not chargeable for a paid contribution in a voluntary pension fund in the amount of up to two average monthly gross salaries in RSM per employee, published in January for the current year (Art. 12, p. 36 Law on Personal Income Tax). Additionally, there are tax reliefs for the legal entities (the Employers) regarding the profit tax for payments through the pension scheme. The expenditures on the basis of paid contribution in the voluntary pension fund in one calendar year are tax-recognized expenditure, in the amount of up to two average monthly gross salaries, paid in the previous year in R. S. M (Art. 9, p. 5 Law on Profit Tax)[29]. In our opinion, the popularity of these types of pension funds grows because of the possibility the employer to pay additional pension insurance funds to all or some of their employers (so called occupational pension schemes or voluntary collective pension insurance) because of the tax incentives mentioned *supra*.

#### 2.5.1.2. Taxation of investment income and payments from private pension funds

The reformed pension system has offered several legal bases to fulfilling the right of pension returns. The payment of pensions and pension benefits from the first and the second pillar may be fulfilled through the member's personal choice regarding: programmed withdrawals; buying a pension annuity; combination of the two previous options. The pension benefits from the voluntary pension fund may be paid through the member's personal choice regarding: pension annuity; programmed withdrawals; onetime payment (taking the entire pot), multiple payments and combination of all previous options (Art. 51, para. 1 Law on Law on pensions and pensions benefit payment).

Pension plan type, definition type and contract type. The account holder -member of the voluntary pension fund that has pension benefits through his employer so-called professional pension schemes are obliged to pay income tax. This tax burden goes to the accountholder, if the contributions were made through the professional pension scheme, since the tax deductions are already used by the company- Employer. That is not the case if the person was paying contributions to the voluntary pension fund individually. In this case the accountholder is obliged to pay income tax only on the capital gain as a investment

[29] *Official Gazette of Republic of Macedonia* No. 112/14, 275/19, 290/2020, 151/2021. Accessed March 22, 2022. https://www.slvesnik.com.mk/home.nspx.

result of the pension fund. The tax regime also defers if the accountholder withdraws the pension as a lump-sum from the voluntary pension fund. This type of pension payment it is not allowed for the contributions from the mandatory pension fund, as mentioned earlier.

The retirement portfolio of the member depends the way the fund assets investment and it's investment performance. Therefore, the subject to taxation is the yield gain from the accumulated invested asset in defined period of time. The return to the account holder directly depends of the asset allocation. In most countries, bonds and equities were the two main financial instruments in which retirement savings were invested at the end of 2020, having in mind the investment portfolios of the private pension funds.

According to the article 3 of the Law on pensions and pensions benefit payment from fully funded pension insurance, the insurance companies and the pension management companies are allowed to use the following ways of the pension payments — as a lifetime annuity, as programmed withdrawals and temporary programmed withdrawals combined with life delay annuity. Although the law allows freedom to choose one of the 3 types of pension payments, for now the system allows only one possibility to receive the pension payment from the mandatory pension fund and that is programmed withdrawals. These programmed withdrawals from the mandatory pension funds are directly conditioned by the pension contributions from the Public Fund.

### *2.5.2. Taxation in Russia*

The key participants in voluntary pension system in Russia are: 1) private pension funds, 2) individuals, and 3) participants in favor of whom the agreement with the private pension fund is concluded. So, in general there are two possible situations: when only two parties are involved — the fund and the individual, and when three parties are involved — the fund, the legal entity (the employer) and the individual (the employee).

#### 2.5.2.1. Taxation of contributions to private pension funds

If the company makes payment on voluntary insurance of its employees, under certain conditions it can deduct these expenses in corporate income taxation. These expenses are deductible, if they fulfil the general conditions of deductibility — being economically justified and documented (Art. 252 (1) of the Tax Code of the Russian Federation (TCRF)), and special conditions of deductibility (Art. 255 (16) TCRF). The special conditions of deductibility demand the insurance organization to have a relevant license and the pension scheme to be individualized and provide for the payment of pensions for at least for five years. These expenses are deductible until they don't exceed 12 % of the overall amount of the labour expenses of the company (Art. 255 (16) TCRF).

The special conditions of deductibility show that the state aims to support the voluntary pension insurance, but takes care of the individuals and quality of their pension support by introducing requirements to pension funds and pension schemes and tries to prevent possible abuse on companies' behalf by introducing the limits for deductibility in relation to all labor expenses of the company.

