COMMITTEE OF MINISTERS
COMITÉ DES MINISTRES

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

RAPPORTEUR GROUP	Programme, Budget and Administration	**GR-PBA(2020)5**	6 March 2020[1]

Developments in the Council of Europe's pension schemes

Item to be considered by the GR-PBA at its meeting on 24 March 2020

[1] This document has been classified restricted until examination by the Committee of Ministers.

Developments in the Council of Europe's pension schemes

Background

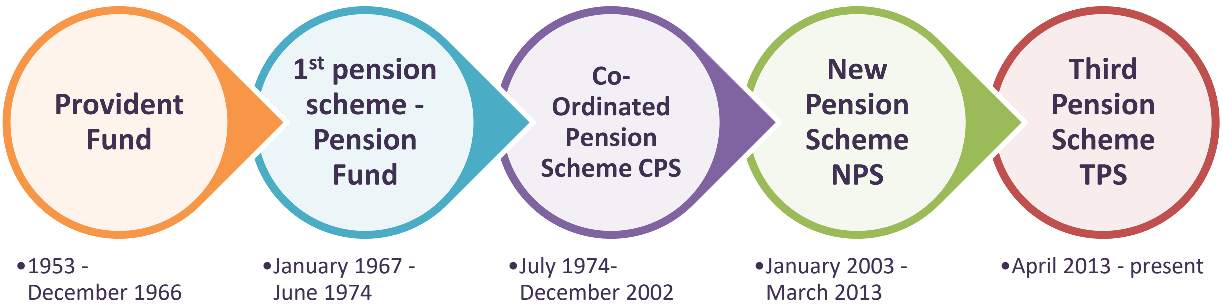
1. **Pension schemes** are a fundamental component of the **social cover** that must be provided to staff members by the Organisation. These pension schemes are an important part of the terms of employment offered by the Organisation at the time of recruitment, in the same way as salaries, career prospects or medical cover. Pension schemes have therefore an important **impact in the attractivity of the Council of Europe as an employer**.

2. The **Co-ordinated Pension Scheme (CPS)** entered into force in **1974**. In order to reduce pension costs to the Organisation for the future, the Committee of Ministers subsequently introduced two new schemes, first in **2003** with the creation of the **New Pension Scheme (NPS)** – together with the establishment of a Pension Reserve Fund with the aim of smoothing the increase in member State contributions over the long-term – and then with the creation of the **Third Pension Scheme (TPS)** in **2013**. These pension schemes have taken into account reforms in national systems or in other international organisations.

3. Staff members of the Council of Europe are currently affiliated to one of the three existing pension schemes as follows:[1]

	Staff members	%
Co-ordinated Pension Scheme (CPS)	856	39.56%
New Pension Scheme (NPS)	770	35.58%
Third Pension Scheme (TPS)	538	24.86%
	2 164	100%

4. This document describes the evolution of the pension schemes in the Council of Europe and the main features of the existing schemes.



[1] Data available as of 31 December 2019

1953-1966: Provident Fund

5. Until 31 December 1966, Council of Europe staff pensions were constituted via a **Provident Fund**, which operated on the basis of a **defined contributions scheme**, whereby **the amount ultimately received by each staff member corresponded to the sum in their individual account**, funded by means of the relevant employee and employer contributions.

1967: Entry into force of the first pension scheme financed via a Pension Fund

6. As from 1 January 1967, the Provident Fund was replaced by a **Pension Scheme financed by means of a Pension Fund**. The benefits due under the scheme were paid by this fund until 1974. The fund derived its resources from:

- ✓ staff contributions (7% of basic salary over their career)
- ✓ contributions paid by the member States at twice the staff contribution rate (14% of basic salary).

7. The fund's receipts were greater than its outgoings and the **surpluses were invested to generate additional income that could be used to meet future liabilities**.

