Article

International accounting standards as catalysts for pension reform: Greek pensions and the public/private boundary

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Summary Pensions played a key role in the Greek fiscal crisis of 2010. This paper analyses a specific failure of pension system governance: the possibility of manipulating the vague boundary between social policy and occupational pensions. The vagueness of the boundary arises from the dual nature of pensions – as instruments of social and corporate policy. Where first pillar pension provision is segmented, this boundary can be fudged, giving rise to the possibility of appropriating public subsidies for occupational pensions. Though the implications of this for equity were understood long ago, change was finally imposed by the obligation to account for pension promises under International Accounting Standards. The indirect effect of this was to force the demarcation of an upward boundary to social policy responsibility. This paper, after setting up the analytical issue, outlines its manifestation in Greece, and examines the solution given in 2005–6. This methodology has acquired wider significance by being employed by the European Commission as an instrument in the analysis of issues of state aid.

Keywords Greece, pensions, pension reform, social policy, state aid

In 2009 Greece found itself in the maelstrom of a fiscal crisis that threatened to engulf the Euro and the international monetary system. Though some policy-makers feigned surprise, the makings of the crisis had been visible for a long time. Proximate causes were the accumulation of deficits, a lack of transparency in accounts and an unwillingness to respond to repeated warnings (International Monetary Fund, 2010a).

Nowhere was the crisis mechanism more evident than in the field of pensions (Organisation for Economic Co-operation and Development, 2007, 2009). Pensions account for a large part of the government deficit. Demographics deteriorate dramatically after 2010, leading to the largest expected increase in public pension expenditure in the EU-27 (Commission of European Communities, 2009), a fact that has been known for at least 20 years (for example, Spraos Committee, 1997; Tinios, 2010c). Yet the pension system consistently behaved as if there was no constraint binding its expenditure: pension providers were allowed to call on public guarantees indiscriminately. In this way, the last effective pension budget constraint proved to be that of the government as a whole (Tinios, 2002), or perhaps even that of the Eurozone. Indeed, after decades of procrastination, pension reform is occurring abruptly in 2010 under the fiat of the 'troika' of the EU Commission, the European Central Bank and the International Monetary Fund (Tinios, 2010c).

Things were allowed to reach that point through a massive failure in pension system governance – a

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factor whose theoretical importance is stressed by Barr (2001) and Barr and Diamond (2010), and for occupational pensions by Monk (2009). In a fragmented pension system, such as that in the Mediterranean (Ferrera, 2005), it is frequently unclear what part of pensions constitutes social policy and what sectional benefits. In the past this allowed groups to claim privileges at the expense of society – thereby manipulating the public/private boundary to their benefit. This process was no less than a 'nationalization' of *private* deficits; its role in the propagation of a ballooning debt problem cannot be ignored (Matsaganis, 2010; Tinios, 2010b). Thus, the interesting point in the story of Greek pensions was not so much the size of the fiscal challenge – which was known all along – but why there was so little response until it was too late.

This paper surveys conceptual issues behind this failure of governance. It examines issues which relate to defining the public/private boundary, as a case study of the interplay between Europeanization, globalization, and corporate and social policy: first, how the *lack* of demarcation generated deficits; second, how the need to adopt International Financial Reporting Standards (IFRS) belatedly forced demarcation; third, how the government responded by initiating the only meaningful (if limited) pension reform episode of the period 2004–9. The specific Greek experience brings out general issues related to the relationship between private and public pensions, the trend to shift guarantees away from the public system, as well as the role of globalization in reshaping social policy and forcing the pace and direction of social reform.

The Greek example considered resulted in a simple method to quantify pension 'privileges' awarded in the past at public expense. As such, it has already acquired European significance in a different context – establishing whether specific pension changes affecting individual enterprises constitute state aid, or not. The paper concludes by returning to the larger governance issues: the role of accounting practice and quantification in posing and solving economic questions, the role of catalysts in breaking policy logjams.

Is there a social policy boundary in pensions?

Pensions occupy a middle ground between the world of social policy and that of saving and insurance; between private, group and personal responsibility (Barr, 2004; Sass, 2006). The dual nature of pensions – as part of social solidarity, but also as a corporate instrument – motivates attempts to separate functions analytically, as in the 'three pillar system'. The pillars are distinguished according to the breadth of implicit solidarity: the first refers to *public* pensions (general solidarity); the second to *occupational* pensions (corporate or sectoral solidarity) and the third refers to *individual* pensions shifting resources over time in an actuarially neutral manner.

The analytical distinction between the first and second pillars is coterminous with drawing the boundaries of social policy. Under the first pillar, two citizens of equal social 'worth' may *not* be treated differently; under the second, if they belong to different occupational groups, they will receive different treatment as a matter of course. Transparency makes visible the beneficiaries of redistribution and allows discussion to take place. Conversely, fuzziness in demarcation enables cross-subsidization and unequal treatment. It could thus be used by privileged groups as a lever to appropriate economic rents at the expense of other groups.

Approaching the boundary from the *corporate* side, the delineation matters for corporate governance, for competition policy, or for corporate taxation – to name but a few. The concept of 'solidarity', in the language relevant to the enterprise translates into 'ultimate guarantee'. Thus, the first pillar is deemed to be subject to a societal responsibility; the third responsibility is clearly personal. This leaves the second, occupational, pillar, where the guarantee must be apportioned to the beneficiaries, whether to the insured or to the plan sponsors. In the EU, the pension pillar boundary coincides with the limits of EU jurisdiction ('subsidiarity'). Social policy is part of the national jurisdiction. In contrast, second pillar pensions, treated as deferred remuneration, are subject to the full panoply of EU law governing equal treatment, competition policy and state aid (for example, Vesterdorf and Nielsen, 2008).