From the perspective of taxation of individuals there are two key tax incentives in individual income taxation concerning contributions to pension funds.

Firstly, if the company pays for voluntary pension insurance of its employee, these contributions are not regarded as taxable income of the employee (Art. 213.1 (1) TCRF). This rule is an exemption from the general approach to tax all economic benefits of the individual.

Secondly, if the individual makes contributions on himself /herself, he/she can deduct the expenses from taxable income (Art. 219 (1) (4) TCRF). This deductibility is an exemption from the general rule of individual income taxation in Russia, according to which the state taxes the income of the individual and does not take into account his/her expenses. There is a very limited list of exemptions from this rule when it is allowed to deduct the expenses and expenses on voluntary pension insurance are in the list since 2008. The overall limitation for deduction is 120 000 roubles in a calendar year (Art. 219 (2) TCRF).

#### 2.5.2.2. Taxation of investment income and payments from private pension funds

The pure fact of the receiving the investment income which is an essential part of the voluntary pension scheme does not lead to taxation. The taxation may arise when the private pension fund starts making payments to the individual.

The tax treatment of the pensions paid by private pension funds depends on who was paying contributions to fund — the individual or his/her employer. If the contributions were paid by the individual himself/herself, the pension is not taxable, and thus in this case in essence the income from investment is also not taxable. If the contributions were paid by the employer the individual income tax of 13 per cent is applicable to the payments from the fund (Art. 213.1 TCRF), which makes in essence the investment income also taxable as the investment income is one of the sources of the pension.

If the contract with the private pension fund is terminated and the fund is not paying the pension and just pays out all the money from the account, the payments exceeding the amount of original contributions of the individual to the private pension fund, are taxable (Art. 213.1 TCRF).

The above-mentioned rules show that Russian tax legislation provides some tax incentives to support the participation of the individuals in voluntary pension insurance, and the most attractive from tax perspective is the self-supporting participation.

## 3. Conclusions

Following similar problems with the existing pension system (PAYG system), both North Macedonia and Russia have taken part into the global trend of pension system reform in the 1990s and have introduced the three-pillar system into their social insurance systems.

The three-pillar system facilitates a separation of the income transfer function from the redistribution function of pension schemes, with each pillar having a different objective. The first pillar provides a safety net for the elderly through a mandatory, publicly run PAYG system with defined benefit, financed through social security contributions on wages. The second pillar in both countries is aimed to supplement first-pillar pension benefits through a fully funded system featuring defined contribution financed through mandatory contributions on wages, while the third pillar is designed to comprise private retirement savings options, with public involvement limited to regulation to ensure investor protection. Funds comprising the second and the third pillar in both countries are private pension funds. Both countries have introduced a regulatory and supervisory mechanism which oversee and control the governance, accountability, and investment practices of these private funds, with a view to: minimizing the risks for individuals of market failure, preventing mal practices and failures to comply with obligations vis a vis the beneficiaries.

The analysis of the current situation of the pension system in North Macedonia have shown that the country has made substantial progress in moving to a three-pillar pension system, having in mind especially the established legal and institutional framework, the establishment and operation of the private funds, both mandatory and voluntary, as well as the newest statistical data that shows increasing of the membership and net assets value of the private funds. But, in practice, second — pillar revisions are being considered, resulting from the complaints that are currently being litigated from accountholders who receive lower pensions than peers who did not join the second pillar, which set the question about risk protection for second pillar pensions and the need for further development of private pension funds regulations. In Russia contributions in the second pillar have been frozen until 2024 and the current pension system works without any mandatory fully funded savings[30]. Despite the forecasts of the Government of the RF and the goals of the pension reform, citizens showed a low level of confidence in the accumulation of private pensions within the third pillar. The recipients of private pensions within the third pillar are mainly employees of organizations that made contributions to private pensions on their own initiative, without involving the employee's funds.

The comparative research of tax issues has showed that both countries, North Macedonia and Russia, use tax deduction for the contributions, but the pension benefits in most cases are subject to taxation. On the other hand, both systems use tax competitiveness to develop and stimulate voluntary pension funds. The tax benefits relate both to contributions to private pension funds and payments from the funds to retirees, including the investment income that the funds generate. Still the exact forms of tax benefits may vary, especially in the individual income taxation, but the general approach remains the same — tax incentives to support investment in voluntary pension schemes.

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