

# Weekly highlights by L'ECONOMISTE



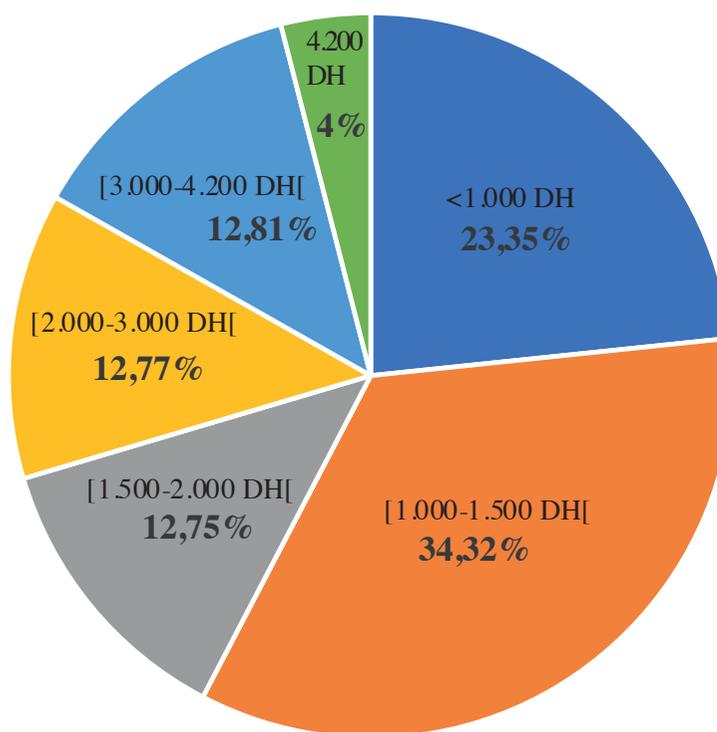
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BUREAU VERITAS MAROC

## Pension Reform

# The time bomb soon to be defused?

- Retirement age, social contributions increase... the indispensable and Unpopular changes
- Social partners required to decide before May 2023
- Two poles: public and private, a basic plan and supplementary ones