The world is never simple. Indeed, as Whiteside (2006: 696) states, 'clear distinctions … are hard to sustain and identifying public and private pensions is problematic'. Nevertheless, in some countries (the UK, the Netherlands, Switzerland), the typical pensioner receives one pension tranche from a state institution, a second from an occupational institution and possibly a third on a personal basis. Thus, the

functional division of total pensions into 'horizontal' pension tranches coincides with the boundaries of organizations. In other countries with less clear-cut organizational divisions, while the definition of what *should be* in the first pillar is not in dispute, the line of demarcation between pillars may well be unclear.

In Greece, it is a frequent occurrence that pensions (including tranches that clearly are part of social policy) are disbursed by providers segmented by sector of employment. In many public enterprises and banks, all pension tranches are paid by enterprise-specific providers. These pensions 'stand in' for benefits that in the case of other firms are paid by the state-run pension provider, IKA. Thus, the pillars coexist in a single entity, which can be seen as a hybrid between public and private, or between the social and the corporate sphere.[1] Though the *analytical* distinction into pillars remains important, the border is disputed, fuzzy or even non-existent. Enterprises claimed that they were administering pensions on behalf of social policy, implicitly treating *all* benefits as 'first pillar'. As agents of the state, their balance sheets treated future obligations in the same way as did the state providers (that is, ignored them completely).

Such hybrid providers are by no means exclusive to Greece. The arrangements in many governments whereby civil servants' pensions are paid out of the state budget follow that logic. Whiteside (2006) notes that hybrid institutions resulted from 'the adaptation of private pensions for public purposes' in continental Europe in the 1950s. Indeed, examples can be found in Italy, France, Germany and elsewhere (Ferrera, 2005; Whitehouse, 2007).

In the Greek social protection system, the 'fuzziness' of boundaries is not incidental, nor is it peripheral to political economy. In the fragmented world of the 'Mediterranean Welfare State' (Ferrera, 1996), the ability to speak with more than one voice, to utilize social policy instruments for purposes unrelated to social solidarity, is central to political economy (Tinios, 2005). The fact that social policy expenditure was subject to loose disclosure meant that the pension providers' effective budget constraint was sidetracked, while benefit inflation was left unchecked. Occupational groups could secure pension privileges and firms in favoured sectors could wrench indirect subsidies, whilst justifying both as social policy. The intricate web of cross-subsidies and the difficulty in applying general policy rules were key features behind the policy paralysis that characterized Greek pension reform. Indeed, personnel of 'privileged' sectors that benefited most from the above mechanism were frequently in the vanguard of opposition to pension reform (Matsaganis, 2007).[2]

'Pension reform' in Greece is a project ongoing since the 1950s. It is more about completing the original design of a state pay-as-you-go (PAYG) system (by enforcing common rules in the pursuit of equity), and less about the 'neoliberal retrenchment agenda' with which some commentators sometimes confuse it.[3] Tinios (2010a) argues that pension reforms are best understood as still unsuccessful attempts to implement the original blueprint formulated in the 1930s.[4] In such a perennial 'reform by instalments', uncertainty about the future goal creates policy immobility in all specific areas, as it is never clear how a particular change will 'fit' with the whole.

Though for decades pillar hybrids persisted in Europe, economic developments since the late 1990s have put a premium on transparency and forced the need to draw a precise boundary (Braithwaite, 2008; Clark, 2003). Institutions have been compelled to 'identify themselves as *either* part of the welfare state (and therefore public) *or* private (and therefore commercial)' (Whiteside, 2006: 697). Prominent amongst these forces towards clarity is the need to apply the International Financial Reporting Standard 19 (IFRS-19) to corporate pension guarantees (Clark and Wójcik, 2007; Deloitte Touche Tohmatsu, 2008; Dixon and Monk, 2009; Véron, 2007; Yermo, 2003).

The application of International Accounting Standards to occupational pensions in the UK and Dutch systems have been examined by Bridgen and Meyer (2009) and by Dixon and Monk (2009), while the case of Germany it was examined by Clark (2003). In these cases the division between pillars was pre-existing (or was, at least, appreciated); a boundary's *existence* was not in doubt. So, the issue in those countries concerned the effects on defined benefit systems of the switch from local to international accounting standards, or of the implications of fair value accounting; both matters with meaningful consequences about the future of benefits. In contrast, the issue in Greek hybrids was one of clarifying the existence and drawing a dividing line ab initio. The future cost of *all* pension payments that hitherto had been charged 'to the state' (and ignored), would have had to be *suddenly* placed on the balance sheet of a single enterprise.

Living on the boundary: Hybrid pension providers in Greece

The key characteristic of the Greek pension system and indeed of the 'Mediterranean Welfare State' is fragmentation (Börsch-Supan and Tinios, 2001; Ferrera, 1996; Triantafyllou, 2006). The development of first pillar state social insurance took the form of setting up a general insurance operator, IKA, which, rather than absorbing pre-existing occupational providers, operated in parallel with them. Today consolidation remains at the core of the reform agenda (Tinios, 2010a).

