

# AAPOCAD



ASSOCIATION DES AGENTS PENSIONNÉS DES ORGANISATIONS COORDONNÉES ET DE LEURS AYANTS DROIT  
ASSOCIATION OF PENSIONED STAFF OF THE CO-ORDINATED ORGANISATIONS AND THEIR DEPENDANTS

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*The Confluentia*



*The confluence (of the Rhine and the Mosel)*

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## Chairman's Editorial

The first six or seven months of 2019 were, for AAPOCAD, a little like the weather we have enjoyed or endured over the same period: bright periods, glorious sunshine even, but interspersed with violent thunderstorms, particularly at Co-ordination.

### I. Co-ordination

Throughout the first half of the year, AAPOCAD participated actively in all Co-ordination meetings – those of the Committee of Staff Representatives (CRP) alone, bilaterals with the Committee of Representatives of the Secretaries/Directors-General (CRSG), and trilaterals with the CRSG and the Co-ordinating Committee on Remuneration CCR. I would straightaway like to thank my colleagues who have assisted me with their knowledge, advice and support in this important work: Ivan Divoy, Michel Garrouste, Bernard Wacquez, and – for the time being from a distance by means of statistical and methodological studies – Jean Le Ber. And not forgetting the detailed opinions provided by our legal adviser and leading expert in international administrative law, Gianni Palmieri, who also agreed to take part in a very important meeting of the CRP's legal group in the spring.

The topics on the Co-ordination agenda are still those we presented and analysed in previous issues of the Bulletin (Nos. 61 and 62). In what follows I will accordingly report only on developments since the beginning of the year.

**a. Reform of the Co-ordinated Pension Scheme (CPS):** After the soothing words of CCR Chairman Syd Maddicott at our General Assemblies in 2017 and 2018, when he said that he expected – but that he could not guarantee – that the only contemplated or conceivable change in the CPS was a modest raising of the pensionable age (from 60 to 62 or 63, with transitional measures), we pensioners perhaps over hastily rejoiced that no significant change would be made as far as we were concerned.

But we had not factored in the CRSG, or, more exactly a majority (five out of six) of its members.<sup>1</sup> In response to the CCR's demand that it submit serious reform proposals, but unable to agree on a raising of the pensionable age, the CRSG sacrificed on a golden platter the interests of more than 8,000 current pensioners, as well as those of the thousands of serving staff members still affiliated to the CPS: pensions no longer adjusted at the same

time and in the same proportion as the salaries of serving staff, but on the basis of national inflation.

At the stroke of a pen the CRSG thus severed the link between serving staff and pensioners, and between salaries and pensions, which is at the very heart of the 1974 Pension Scheme.

Needless to say, the CCR – whose members, with one or two exceptions, keep strangely silent during tripartite meetings (those at which representatives of serving staff and pensioners are present) – welcomed this proposal by the CRSG majority.

It also accepted the CRSG majority's second proposal, which can only be described as mean-spirited, namely, the removal of the right to education allowance for most pensioners. When one realises that, across the six Co-ordinated Organisations, only 83 education allowances are paid to pensioners, one cannot but feel disgusted.

As yet the CCR has adopted no formal recommendation, but in all likelihood this will change at the Co-ordination session in Paris from 23 to 26 September 2019, the big outstanding question being whether the CCR will disregard the CRSG's objections and include in its recommendation a raising of the pensionable age from 60 to 62 or 63.

A particularly worrying development is that the CCR – in blatant violation, seemingly, of the fundamental principle *pacta sunt servanda* (agreements must be respected) – considers itself in no way bound by commitments entered into by its predecessors (e.g. the tripartite Noordwijk agreement of 1994) and does not expect a future CCR to consider itself bound by any commitments it, today's CCR, gives.

Such an attitude marks – or could mark – the end of all legal certainty.

Naturally, AAPOCAD, like the CRP as a whole, is totally opposed to any tampering with our Pension Scheme and is already preparing, with the CRP and the Organisation-specific pensioner associations, to fight back vigorously.

**b. Education allowance:** As the pensioners' fate with regard to this allowance has already – save in the unlikely event of a change of heart – been sealed in the context of the reform of the CPS (see previous section), the ongoing

<sup>1</sup> In this fiasco only OECD acquits itself with honour: its Secretary-General broke ranks with his counterparts in the other five Organisations and informed the CCR Chairman that he rejected any changes to the CPS.

debate now concerns only serving staff. What is interesting in connection with this allowance, which, at the end of the day, accounts for only a tiny percentage of the Organisations' budgets, is the amount of time the CCR is prepared to devote to it, particularly when compared with the unseemly speed with which, in tripartite meetings at least, it dealt with reform of the CPS.