1974: Liquidation of the Pension Fund and entry into force of the Co-ordinated Pension Scheme

8. In the early 1970s, the Co-ordinating Committee on Remuneration (CCR) recommended replacing the funded scheme with a **pay-as-you-go (budgetised) scheme**. This pension scheme (**Co-ordinated Pension Scheme - CPS**), applicable to staff whose service began before 1 January 2003, came into force on 1 July 1974. At the same time, **all the assets in the Organisations' Pension Fund were paid over to the member States' governments.**[2]

9. The pension scheme established was "co-ordinated" in the sense that **the applicable Pension Scheme Rules were common to all the Co-ordinated Organisations**. These rules determined the benefits provided under the scheme, their level and the staff rate of contribution, which was defined as one-third of the cost calculated through an actuarial study. The remaining two-thirds corresponded to the theoretical share to be funded by the member States, for which each Organisation was responsible for making its own arrangements.

10. With effect from 1 July 1974, staff continued to pay contributions deducted from their salaries,[3] corresponding to their share of the financing. These contributions were credited to a pensions budget, which was used to cover pension benefits paid out each year without constituting a reserve fund for future benefits. Member States contributed only to the extent necessary to meet any difference between the total benefits payable each year and the amount of staff contributions credited to the budget.

11. As member States did not pay their contributions in parallel with staff members' contributions, as the latter's pension rights were being earned, this system had the effect of creating a **deficit in the financing of the pension scheme and postponing payment by the member States of their share**. During the initial years of the budgetised scheme, the level of member States' contributions to the pension scheme fell significantly.

---

[2] Cf. Resolution Res(78)71.
[3] Cf. table on page 5. The contribution rates are reviewed every 5 years.

2003: Establishment of a new pension scheme for new entrants

12. In 1997 the Committee of Ministers and the Budget Committee became **concerned about the regular increase in the cost of the pensions budget** and began to look at alternative proposals.[4]

13. This culminated in the official establishment of the current Pension Reserve Fund as from 1 January 2003 and the introduction of the **New Pension Scheme (NPS)** for permanent staff members hired on or after 1 January 2003.[5]

14. At the time the new scheme differed from the CPS in four respects:

- **staff contributed 40%** (60% for the Organisation) of the cost of the scheme, instead of 33.3% (66.7% for the Organisation);
- the **minimum retirement age** without any reduction of entitlement was 63 instead of 60;
- **benefits were indexed to inflation** rather than the salary scales of serving staff;
- a **simpler method was applied to calculate the allowances** payable to staff leaving the Organisation before completing ten years' service.

2013: Establishment of a third pension scheme for new entrants

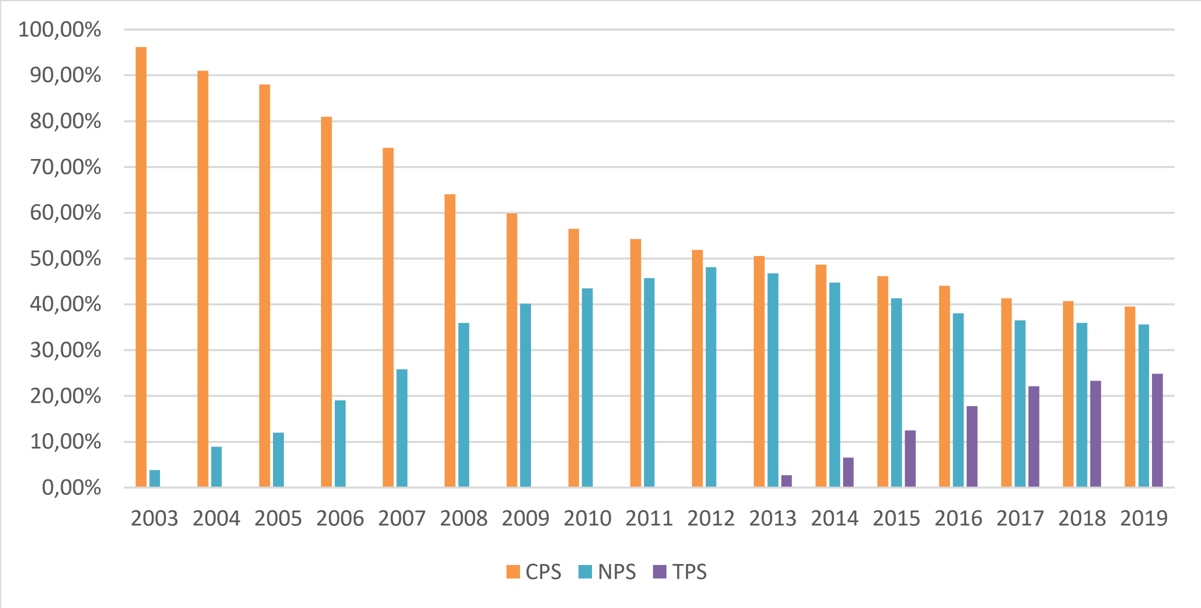
15. Following a Budget Committee recommendation in 2011,[6] the Committee of Ministers agreed a reform of the Council of Europe's pension system in June 2012, with a view to reducing the employer's costs for future pensions against the background of ageing societies and financial restraints.[7]