Structure of CNSS pensions



Source: CNSS



**Inflation: BAM tightens its monetary policy**



**The boomerang effect of competition law**



**Defense of heritage: When mosaic tilework polarizes intellectuals**

**Bank account in arrears: Alarm sounded in commercial jurisdictions**

## EDITORIAL

## “Nothing to lose”!

Mohamed Ali MRABI

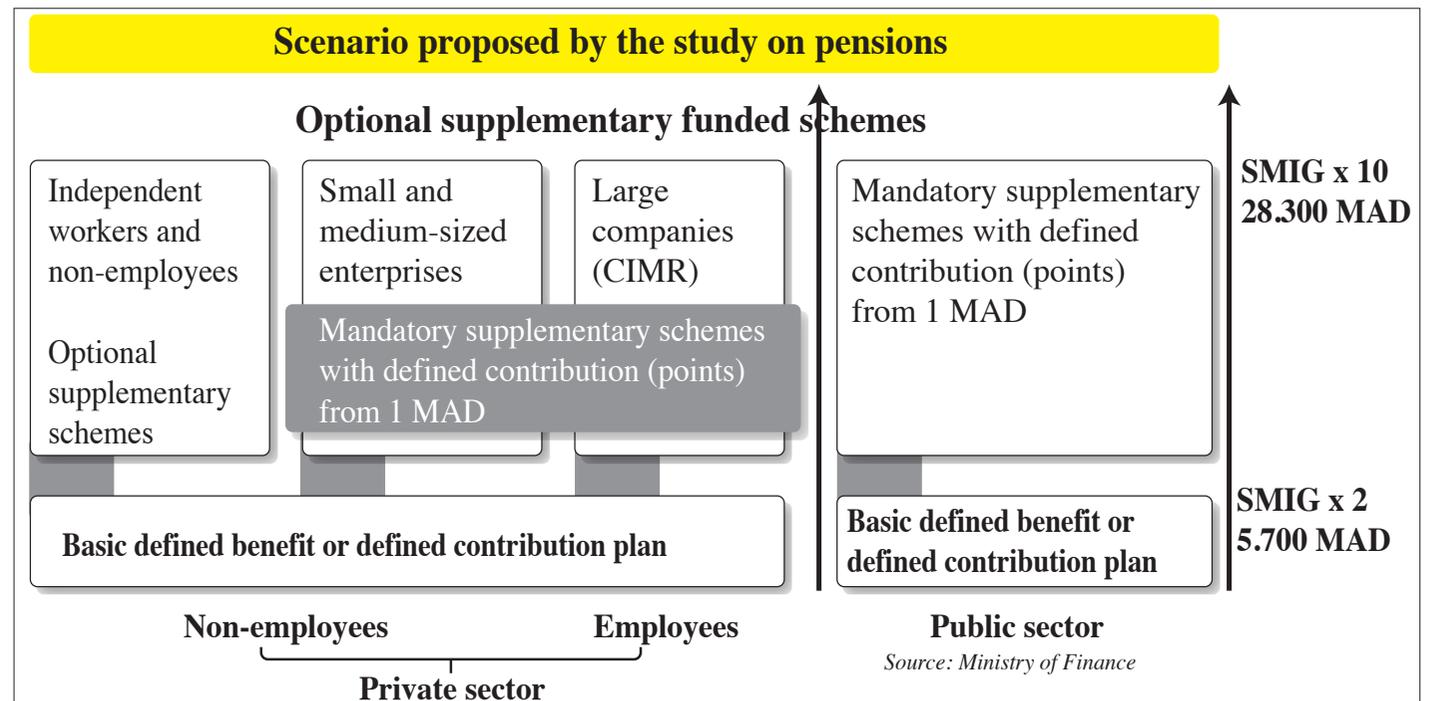
**W**HAT happened last Friday, September 30, at the L’Boulevard festival in Casablanca is neither new nor surprising. This is the reality of some of our young people, without bearings, without prospects, without a life plan. The subject does not lend itself to one-upmanship, nor to the exchange of accusations, nor to simplistic readings. The incidents that took place at the L’Boulevard festival, in the same way as the scenes of vandalism next to the stadiums on football match days, or the daily sword fights in working-class neighborhoods, crystallize the disarray of part of our youth, left on the edge of the path of development. And we are all responsible, each one of us at his or her level. The solution based on law enforcement measures is essential, but it will not cure the problem at the root. It only temporarily contains the explosion. For lack of alternatives, some of our young people have channeled their energy into violence and

banditry. Most of them are no longer in school, have no job, live on the margins of society, to the point of cultivating a real mistrust of all forms of authority, as evidenced by the multiplication of attacks against teachers in secondary schools and high schools, against police officers and law enforcement authorities... Today, what is urgent is to regain control of this enormous potential in terms of demographic dividend, before it be too late. Admittedly, the Government has banked on the development of social, educational, and sporting infrastructures at the local level, but beyond the sectoral strategies, whose convergence is more or less successful, these young people need a vision, a project that means something to them. It will be decisive to change one’s mindset. The real challenge is to give these young people a reason to live, because, at the point where they are today, they seem ready for anything, since they “*have nothing to lose*”. □

## Weekly highlights

# Pension Reform: The time

**T**HE first meeting of the social partners on a strategic dossier which fascinates has taken place. The pension reform was the subject of a meeting, on Wednesday, October 5, chaired by Nadia Fettah Alaoui, Minister of Finance. Time has come to put in place an approach and a work methodology, which should begin with a “*global and unified diagnosis*”. A necessary step before moving on to the possible reform scenario, which should lead to the establishment of two clusters, one public and one private. In any case, the Ministry of Finance wants weekly meetings to be held and measures to be taken by May 2023, all within the framework of the National Commission on Pension Reforms, which will oversee two commissions, one dedicated to the private sector and the other to the public sector. In view of the inventory drawn up by the Ministry of Finance, this dossier promises to be difficult, first of all because the