In sectors such as banking or utilities, which were sheltered from competition, usually through the dominance of large state enterprises, pension financing was used as a second-best instrument to pursue objectives unrelated to social policy. These objectives could be related to industrial policy, employment policy, or simply securing the support of key occupational groups. The means of attaining these objectives relied on blurring public/private roles.[5] The disaffiliation of a firm from the general fund IKA (as, for instance, in the electricity monopoly in 1966) enabled the retained pension surpluses to be invested within the firm. The move was motivated by analogy to the German book reserve *direktzusagen* system. However, in marked contrast to Germany, no actuarial accounting of liabilities was undertaken, nor even a record kept of 'notional' employee contributions.

Pension arrangements were used (with the blessing of past governments) as a cheap way of increasing employee remuneration, whose cost could be postponed. Pensions pertaining to sheltered enterprises became increasingly generous up to the 1980s, by reducing pension ages or increasing replacement rates (sometimes beyond 100 percent of final salary). As far as social policy was concerned, the added flexibility proved invaluable as an instrument of clientelistic politics. Firms in sheltered sectors and banks emulated this example by setting up their own pension providers, giving benefits *in lieu of the state system* and passing the cost on to their consumers (Börsch-Supan and Tinios, 2001).

Thus, sectoral pension funds were paying for first pillar social benefits, as well as for 'privileges'. The latter's function was identical to second pillar occupational pensions. Greek accounting practice allowed them to treat the *whole* pension obligation as if it were first pillar state pensions (Anagnostou-Dedouli, 2006). *No* provision was ever made for the accumulation of rights; as in PAYG, only current outlays appeared in the profit-and-loss account. The public/private boundary virtually disappeared. The lack of transparency thus encouraged and enabled pension privileges for employees, which, in turn, fed deficits down the line.

That is not to say, however, that there were no voices arguing for a clarification of roles. In the turbulent inauguration of the system, the issue of fragmentation was directly responsible for the fall of two governments (Tsalikis, 2008). Approaching the issue from the vantage point of social policy, forceful critiques of the existence of pension privileges had been current since the mid-1950s: an experts' report stated that the system is characterized 'by a total inequality of treatment, such that the constitutional requirement of the equality of all citizens appears totally forgotten'.[6] Other arguments focused on risk spreading, while the ineffectiveness of the pension system in preventing old age poverty was noted with increasing frequency (Börsch-Supan and Tinios, 2001; Sapir, 2005; Tsakloglou, 1996). Nevertheless, the discussion amongst social policy experts remained at a general level. Combined with reluctance on the part of the authorities to come down on what is a privilege and what is not, it is not surprising that little progress was made in marking the boundaries between pillars. The absence of a boundary enabled privileged sectors to portray attempts to promote equity of treatment as a generalized attack on social policy; the high unionization of these sectors has led them to the vanguard of the opposition to *any* pension reform (Giannitsis, 2007; Matsaganis, 2007). 'New issues' of retrenchment and demographic change were simply grafted onto the reform rhetoric from the mid-1990s. Despite two reform bills in the last decade (2002 and 2008), the reform finally materializing under International Monetary Fund (IMF) tutelage in 2010 could have been written in 1959 (Tinios, 2010a,c).[7]

Any boundary has two sides, however. The issue of where social policy *ends* is equivalent to where corporate governance *begins*. In the last decade and a half pressures were building up to delineate public responsibility from four sources: first, the slow process of privatizing previously state owned enterprises necessitated a disentanglement of the distinct roles of the state. Second, the EU was concerned

that pension arrangements could be employed to disguise state aid. Given that social policy is positioned safely in the area of subsidiarity, the EU was also anxious to know the limits of its own jurisdiction. Third, globalization and capital mobility meant that enterprises of the financial sector, but also those in utilities, felt the need to tap international financial markets (Braithwaite, 2008; Clark, 2003). Fourth, hybrid arrangements embodied regulations fixed upon long ago; changing them would need in most cases new legislation and/or the agreement of Unions. This lack of flexibility meant that employers in the new more open environment saw their pension arrangements as a drain on resources and as serving no useful purpose. They were, thus, eager to relinquish all control.

Transparency is linked to international comparability. Clark (2003) relates how German firms operating book reserve systems adopted IFRS in preference to German standards before they were obliged to, in order to participate actively in international finance. Matters were greatly accelerated by the decision of the European Commission to abandon attempts to harmonize existing systems and to adopt the International Standards wholesale (Véron, 2007). For peripheral member states this meant that standards were adopted far sooner than expected, and that no leeway could be allowed for customary practices.

So, the factors pushing towards a redefinition of the occupational pension promise in those countries where second pillar pensions were established (Bridgen and Meyer, 2009; Clark, 2003; Dixon and Monk, 2009) were also in operation in southern Europe.[8] In the south, however, occupational pension differentiation was traditionally sustained by generous doses of subsidization. A new obligation to delineate roles would render that 'traditional paradigm' infeasible. Though retrenchment could conceivably 'free' some space, this is not, by itself, sufficient to nurture a functional second pillar. Such a pillar would need to follow upon a *new* architecture of the *state* pension system – in the way that the 'Dini' reform provided for in Italy (Ferrera and Jessoula, 2005), or as Nektarios (2008) has proposed for Greece. Whilst such a development is being awaited, there is a danger that the momentum of applying IFRS could result in a net loss of pension cover.