16. The main features of the **Third Pension Scheme (TPS)**, which entered into force on 1 April 2013, are as follows:

Feature	Modification
ACCUMULATION RATE	Reduced to 1.75%
MINIMUM PENSION RATE	Reduced to 1.75% of the salary for grade B3 step 1
PENSIONABLE AGE	Raised to 65 years
EARLY RETIREMENT	Initially allowed from the age of 55 years Gradually increased to 60
EMPLOYEE SHARE OF COST	Raised to 45%
EMPLOYER SHARE OF COST	Reduced to 55%
REFERENCE SALARY	Takes no account of a promotion awarded during the last 24 months of service
PENSION	Adjusted in line with inflation
SURVIVOR/REVERSION PENSIONS	Minimum rate reviewed
INVALIDITY PENSIONS	Minimum rate reviewed
FLEXIBILITY CLAUSE	• Allowing for future modifications of contributions, benefits or other pension parameters, after consultations within the Third Pension Scheme • Avoiding the necessity of introducing new pension schemes in the future, while respecting legal provisions applicable to the Council of Europe

[4] Cf. documents GR-AB(97)1, CM(97)104, CM(98)148.
[5] Cf. CM/Del/Dec(2002)818/11.4.
[6] Cf. CM(2011)123.
[7] Cf. CM/Del/Dec(2012)1146/11.1.

17. The percentage of staff members affiliated to the CPS has decreased steadily since the creation of the NPS in 2003 and the TPS in 2013. This percentage is currently less than 40% and has evolved as follows since 2003.



Other measures taken to reduce the cost of the pension schemes

Changes introduced in the existing pension schemes	
NPS	Pensionable age was gradually raised in 2013 from 63 to 65 years Early pension age was gradually raised from 51 to 53 years
CPS	Reform proposed by the Co-ordinating Committee on Remuneration (CCR), approved by the Committee of Ministers and applied as of 1 January 2020: • indexation of benefits to inflation • elimination of pensioners' access to the education allowance with a transitional period of 5 years
Changes that have contributed to lower the financial burden that pensions represent to the Organisation	
Awarding of steps	Doubling the interval for the award of salary steps in 2011
Salaries	Lower salaries for new entrants
Allowances	Reform of family allowances for staff recruited from 2017
Retirement age	Authorisation by the Secretary General, on a case-by-case basis and where duly motivated in the sole interest of the Organisation, the prolongation of service of a staff member up to the age of 67, without accruing any further pension rights

Employee contributions to the pension schemes

18. Employee contributions are different for each pension scheme and **calculated every five years** under an actuarial method on the basis of benefits payable. Employee contributions have **continued to increase since the creation of the different pension schemes**. The increase was especially significant in the last revision at the end of 2019 due to the decrease in discount rates and to a lesser extent to the changes in the mortality tables and the demographic assumptions. These increases were of 19.5%, 21.2% and 11.3% respectively in the CPS, NPS and TPS. The historical rates are as follows:

	CPS	NPS	TPS
1974 – 1992	7.0%	n/a	n/a
1993 – 1994	7.5%	n/a	n/a
1995 – 1999	8.0%	n/a	n/a
2000 – 2004	8.3%	8.8%[8]	n/a
2005 – 2009	8.9%	9.2%	n/a
2010 – 2015	9.0%	9.3%	9.1%[9]
2015 – 2020	9.5%	9.3%	9.4%
2020 – 2025	11.8%	11.8%	10.6%