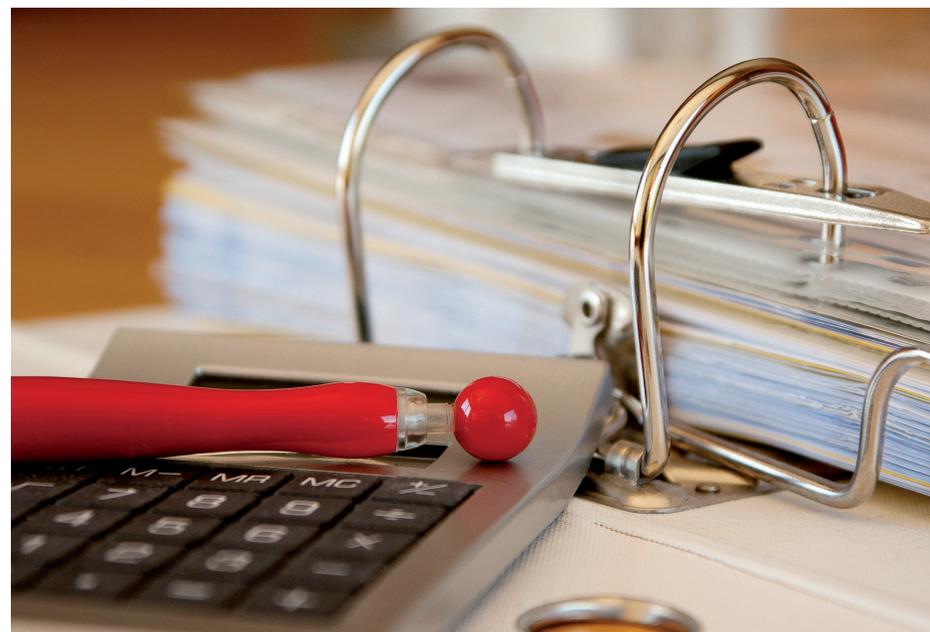
case remains very technical, and secondly because this reform does not only bind current assets but also future generations. Politically, the subject is very sensitive, especially in this difficult economic situation, but the Government does not really

have a choice. The issue is linked to the viability of the various funds, and unpopular measures are necessary to generate changes concerning the minimum retirement pension, the retirement age, as well as the generosity of the pension schemes.

Today, the system in place is characterized by its low coverage: more than 54% of the active population does not have protection against the risks associated to old age. The average pensions granted differ from one fund to another: 2,022

## Payment deadlines: The last chance reform?

**T**HE deadlines for payment of arrears are a real headache for companies and for the Government. Attempts to treat this issue were carried out but in vain. This time, by adopting, during the Council of Government last Thursday, September 29, the draft law which reforms the Commercial Code on issues relating to payment terms, will it be the right one? We will have to wait for its approval by the Parliament and the start of its implementation to decide. In the meantime, it must be recognized that the royal speech relating to payment terms could not have been clearer. “*Public administrations and local authorities in particular must pay their due to companies, because any delay in payment can lead to cases of bankruptcy and, correlatively, to many job losses*”, the Sovereign had declared insistently. The problem of late payments is an essential component of the economic stimulus package and an important lever in improving the business climate, according to the presentation note that accompanies the bill, especially since the results achieved following the entry into force of the



*The issue of late payments is an essential component of the economic stimulus plan and an important lever in improving the business climate, according to the presentation note that accompanies the draft law*

current system relating to payment terms are limited. What is at stake is overcoming the insufficiencies and obstacles which hinder the respect of deadlines. It is in this spirit that the bill, piloted by the Ministry of Trade and Industry, was drawn up as part of a participatory approach and in the light of the recommendations of the Observatory of payment terms, and this by pointing

out the operating methods and the composition of the Observatory, in addition to the representatives of the administration, of the employers (CGEM), of the group of Moroccan banks (GPBM), of the Federation of Chambers of Trade and Industry, and the central bank (Bank Al-Maghrib). As a reminder, this draft legislation has been published on the electronic site of the Gene-

