

**Question for written answer E-002485/2013  
to the Commission**

Rule 117

**Othmar Karas (PPE), Heinz K. Becker (PPE), Astrid Lulling (PPE) and Ria Oomen-Ruijten (PPE)**

Subject: Cross-border pension fund under Directive 2003/41/EC - UBIT-Trianon case

The UBIT-Trianon case concerns a Dutch pension fund – a premium pension institution (hereinafter PPI) – which, together with a technical pension fund manager as an outsourcing partner, is seeking to provide a pension plan scheme in Austria for members of the Austrian Professional Association for Management Consultancy and Information Technology (UBIT). Pursuant to Article 19(a) of the UBIT associated collective agreement, this specific offer, coupled with tax advantages, could be made available to 40 000 employees in 4 300 firms.

The marketing consultant responsible for the project made a request to the Financial Market Authority (FMA) in Vienna, Austria, regarding the initiation of a notification procedure. He received a negative response giving the following reasons:

1. a PPI is not allowed to pay out pensions;
2. the FMA argued that Article 20(2) and (4) of Directive 2003/41/EC stipulates that 'each cross-border business' is to be individually declared to the supervisory authority.

The directive provides for cross-border authorisation of pension funds without any obstacles. Healthy competition and competitive financial markets in Europe are among the Commission's key objectives with a view to competing successfully with Asia, the USA and elsewhere.

Can the Commission assess:

- whether the Austrian FMA's decision is at all consistent with the spirit and purpose of Directive 2003/41/EC?
- whether its objections are legitimate, or whether they can be refuted both on technical grounds and in the light of the legitimate interests of both the beneficiaries and the regulators?