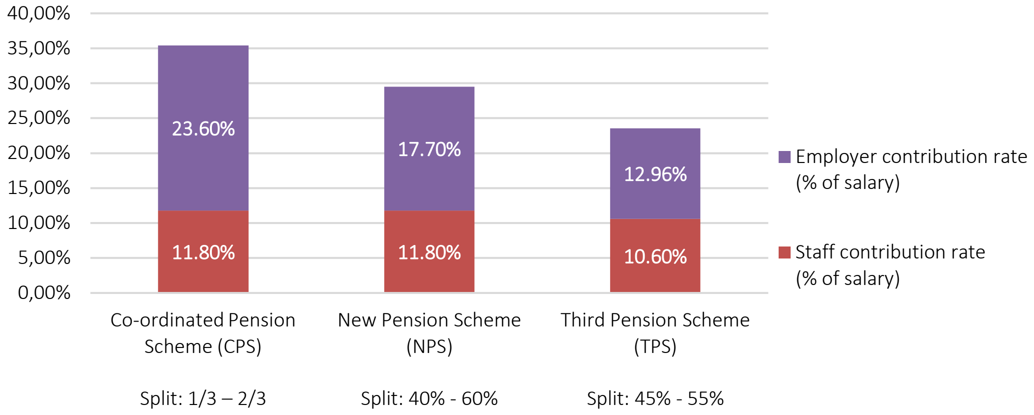
Employer contributions to the pension schemes

19. Member State contributions are determined on the basis of **actuarial studies** carried out in principle *every four years*. These studies determine the global contribution rate required from member States to ensure the long-term viability of the Pension Reserve Fund. According to an intermediary actuarial study carried out in 2019, the projected global contribution rate from 2022 amounts to just under 43% of aggregate salaries. These contributions are split into two parts:

a) annual contributions charged to the Ordinary Budget, the budgets of the enlarged/partial agreements and extrabudgetary resources

20. These contributions can be considered as those contributions which are **due in accordance with the scheme rules in order to pay for the future accrual of benefits of current active members**. They represent twice the rate of contributions by staff members affiliated to the CPS, one and a half times the contributions of staff members affiliated to the NPS, and 1.22 times the contributions of staff members affiliated to the TPS. The distribution of cost between employee and employer for each scheme is illustrated below:

---
[8] From 1/1/2003.
[9] From 1/4/2013.



b) direct contributions to the Pension Reserve Fund

21. These direct contributions represent the **difference between the annual contributions charged to the budgets of the Council of Europe and the required level of contributions to the Pension Reserve Fund resulting from the application of the global contribution rate** as determined by the actuarial study. These contributions can be considered as compensation for the deficit which was built up over the years.

Comparison of the Council of Europe pension schemes and those of other International Organisations

22. The table below compares the main features of the three pension schemes in place at the Council of Europe and those from other international organisations. The comparison shows that the contributions from Council of Europe staff members are considerably higher and that the TPS significantly reduced the benefits for staff members with less favourable conditions than those at the European Union or the United Nations.

23. The International Service for Remunerations and Pensions (ISRP) estimated the savings generated by the changes included in the TPS at 14% to 15% compared with the NPS and 29% compared with the CPS. The most significant parameters leading to these savings are essentially the reduction in the accumulation rate, the increase in retirement age and the reduction in minimum rates.

Comparison of the Council of Europe pension schemes and those of other international organisations