ral Secretariat of the Government (SGG) in order to allow interested persons to make their comments, some of which have been taken into consideration, it is said in the note. In addition, the bill aims to impose unified practices relating to the conditions of sale, through provisions concerning payment terms. It is for this reason that the Head of Government submitted this draft law by postal mail sent to the Competition Council for an opinion last December. Three months later, the Council submitted its recommendations. The Head of Government has retained some of them to introduce them into the draft legislation. Other recommendations, however, were rejected. In any case, the implementation of the bill will be applied gradually between January 1, 2023 and January 1, 2025, depending on the annual sales volume achieved by the persons concerned. Similarly, the draft text provides for tougher penalties with fines ranging from 5,000 to 250,000 Dirhams (500 to 25,000 USD), depending on the case. □

Mohamed CHAOUI

# bomb soon to be defused?



Dirhams (202 USD) for the National Social Security Fund (CNSS) versus 5,678 Dirhams (567 USD) for the RCAR (Collective Retirement Allowance Scheme) and 7,873 Dirhams (787 USD) for the civil pension scheme managed by the Moroccan Pension Fund (CMR). The rules for valuing pensions are also heterogeneous, while a large part of private sector employees can recover the wage share if they do not have the minimum of 3,240 days of contributions. At this level, the agreement reached in April provides for the reduction the minimum number of declared days giving entitlement to an old-age pension at 1,320 days and the reimbursement of the employer's and employee's share for insured persons who have not reached this threshold, except that the terms of implementation have not yet been set out! Until then, with the exception of the parametric reform of the civil servants' pension scheme, the other funds are



awaiting changes which should guarantee their sustainability. The overall scheme adopted several years ago remains the establishment of

two clusters, one public and one private, one basic scheme, as well as additional ones. Such a scheme requires the unification of calculation methods and rules to ensure convergence, reduce disparities, and grant fair remuneration in relation to the contributions paid. In any case, this titanic project will first require a re-parameterization of the different pensions schemes. That said, the scenario suggested by the study commissioned by Finance proposes a basic scheme capped at twice the minimum wage for the two clusters, one public and one private. This should facilitate later on to a single cluster. Added to this is the freezing of rights acquired in the current systems as well as any revaluation for 10 years. Other proposals include raising the retirement age to 65 in the private and public sectors and increasing contributions. In any case, the debates and discussions promise to be interesting! □

KHADIJA MASMOUDI

## The boomerang effect of competition law

HOW can the latest decisions of the Competition Council be explained? First, it should be said that History does not forget anything. In addition, the competition regulator came to clear up a liability. Some explanations are needed here: First episode: the Competition Council had closed its last session in October 2013. The terms of office of its members were coming to an end. At the same time, the review of the law that has governed it since 2000 was under consideration in Parliament. Second episode: the regulator had entered a period of forced hibernation until almost the end of 2018. Its members were not renewed, while in the meantime the new competition law was published in the Official Gazette of July 24 and August 7, 2014. Third episode: the operators were confused about economic concentration. They had the obligation to notify them in advance to the regulator. The situation was paradoxical: new law, a Board without members and legal liability of companies and their managers. "The market runs on its own...", according to the famous formula of its former president, Abdelali Benamour.



Until September 29, 2022, the Competition Council sanctioned three companies that did not notify in advance their economic concentration operations