Thus, the challenge to apply IFRS-19 is important, not for its precise provisions, but as moving pension reform discussion forward. The question of benchmarking privileges in the pension hybrids posed the issue in a way that did not allow for subterfuges. The next section examines the 'accounting of promises' in order to clarify the challenge posed.

Accounting for promises: The question posed

A pension system, whether public or private, is a system of promises (Barr, 2001). The nature of the promise and its financing is subtly different according to whether that promise is given by an enterprise operating an occupational scheme, or by a state body operating a compulsory PAYG scheme.

For *occupational* pensions to be able to play their role, there is an overwhelming need for transparency, for a kind of 'accountancy of promises'. What has to be provided, in effect, is a budget constraint for pensions. To fulfil this role, there has to be a body of commonly accepted rules and regulations.[9]

The *precise* choice of regulations or the extent to which local factors are taken into account may be open to discussion (Bridgen and Meyer, 2009). However, if the question is whether to account or not to account, the *desirability* of accounting is, surely, unequivocal (as R. Maxwell's employees found to their cost). Under Greek accounting practice hybrids argued that they were providing first pillar pensions on behalf of the state so that obligations were not the enterprise's to disclose in the first place. They followed PAYG practice by ignoring pension obligations in their balance sheet and reporting only flows of contribution payments and other current expenses in their annual profit and loss (income) statements. So, the issue was not whether full disclosure of obligations was provided; instead it centred around a *legal* argument, regarding the identity of the ultimate guarantor of pensions. As long as this convoluted position did not have to be explained to 'outsiders', this explanation could hold.

The International Financial Reporting Standard 19 (IFRS-19) (Deloitte Touche Tohmatsu, 2008) is designed above all to address the need for disclosure. For example the shifting of a liability should not serve as a 'legal veil' to hide the culpability.

This procedure has implications both for the balance sheet and for the operating account. In the same way that the need to service a loan to creditors

appears as a cost item in the balance sheet, running a pension system creates an equivalent cost item to service pension liabilities. Pension liabilities are treated as a loan from the work force to the enterprise, against which earmarked assets (if any) may be set off.

Alternately, let us think of a company that only participates in a state PAYG pension system and does not have its own pension arrangements. Though most state systems are PAYG – that is, current income pays for current outgoings – the key distinction lies in the identity of the ultimate guarantor. In the case of social insurance, which is built on solidarity, the final guarantor is never an enterprise on its own, but society at large.

Hence, if an enterprise takes part in the state system, its only obligation is to pay current contributions. If payments to its (ex)workers exceed contributions, it ought not to be concerned: the shortfall may be covered by other firms of the same sector or by other growing sectors. If the entire country is facing a demographic problem, this will lead to measures to be pursued by the government. Participation of the firm in the state pension system is entirely myopic. Even if the state (as the ultimate guarantor) decides to take a long view, this is not the case for the individual firm. In IFRS terms, participation in a state-run pension system is a defined contribution obligation: the firm's liability is bounded by its current contribution.

Should the *same* (unfunded) pension promise be given by a corporation, or alternatively by the state, IFRS-19 would account for the obligation differently. In the one case, all outstanding promises will be expressed as a present value and marked on the company balance sheet. In the other case, only current contributions will be charged to the firm. The firm will, in effect, be cashing in a state guarantee. Outstanding promises will be implicitly considered to have a present value of zero. If the firm is deriving a competitive advantage as a result of the pension promise, it will be doing so at public expense.

The differing treatment belies subtle differences between the systems in the nature of the promises granted. Participation in a state-run system implies an expectation that a (rational) system administrator will take measures to balance the system, whenever that is needed. 'The gross assets of a PAYG system are the government's right to tax current and future generations' (Barr, 2001: 106). The issue of whether a publicly run PAYG system has, on aggregate, zero or negative present value, depends on one's judgement on governance issues – the efficacy of government and its ability to react in a timely and effective manner to system imbalances.[10] However it may be, the position of IFRS-19 is unequivocal: firms operating their own systems need to make provision for pensions; those which participate in the state system do not.

How, then, does the IFRS-19 treat hybrid cases where an enterprise undertakes first pillar social insurance functions, supposedly *on behalf* of the state? The answer is simple: unlike Greek accounting practice, IFRS deny the possibility of such a case. Providers have to choose whether they belong to the welfare state or the private sector (Whiteside, 2006).[11] Should a firm pay first pillar pensions, these will be charged to the firm as if they were second pillar occupational pensions.

Compared with a hypothetical identical company granting the same pension promise, but belonging to the state system for the general population, the hybrid company operates under an enormous competitive disadvantage. This disadvantage is due to the fact that a company contributing to the state system can invoke the state guarantee to the general PAYG system. Such a guarantee is, paradoxically, denied the hybrid.[12] Should the state, nevertheless, attempt to underwrite that obligation, this would constitute prima facie state aid to an enterprise. Where rules *prevent* such aid (as under EU competition rules), such an action will be blocked.

The first-time application of IFRS-19 raises issues of competition policy and state aid. In addition, by giving a decisive competitive edge to firms that possess an explicit state guarantee, it poses the *social* question that was raised by the attempt to introduce general social insurance: 'Where does State responsibility begin?'