	Council of Europe			NATO (defined contribution)	European Union	United Nations
	Co-ordinated Pension Scheme (CPS)[10]	New Pension Scheme (NPS)[11] (from 1/1/2003)	Third Pension Scheme (from 1/4/2013)			
Distribution of cost of scheme between staff and employer	1/3 – 2/3	40% - 60%	45% - 55%	40% - 60% (voluntary contribution by staff possible)	1/3 – 2/3	1/3 – 2/3
Accumulation by year of service	2%	2%	1.75%	NA	2%-1.9%/1.8%	1.5% (first 5 years) 1.75% (5 subsequent years) 2% (25 subsequent years) 1% (after 35 years)
Current contribution rate (staff) % of salary	11.8%	11.8%	10.6%	8%	10.3%	7.9%
Retirement age without reduction	60	63-65[12]	65	NA	60-63/66	60/62/65
Age limit	65/67	65/67	65/67	65	65/66-70	62/65
Early Pension	50 (actuarial reduction rates)	51-53[13] (actuarial reduction rates)	55-60[14] (actuarial reduction rates)	NA	55-58/58 (fixed rates)	55/58 (fixed rates)
Maximum of pension (last salary)	70%	70%	70%	NA	70%	70%
… reached after	35 years	35 years	40 years		38.9 years	38.75 years
Minimum	4% of C1/1	4% of C1/1	1.75% of B3/1			
Reference salary	Last salary (promotion in last year not taken into account)	Last salary (promotion in last year not taken into account)	Last salary (promotion in last two years not taken into account)	NA	Last salary	Average of best 36 months (last 5 years)
Adjustment of pensions	Inflation[15]	Inflation	Inflation		Same update as for salaries	Inflation > 2%

[10] North Atlantic Treaty Organisation (NATO), Organisation for Economic Co-operation and Development (OECD), Council of Europe, European Space Agency (ESA) and European Centre for Medium Range Weather Forecasts (ECMWF).
[11] Organisation for Economic Co-operation and Development (OECD), Council of Europe, European Space Agency (ESA), European Organisation for the Exploitation of Meteorological Satellites (EUMETSAT) [The European Centre for Medium Range Weather Forecasts (ECMWF) has a similar scheme].
[12] Transitory measures in place to increase age from 63 to 65.
[13] Transitory measures in place to increase age from 51 to 53.
[14] Transitory measures in place to increase age from 55 to 60.
[15] Same rate as salary adjustment until 2020.

What is the scope for amending the existing pension schemes?

24. The situation of staff members of international organisations is *different* from that of persons affiliated to a **national pension system**, where *any changes can be made unilaterally by the national government*, provided that such changes have been enshrined in law following a vote by the elected representatives in Parliament. In the context of a national structure, *pensions are only one aspect of a full range of social benefits*. In the context of **international organisations**, and more specifically the Council of Europe, *pensions are part of the staff member's employment contract and represent deferred salary*. Pension contributions enable staff to acquire the right to pension benefits and ensure that this entitlement is funded.

25. Under the rules governing the international civil service, **changes to a pension system are allowed only in certain circumstances**, which are far more narrowly defined than in the national context, for example, where they are objectively required to ensure the financial viability of the pension system.

26. A number of **legal principles** must be taken into account when considering any reform of the Organisation's pension schemes. These principles are the ones that govern the power to unilaterally alter the terms of employment of international civil servants, particularly with regard to pension rights. They have been established by international administrative case-law, including that of the Administrative Tribunal of the International Labour Organization (ILO).

27. Furthermore, the Council of Europe's power to make unilateral changes in pension matters is also subject to certain **restrictions linked to its membership of the co-ordination system**.

Principles established by international administrative case-law

Ban on the retrospective application of measures that are unfavourable to serving and retired staff

28. According to this principle, any new measure must apply only to the future and must not entail any change in the legal status or in the rights of serving or retired staff members from a date prior to its entry into force. Specifically, as regards pensions, **any new less favourable measures may not apply to periods of service already completed and for which staff members and pensioners have already paid their contributions**.

29. It is worth noting here that the major reforms of the Council of Europe's pension system were made possible by the introduction of new schemes, so that the changes apply only to new entrants, to avoid the risk of infringing the rights of staff members and pensioners.

Protection of acquired rights

30. It is established in the ILOAT's case-law that **an acquired right is one that a staff member may expect to survive an alteration of the staff rules**.