Fourth episode: several currents have emerged in this troubled context. Some companies, like LafargeHolcim, have decided to comply with the law by notifying their operations to the Government. Before the 2014 law, the Head of Government played a role in terms of control of concentration... The other current decided to ignore the law by carrying out the deal, even if it meant taking risks, thus considering that the Government no longer had a say and that the Council is in a state of coma. A third current has opted for caution by suspending their economic concentra-

tion projects or notified such projects even if the regulator was inactive. The market and the investors had largely suffered from this institutional deadlock. The Government had a great deal of responsibility until the appointment of Driss Guerraoui and of the new members of the Council four years after the legislative reform in November 2018. Fifth episode: Clearing up this historical liability which would sooner or later reappear as we predicted ten years ago. Of course, the health crisis has turned the administration upside down and not only that. The Competition Council

had organized itself to maintain the public service through digital technologies. So why have Sika AG and LSF11 Skyscraper Investments being sentenced? For not having complied with the law relating to freedom of prices and competition, although the respective deals of the two companies were entered into in December 2019, that is to say after the reactivation of the Council and before the health crisis. Law and time therefore ended up catching up with the two companies. It is the boomerang effect. What are the risks run by people who choose not to declare their transactions carried out from January 1, 2019 to the end of 2022? To take the risk of being inflicted a financial penalty, with also the collateral damage on their reputation. "Certainly, there is the five-year statute of limitations, but in the world of business everything ends up being known and the Council will do everything to detect possible fraudsters", promises its general rapporteur. Khalid Bouayachi and his investigators acted on their own initiative in the latest case. LSF10 Flavum Holdings was fined 10.6 million MAD. □

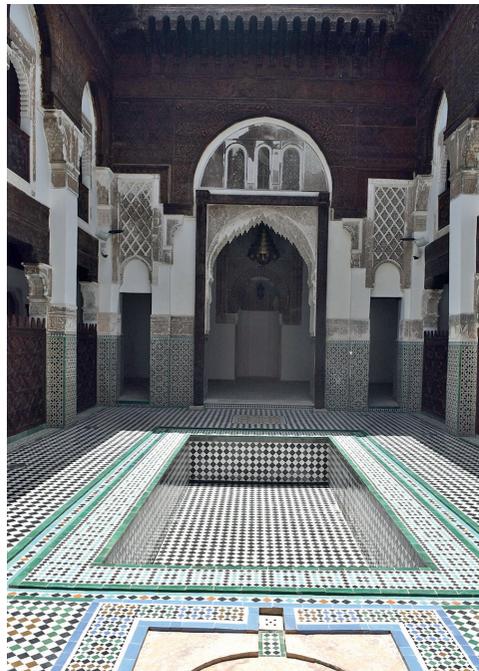
Faisal FAQUIHI

## Weekly highlights

### Defense of heritage

# When mosaic tilework polarizes intellectuals

THE formal notice sent by Morocco to the Adidas company has unleashed an exciting societal debate. Two approaches to the defense of heritage are beginning to emerge in the context of a global context where the protected origin of products is becoming an intangible issue and a strike force in terms of soft power. The first approach is said to be universal and does not want to confine culture within borders. The second approach, being more nationalistic in nature, wants the world to recognize Morocco's paternity on zellige (mosaic tilework). In reaction to the information, our journalist colleague Abdellah Tourabi reacted on Twitter: "And what to say about the Spaniards who will file a complaint against Morocco for a large portion of our cuisine (almond-based pastry for example), they who took it from the Arabs who themselves took it from the Persians who themselves took it from the Turks from whom we borrowed the Caftan (women's dress) and other symbols... This is becoming really grotesque!". This statement has unleashed the passions of what is called on social networks, the "Moorish", a movement aimed at reviving the "grandeur of the empire of Morocco" and reclaiming the imperial history of the



Zellige, the first traces of which date back to the 8th century under the Idrissid dynasty in Fez, was generalized under the Nasrid and the Merinid dynasties around the 11th century (Ph. DR)

dynasties. It would be futile, however, to limit this opposition to a dichotomy between a bloc with narrow chauvinist ideas, and another block that is peaceful and open. The subject is inherently more complicated, because if we define Moroccan heritage as the one contained within the borders of the current national state, we run the risk of benefiting from only limited protection. On the other hand, if one refers to the historical natural zones of influence of the Kingdom, the subject

becomes conflictual. Zellige, which is a ceramic art found mainly in Morocco, is actually present in two places outside Morocco's borders, namely in Andalusia and in Tlemcen. This is called Moorish identity. Is it Moroccan? Algerian? Spanish?