The technical issue of defining where the boundary *should* run was discussed in Greece by the Committee for the Examination of Long-Term Economic Policy, known as the 'Spraos Committee' (1997: 72–4; Featherstone et al., 2001; Featherstone and Papadimitriou 2008).[13] Its starting point was the value judgement that the cost of 'privileges' should be borne by direct beneficiaries. The report noted that the definition of a 'privilege' had been studiedly left vague, both in law and in public discussion. It thus proceeded with its own definition of pension privileges – as the present value of all pension entitlements exceeding those provided by state institutions to

private sector workers, whether due to lower retirement ages, higher replacement rates or differing definitions of pensionable income.[14] The choice of the private sector as benchmark was to a degree arbitrary, but could be defended as attempting to exclude benefits secured by special pleading.[15] The Committee's proposal was to adopt a system of generalized supplemental insurance, whereby contributors would participate fully in the state system and any differences compared to that would be made up by a supplemental insurance provider. The supplemental provider would count as a second pillar system. Pension privileges would not necessarily be discontinued, but would clearly be benchmarked so that beneficiaries would face the full cost. Applying IFRS to this scheme would treat all pension outlays up to a benchmark point as possessing a state guarantee.

Four attempts to answer the question posed by IFRS-19

Accounting standards create the necessity to separate public and private responsibility, but do not dictate any particular answer. Indeed, for as long as their application could be postponed, the easiest course was simply to avoid the issue (even if it could be clearly seen as looming). This was the preferred route of social policy discussion in Greece (Anagnostou-Dedouli, 2006).

As in German book reserve systems (Clark, 2003), applying IFRS proceeded, in cases voluntarily even before there was a legal obligation, by companies desiring to tap global finance markets. Nevertheless, the Commission's decision to adopt IFRS in Europe in 2005, rather than persevering with the lengthy process of developing European standards (Véron, 2007) meant a change the Greek system was not prepared for.

Applying IFRS poses the question of how to account for social policy. The question having been posed, it was answered in the public sector in Greece *four* times between 1999 and 2005. Each case was tackled individually as a *corporate* issue under time pressure, with little coordination of the social policy ramifications.[16] Each of the four answers carried a different view of the relationship between the pillars and their finance and of the role of social policy. The inconsistencies were not perceived, nor commented on – a clear failure of social policy governance. Table 1 codifies the answers.

In the case of the first enterprise to (voluntarily) face the dilemma in 1999, a legalistic reading led to social policy (*first* pillar) benefits being assigned to the firm, and 'privileges' to the *state*. The second case, a year later, involved a state monopoly where *all* pensions were transferred to a new state body, thus assigning the state full responsibility for the cost of *all* privileges. The third case took the other extreme: all pensions (including the parts corresponding to the first pillar) were assigned to the *enterprise*. The latter case concerned the Central Bank; banking unions concurred, presumably expressing a distrust of state guarantees.[17]

The choices were influenced by market structure and bargaining strength in each case; the implicit social policy views were incidental. In contrast, the logic of the *fourth* attempt, the legislation dealing with supplementary pensions of banking employees (Law 3371/05), was firmly rooted in the IFRS-19.

Supplementary pensions in banks are an extreme case of fragmentation[18] and thus a textbook case of the problems posed by hybrid institutions. The legal intervention in 2005 for banking supplementary pensions was known to have to balance *six* distinct considerations, each of which meant that it would receive close scrutiny by the different actors involved:[19]

1. The legal requirement to apply IFRS-19 to all banking institutions in 2005. In one case, the effects on a bank's balance sheet were rumoured to be so large as to entail the withdrawal of the banking licence. The effect of applying IFRS in the banking industry was magnified by the existence of effective regulation and overseeing.
2. The need to safeguard a level playing field between banks. Banks affiliated to the state system were concerned that the changes would amount to state aid to their competitors; conversely, banks with hybrid funds were pointing at the disadvantage of paying for social benefits that others acquired for free.
3. High banking profits. Banks' shareholders enjoyed very little political sympathy. If a solution were seen as a handout, it would stumble politically.
4. The role of trade unions. Banking trade unions favoured a consolidation of banking funds into a single industry pension provider. On the other hand, presumably to safeguard privileges, banking unions had always been opposed to any kind of incorporation into the state system, preferring to deal directly with their employers.

Table 1 Four alternative answers to placing the social policy boundary, 1999–2005

Attempt		*Year*	*Factors pressing for decision*	*Boundary of public/ private and identity of provider*	*Implied view of public social policy and of state financing*
1st	National Bank	1999	Entry into New York Stock Exchange: delimiting responsibility from state	Up to Law 2084/92 deficit finance limit: →*Firm* (≈first pillar) Excess: →*State* (second pillar)	'Social policy should keep to the *letter* of Law 2084/92'
2nd	Public Power Corporation (Law 2919/2000)	2001	Initial public offering: monopoly sector	Totality: →*State* (first *and* second pillar Explicit legal guarantee by the state	'All benefits, *if mandated by law* have to be financed by the state'
3rd	(1) Central Bank (2) Confederation of Banking Unions (OTOE)	2004 2006–	Obligation to apply IFRS-19 Retain control to participants Independence from the state	Totality: →*Firm* (first *and* second pillar) (1) Central Bank: funds full IFRS provision (2) Banking Unions: should cost as in social insurance	'A guarantee proffered by the employer is better than one from the state' 'Sectors should have the right to disaffiliate from the state system'
4th	Supplementary pensions of Commercial banks (Law 3371/05)	2005	Obligation to apply IFRS-19 Level playing field EU legislation	Up to state system: →*State* (all first pillar) Excess (second pillar): →*Firm* (up to reference transfer date)	'Banks were fulfilling a role on behalf of the state. State guarantee was always implicit *for some* benefits' 'Transfer to the state transfers responsibility for all remaining privileges'

Source: Adapted from Tinios, 2010b

5. Legal issues. The state would, in cases, have to intervene in agreements arrived at through collective bargaining. The unions were vociferous that such interference was unconstitutional.[20]
6. State aid issues raised by the European Commission. Very early on DG Competition had signalled that it was handling the case as a possible infringement of EU law on state aid. DG Competition took an especial interest, as a precedent would be used in pending cases in France and potentially elsewhere.