31. In order to be consistent with the protection of acquired rights, the altered terms of employment must not be fundamental and essential in nature and the change must be effected:

(I) **without upsetting the economic balance of employment contracts**, in the broadest sense of the term (i.e. the agreement between the staff member and the Organisation and elements in consideration of which the staff member accepted the appointment, whether those elements are set out in the contract letter or in the text of a statutory provision);

(II) **for a reasonable motive or cause**: the mere desire to save money without other valid reasons is not sufficient, it being understood, however, that alterations prompted by the desire to make savings are not categorically excluded;

(III) while **assessing and anticipating the possible consequences and repercussions**.

32. It should be borne in mind that international administrative case-law assesses the lawfulness of any amendment of a term of employment in the context of any other measures that might be adopted. A court may thus be led to conclude that **the cumulative effect of unfavourable measures taken in one area, such as pensions, impairs acquired rights even though individual measures may be acceptable when considered in isolation**.

The principle of proportionality

33. This principle requires that the **measures taken should not exceed what is strictly necessary** to achieve the desired objective.

The requirement of fair treatment and non-discrimination

34. This is the **prohibition on treating people in similar situations differently**.

Protection of legitimate expectations

35. The ILO Administrative Tribunal has consistently held that international organisations must take care **not to undermine the mutual trust which must prevail in their relations with their staff**. The case-law refers to the principles of good faith, legitimate expectations and trust, which these organisations must observe.

Limitations related to the co-ordination system

36. By definition, **the Co-ordinated Pension Scheme (CPS) is co-ordinated and cannot be unilaterally amended by the Council of Europe under the regulations as they stand**. Any change to the CPS would require:

- either a **prior amendment of the regulations** – in particular those relating to the co-ordination system – introducing the possibility for each co-ordinated organisation to change the CPS on a discretionary basis outside the co-ordination system (which would mean "de-coordination" of the scheme)
- or **joint action** with the other co-ordinated organisations and **negotiations** at Co-ordination level on further reform of the CPS.

37. It should be noted in this regard that reform of the CPS was on the agenda at CCR meetings for many years, until last year, so **the various possibilities for amending the CPS have already been scrutinised very recently**. These discussions led to the CCR's 263rd report which was presented to the Committee of Ministers in November 2019 (cf. CM(2019)165). On the basis of recommendations contained in this report, a **major reform of the CPS** involving a change to the pension adjustment method was accordingly introduced as of **1 January 2020**, with pensions now being **adjusted annually in line with inflation and no longer on the basis of salary adjustments**. This reform is currently the subject of **numerous challenges from pensioners and staff members affiliated to the CPS**. The decision of the Administrative Tribunal of the Council of Europe on the appeals which will be lodged in due course will not be known for many months. Another aspect of the reform concerns the **phasing out of the pensioners' right to the education allowance**.

38. Another measure had been envisaged but was not adopted at Co-ordination level, namely *raising the pensionable age*. In particular, this measure was considered to run *counter to the human resources policies in favour of national and gender diversity and staff rotation put in place in most of the Co-ordinated Organisations*.

39. All the other options that had been considered within the co-ordination system as possible avenues for reform of the CPS were ruled out, because the **legal risks** were considered to be too great. These included an *increase in the share of the contribution borne by staff* and a *reduction in the tax adjustment for pensioners living in countries where pensions are subject to income tax*. It was felt that these options, which affect fundamental elements of the CPS, would, if implemented, seriously jeopardise the rights of staff members, potentially disturbing the structure of the contract concluded with the Organisations and, consequently, running the risk of censure by international administrative tribunals, not to mention the risk of serious social unrest within the Organisations.

Situation regarding the other pension schemes

40. While the New Pension Scheme (**NPS**) and the Third Pension Scheme (**TPS**) **are not subject to the limitations linked to the co-ordination system**, any modification to these schemes must also respect the principles laid down by the international administrative case-law listed above. Care should in any event be taken to ensure that the entire burden of any pension reform is not shifted onto the staff members affiliated to the NPS and the TPS because of the difficulties involved in changing the CPS. Indeed, **differential treatment of these categories of staff members may be perceived as discrimination**, given that the difficulties linked to co-ordination cannot be considered as justifying different treatment of these categories of staff members. Similarly, **the cumulative effect of any adverse individual measures adopted for these two schemes could be considered by a court to be an impairment of acquired rights**.