"Morocco is today the main depository of this civilization", says historian Bernard Lugan (Editor's note: born in Meknes and specialist in the history of Morocco). "The presence of remains of this architectural style

in Algeria and Spain is more proof of the episodic presence of Morocco in these territories than any paternity of these countries on this heritage". In the book "Le Maroc andalou" written by archaeologist and historian Abdelaziz Touri, the emergence of traditional ceramic craftsmanship was generalized by the Merinids (Moroccan dynasty) and the Nasrids (Andalusian dynasty of Umayyad origin). "Used for the composition of polychrome marquetry, this technique is however not a creation of the Marinid dynasty since we note its presence in the civil and religious monuments of the city of Fez from the seventh century, a period prior to the main constructions of the Alhambra", can one read in the book. After the various migrations of the Judeo-Muslim populations of Andalusia towards Morocco, because those populations were struck by the Edicts of Expulsion, the craftsmanship in all its artistic component would bear the mark of these craftsmen. Thus, the Cherifian dynasty of the Saadians took up the model of the pavilions of the Court of the Lions of the Alhambra, and endowed the Qaraouiyyine mosque with two pavilions attached to the short sides of the courtyard with a few variations. □

Abdessamad NAIMI

## Bank account in arrears: Alarm sounded in commercial jurisdictions

IT was predictable. The Covid-19 crisis, the stagnation of economic activity, as well as the international situation have led to an explosion of bad debts. According to the latest report from the central bank (Bank Al-Maghrib), the arrears would represent nearly 90 billion Dirhams (9 billion USD). At the judicial level, magistrates are sounding the alarm. "This new court season was marked by the explosion of procedures involving unpaid debts, in particular banking debts, and the realization of collaterals", indicates a judge of the commercial chamber at the Casablanca Court of Appeals. According to him, cases have increased by 45% compared to the annual average in the Casablanca courts alone. "It is really mindboggling", admits our source. There is a case law, concomitant with the economic crisis, which has allowed this explosion. It is the processing of

the two-year statute of limitations period. This was compartmentalized within several triggering events. Before the judgment of the Court of Cassation of September 12, 2013, when a credit institution noted that a borrower had not paid his debt on the due date, the credit institution had two years, from this date of observation, to claim in court the reimbursement of all the amount demanded. If the credit institution did not do so within this period, its action was time-barred, and the debtor had nothing more to repay, neither capital, nor interest, nor any compensation. However, the practice was such that banks exceeded this deadline, and for good reason, namely the various mediation and amicable settlement procedures, always preferable for the financial operators.

This trend was based on the fact that the two-year limitation period began on

the date of the first unremedied event of default, and not when the bank pronounced the debt as being uncollectible. However, since September 2013, things have changed. On the one hand, the two-year period applies to each maturity, individually. Thus, if a borrower does not repay the monthly payment due on January 1, 2020, the bank will have until January 1, 2022 to compel him to do so. If he does not repay the installment of February 1, 2020, the bank will have until February 1, 2022 to do so, and so on. Indeed, the statute of limitations is split like the debt itself and runs, with respect to each of its fractions, from its due date, and the action for payment of unpaid monthly installments becomes time-barred from their successive due dates. On the other hand, the fact that a banker exceeds this limitation period no longer affects the rest of the debt.

Nevertheless, this shift, certainly explicable from the legal standpoint, is clearly criticized by the magistrates of first instance. They see it not only as a main cause for a surplus of workload to be processed, but also require the Court of Cassation to issue a judgment in principle to oblige banking operators to warn their customers of such a shift. In addition to the procedures for the realization of collateral and repayment requirements, our source indicates that nearly 3,000 grace periods have been requested by consumers and professionals during this new court season. This is an exceptional measure that the president of the court grants by order, and which consists of suspending the performance of the debtor's obligations, particularly in the event of layoff or of an unforeseeable social situation. □

Abdessamad NAIMI