Thus, an exercise in legal tightrope walking was unavoidable. In the case of state aid the law provided a precedent for a critical area of European Union policy, with immediate ramifications, far beyond its original Greek context. As a result, the remainder of this paper will concentrate on analysing the law dealing with banking pensions (L3371/05) and its aftermath.

Operationalizing the boundary: Banking supplementary pensions

The banking pensions law (L3371/05) was passed in July 2005, at a time when overall pension reform had been stalled. In order to balance the six conflicting requirements outlined, the law operated on three areas.[21]

First, isolating pension privileges: though some benefits for younger cohorts were cut, the majority retained pension privileges. The stock of those privileges would be financed by a scheme reminiscent of Spraos' proposals: all banking employees would affiliate as normal contributors to the (first pillar) state supplementary fund, where they would be entitled pari passu to normal state benefits. Entitlements *exceeding* this would be isolated and paid out by a new public body (ETAT), which would act as a supplemental insurer.

Second, financing entitlements: the supplementation mechanism isolates all payments arising out of first pillar obligations and treats them equivalently to PAYG obligations of private sector firms, using the general state system as the benchmark. In contrast, all sums exceeding those would be actuarially costed as present values. The sums calculated would be transferred by employers as a lump sum compensation to the state institutions, which are to pay pensions. In this way, (1) the boundary of social policy was drawn by benchmarking to what is the rule for employees of their private sector competitors, and (2) the employer was held liable for the entirety of second pillar benefits – that is, *all* 'privileges'. Thus the state set the limit of its own responsibility by denying public money for entitlements larger than that which it guarantees through the general state provider to the majority of private sector employees.

Third, implementation: inclusion in the mechanism was activated by a formal request by a bank. A 'Special Economic Study' (SES) compiled by recognized actuaries calculated the sums to be transferred. These sums are the 'defined contributions' (in the sense of IFRS-19) that limit the exposure of the bank to pension obligations.[22]

Local public discussion around the law was confused, while its implications for social policy or for state aid were largely ignored (Anagnostou-Dedouli, 2006). It is therefore appropriate to offer some thoughts on the innovations introduced by the law, some of which may prove invaluable in the course of pension reform.

In the 70 years of operation of the general fund IKA, that institution had never before received compensation in lieu of receiving pension obligations. In scores of incorporations from the 1950s to 2004, IKA only ever took over debts and was never compensated. The firm pays the state in order to transform its (open) defined benefit obligation to a defined contribution, which is equal to the transfer fee. Given that the 2010 reform leaves the future of supplementary pensions open, the precedent of compensation for assuming hitherto implicit guarantees could be used in future pension reform episodes as a way to kick-start a multi-pillar system (Tinios, 2010c).

Of equal importance was that, for the first time, an *upward* bound was placed on social solidarity by benchmarking to the less privileged workers of the private sector. Limiting public responsibility came despite the fact that in most cases benefits were mandated by law; this stands in contrast to the studiedly pusillanimous position governments customarily adopted (Featherstone and Tinios, 2006). Such a forthright statement distancing the state from financing all and sundry entitlements may also prove important over time.

However, seen as part of general pension reform, the messages are mixed. An opportunity for meaningful general pension reform was first created and was then passed by. At the time the government was trying to avoid raising a general pension reform issue. This meant that no general discussion followed, despite the fact that privileges were for the first time costed and exposed to full view. Nor was use of the technique considered in the wider issue of costing unequal rights in the pension system.[23] This can be seen as another failure in governance: important social decisions were treated as technical issues and settled by accountants' rules, with little or no input from the policy community or academia. As a result the social changes were less far-reaching than they could have been, and an opportunity and method to address both equity and sustainability issues was allowed to pass by.[24]

Seen as pension reform, the changes of the banking law could be interpreted as only 'half a reform'. The costing of sectoral pension privileges and their consequent visibility could have created some momentum for these costs to be 'shared out'. However, that presupposed a readiness on the part of the authorities to raise the general reform issue, as well as a readiness to clash with vested interests. Neither of these conditions obtained in 2005. As a result banking employee privileges were not only retained, but, through being prefunded by employers, would henceforth be more difficult to rationalize.[25]

The logic of IFRS imposes a kind of co-responsibility for pensions. The details of implementing the law were assigned to the Special Economic Study.[26] Of crucial importance is the distinction between 'general' and 'specific' pension entitlement. The 'general' entitlement corresponds to the benchmark first pillar case. Its treatment follows that of social insurance, that is, its present value is implicitly set to zero. Costing the 'specific pension entitlements' (that is, privileges), however, is based on IFRS-19 with minor amendments.

The choice of IFRS is dictated by the logic of the exercise: a hypothetical firm transferring privileges (that is, occupational pensions) *exclusively* should

not see any change in its balance sheet. For the same reason, no commercial enterprise can agree to compensate in advance for entitlements resulting from hypothetical *future* employment. The decision not to compensate for future rights to be obtained *after incorporation* thus appears obvious. In contrast, 'implicit debt' calculations take a sharply different position: they assume that the system persists without change and account fully for future deficits – anticipated but not yet created.[27] Seen from the point of view of social policy, the sharp break at incorporation has a strong implication: corporations can only accept responsibility for entitlements arising from actions that happened 'on their watch' – that is, up until the transfer date. If the scheme parameters are not renegotiated on transfer, any rights generated by employment offered *after* that date will *not* be financed by the employer. Their cost will be covered by the system operator *after* the transfer. This, in the Greek case, was clearly the state. Any other course would need to change system parameters, so that the benefits concerned would be either discontinued and/or new contributions to a new occupational system inaugurated.[28]

The final aspect that deserves comment concerns the European dimension, regarding state aid.[29] DG Competition, after 12 months' deliberations on the specific case of Emporiki Bank, released decision N597/07 (Commission of European Communities, 2007). The Commission came to grips with the wider issues arising frequently in the EU, when as part of privatization, companies operating their own pension regimes transfer pension obligations to the general state system.

In the past the Commission had dealt with similar cases in two different and inconsistent ways, for Belgian communications (Belgacom) and for Electricité de France (EdF).[30] It thus welcomed the chance to revisit the issue for Greek banks, which provided a clear (if extreme) example of the general issue of hybrid pension providers. In its judgement the Commission departed from its previous practice in three ways.

First, it accepted the key premise that sectoral funds had been offering social benefits (equivalent to first pillar rights) *on behalf of the state*. It accepted that hybrid funds had, *for that portion alone*, always been operating with an implicit general state guarantee, which was based on constitutional principles. As a result, explicitly transferring this obligation to the state did not alter substance. The state is not entitled to compensation for transfers of first pillar benefits. The Commission, in this way, defined the limits of its own jurisdiction as extending only to *second* pillar benefits.

Second, it accepted that benefits over and above the social policy benchmark constituted second pillar occupational benefits. A precondition for not having state aid is that the full cost of these rights be transferred to the state. DG Competition was satisfied that in the Greek case these rules had been observed.

Third, the implicit last resort state guarantee was accorded to a state pension body (and not to a commercial enterprise) and must be seen as a usual PAYG social-policy inspired guarantee and thus not state aid.

The Commission's own evaluation of the importance of this decision is evident, given that it adopted the same logic in pronouncing on the two pending French cases (*La Poste* case 1465 and RATP case 1477). In these cases the Commission recommended a procedure equivalent to the Greek banking case in order to draw the boundary between the first and the second pillar.

Conclusion: Accountancy as a catalyst for decisions in the economic and social spheres

Lack of transparency and the use of esoteric legal argumentation to finance private privileges with public money are both examples of the type of mechanism leading to the Greek financial crisis of 2010. The issue of drawing a boundary between public and occupational responsibility in pensions may, at first sight, appear technical and abstruse; nevertheless it is of great importance for governance generally and for social policy particularly. The lack of a clear boundary allowed social policy to play a crucial role in the public finance disaster: social rhetoric was hijacked to support sectional interests at public expense. In the past, it also provided a conduit for implicit state aid to firms.

For decades, hybrid pension providers straddling the pillar boundary dominated parts of the Greek economy. This, in many cases, meant that benefits far in excess of what lesser mortals in the private sector were entitled to, were justified and costed as social policy. This lack of transparency bred inequity

and was an important component in the mechanisms blocking egalitarian pension reform. Despite (and perhaps because of) these observations, the long overdue pressure for change did *not* come from the direction of social policy.

The catalyst for change came from the *other* side of the social policy boundary – the need for an accurate quantification of corporate obligations. Applying IFRS-19 to hybrid providers in Greece created an enormous corporate competitive liability. In other European cases (Bridgen and Meyer, 2009; Clark, 2003; Dixon and Monk, 2009) the application of those *specific* accounting rules altered the precise location of the public/private demarcation. In Greece, IFRS introduced a division where previously there had been none.

This paper has chronicled the Greek response to the impetus given by International Standards to the political economy of pension changes. The use of IFRS operationalized the analytical distinction between pillars. It did so by identifying first pillar entitlements as those appropriate to workers in the (unprivileged) private sector, and by using those as the line dividing social policy from occupational pensions. Entitlements in excess of that were deemed to correspond to occupational pensions and to be covered by the employer's guarantee. In this way a simple general rule was derived in deciding what is social policy and what is not, what is state aid and what is not, what is subject to European supervision and what lies in the field of subsidiarity. That rule is already being applied in European state aid cases.

The case of Greek pensions could serve as an object lesson for a feature of general social import: Greek pension reform was notoriously glacial, a display of inaction for all concerned. Under pressure from globalizing forces, this logjam was, at least in particular cases, suspended. Nevertheless, the failure to draw the *wider* social implications meant that the changes remained isolated, and were not employed in subsequent reform episodes. Clear accountancy rules were instrumental in posing a key social question: how to monitor and limit the spending of public money on private privileges. To generate the political momentum that would lead to credible answers did not depend on accountants. The challenge was ignored by Greek governments. Pension reform was finally imposed on them as part of IMF conditionality in 2010.

Notes

1. Thus the differentiating principle is not *horizontal*, where a public tranche coexists across sectors and enterprises, but *vertical* – *between* sectors of employment (see Ferrera (2005) for France and Italy).
2. Academic discussion deals extensively with the (*lower*) boundary between the poverty alleviation and income replacement (insurance) function of public pensions – for example, Barr (2003). The current issue concerns the *upper* boundary of public involvement: should there be an income limit, beyond which public guarantees should not be granted?
3. Matsaganis (2010) explains how privileges and viability issues interact.
4. It can be thought to remedy what Sapir (2005) notes for Mediterranean countries as the coexistence of *both* social and economic inefficiency. By moving to the boundary of the feasible, set in economic terms, one can improve both.
5. For the background to the rise and slow demise of State enterprises stressing the role of finance, see Pagoulatos (2003). Kazakos (2001) takes the long view from 1944.
6. The recommendations are quoted verbatim in Tinios, 2001: 74–5.
7. That is, in the sense that it focuses on equating treatment across sectors and categories of people, chiefly in drastically raising retirement ages (International Monetary Fund, 2010b; Tinios, 2010a).
8. The contrast between the Netherlands and the UK noted by Dixon and Monk (2009) and Bridgen and Meyer (2009) indicates that strict determinism in the effect of global finance is misplaced.
9. On pension accounting, see Whittington, 2006. There are still many outstanding issues between economists' and actuaries' approaches to valuation – see for example Blake, 2006.
10. Projections of expenditures and calculations of implicit debt (for example Chand and Jaeger, 1996) are essentially planning devices.
11. This has created problems in, for instance, the Dutch case where the use of IFRS has led to tightening of eligibility, accelerating the trend towards defined-contribution pensions (Bridgen and Meyer, 2009).
12. It may be objected that markets will form their own opinion of liabilities a firm is likely to face; the absence of 'accounting of promises' will have little impact. However, (1) uncertainty exists about a *legal* issue – that is, the existence of a government guarantee, and (2) PAYG systems only report current outlays; where firms had conducted actuarial studies, their results were a closely guarded secret.
13. On the political economy of pension reform, see Tinios (2005) and Featherstone and Tinios (2007).
14. The private sector would be entitled to a primary pension from IKA plus a supplementary pension from its supplementary branch. In order to economize on initials both are (somewhat inaccurately) labelled 'the state system'.

15. A public finance consideration was also present. Generalizing *public* sector benefits would place a huge burden on public finances. At the other extreme, using farmers as the benchmark would reduce the scope of social policy greatly.
16. Discussions were undertaken between management, the unions and the government in its capacity of shareholder. Given that all parties were anxious to avoid lapsing into discussions of general pension reform, social policy generalizations were kept to a minimum.
17. It should be noted that the unions' position was equivalent to expressing the right of disaffiliation from the state system. This position would only be considered odd by those unfamiliar with Greek unions (Matsaganis (2007) analyses the role of unions).
18. Supplementary pensions, similarly to France, are a part of first pillar benefits corresponding to 20–30 percent replacement on top of primary pensions usually delivered by occupationally differentiated providers (Börsch-Supan and Tinios, 2001). For banks, see Psilos (2003).
19. Rocham et al. (2001) discuss general issues of banks' supervision.
20. Indeed, public discussion centred almost exclusively on the constitutional issue. The government's position (upheld by the courts in 2010) was that the state's role as guarantor of last resort entitles it to safeguard the viability of pensions.
21. For details of implementation, see Tinios (2010b).
22. Between its first application in 2005 and 2008 the law was used by four banks, which transferred a total of 2 billion EUR to the two public providers, the largest reduction in the national debt in the period 2004–9. Passage of the law allowed at least one bank privatization to proceed.
23. Fragmentation exists within funds. For example, in the general fund IKA, the 'rule' in retirement ages is invoked by 15 percent of applicants and exceptions by 85 percent (Organisation for Economic Co-operation and Development, 2007).
24. The 2010 crisis led to an abrupt parametric pension reform focused on matters such as retirement ages. Significantly, the issue covered here, the relationship of occupational and supplementary pensions, was left for 2011 (International Monetary System, 2010b).
25. Making the system ex post less generous would raise complex legal issues regarding the status of the compensation paid and could also raise state aid issues.
26. Ministry of Economy and Hewitt Associates, 2005. The body of the Study was included in the act incorporating each bank and hence has the status of law.
27. The criticism commonly voiced, that 'banks were let off too lightly', relies on the difference between entitlements calculated up to the time of transfer (as in IFRS) and implicit debt (which factors in all future deficits). That difference in any PAYG system will be massive.
28. In other words, the logic of IFRS necessitates a sharing of the expected cost between the employer who covers 100 percent of privileges up to the date of transfer and the state, which takes over entitlements earned after it. Containing privileges solely to a closed group of employees is significant in placing an upper bound to public funds, which can then be thought of as a 'stranded cost'.
29. Braithwaite and Drahos 2000 discusses the role of the Commission and DG-COMP in the web of 'regulatory capitalism', which has 'demonstrated an effective capacity to usurp the traditional role … of legislatures and elected officials, but also that of the judiciary' (p. 197).
30. In the Belgacom case, the full liability under IFRS was paid to the state. In the EdF case, 'specific rights' were financed by a levy on electricity consumers. The EdF proposal was that first pillar rights transferred should be compensated for by a 'procedure appropriate for PAYG'. After years of searching, negotiations settled on a procedure relying on comparing dependency ratios of EdF with the general system. In the Greek case, the data necessary for implementation of this were not available.

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