**c. Salary adjustment method:** This is something which will no longer concern pensioners if the reform of the CPS discussed earlier goes through. But we will always support serving staff in preserving the fundamentals that have characterised the various adjustment methods in force until now. The CRSG and the CRP both wish to see the life of the current method extended so that the impact of the so-called "salary moderation" clause can be properly assessed. We are, however, aware that the CCR is already considering proposals put forward by one national delegation.

When the time comes, the CRP will be paying close attention to the mechanism for special adjustments, whose recent application has been called into question by some.

## II. The life of the Association

**a. Membership:** Our total membership continues to hover around the 3000 mark (out of over 8000 Co-ordinated Organisation pensioners), the new arrivals whom we welcome being, unfortunately, more or less offset by the deaths it is our sad duty to record month by month.

**b. Elections to the Governing Board:** With 694 valid ballot papers (plus 22 blank or invalid papers), turnout for the Governing Board elections in spring 2019 was slightly up on 2018. The number of voters voting electronically (406, or 57%) was significantly higher than in 2018 (51%), a development which we welcome and which we strongly encourage not only for its simplicity for the elector but also because it makes the count so much easier.

**c. Composition of the Governing Board:** All the incumbents from ECMWF, the Council of Europe, ESA, OECD and WEU were re-elected, as were two out of three for NATO and one out of two for EUMETSAT. As new members we welcome Angela Nicholas (EUMETSAT) and Michel Desbois (NATO).

**d. Finances:** AAPOCAD's finances are in a healthy state, as was noted by the General Assembly when the 2018 balance sheet and income statement were presented : membership fees are paid regularly, expenditure is controlled, and all operations are closely supervised by our Treasurer, Michèle Lobin, whom I thank most warmly.

We are thus well equipped to meet the cost – which could be high – of the battles which will have to be fought

before our respective administrative tribunals and appeals boards in order to ensure that the commitments the member States and our Organisations have in the past given us and our still serving colleagues with regard to the Co-ordinated Pension Scheme are respected.

**e. Auditor:** In accordance with the wish he expressed, the 2018 accounts will be the last ones audited by Gunnar Westholm, to whom I reiterate our Association's heartiest thanks for the seriousness and diligence with which he carried out this task over a very long period. In succession to Gunnar, the Governing Board, at its meeting in February 2019, appointed Mr Laurent Hervé, a former OECD official.

**f. Member involvement:** An association's vitality can be measured in many ways, one of which is its members' participation in collective action. In the course of the first half of 2019, you, our members, were appealed to twice – for the petition and for the demonstration, both directed against reform of the Co-ordinated Pension Scheme.

The petition, which was presented to the Chairman of the Co-ordinating Committee on Remuneration (CCR) at the meetings in Paris at the beginning of July, garnered a total of 2962 signatures, of which over 1900 were those of AAPOCAD members, the remainder having gathered by the Chairs of certain Organisation-specific pensioner associations (AIA, ARES, CNRCSA, etc.) from among their members.

As to the demonstration on 2 July at OECD (Boulogne), the call to participate was intentionally restricted to pensioners living in Paris and Ile-de-France for logistical reasons (transport, limited space where the demonstration was to be held, whence the need to contain the number of participants). The call was well received, and a sizeable delegation of pensioners joined with serving staff from all six Co-ordinated Organisations.

On behalf of the Governing Board, I thank everyone who contributed to these two actions.

On the matter of pensions, see part I, "Co-ordination", above.

## III. General Assembly 2019

Proposed by Rüdiger Neitzel, Honorary Vice-Chairman and Regional Delegate for Germany, and approved by the Governing Board, Koblenz, a city magnificently situated at the confluence of the Rhine and the Mosel, was the venue for AAPOCAD's 41<sup>st</sup> General Assembly on 24 May 2019. And, since we were at the confluence of the two rivers, it was most fitting that we should meet on a boat called *Confluentia*.



As is our custom, we were pleased to welcome as guest speakers Mr Syd Maddicott, Chairman of the Co-ordinating Committee on Remuneration (CCR), and Mr Jean-Pierre Cusse, Chairman of the Committee of Staff Representatives (CRP); having previously taken part in the Geilenkirchen Assembly in 2015, Mr Axel Reichl, Head of the NATO Pensions Unit, joined us once more, and we also welcomed as special guest speaker Mr Michele de Salvia, former Registrar and former Jurisconsult of the European Court of Human Rights (Strasbourg). Although they were unable to attend, both Mr Patrice Billaud-Durand, Chairman of the Committee of Representatives of the Secretaries/Directors General (CRSG), and Mr Bernard Job, Chairman of the Pensions Administrative Committee of the Co-ordinated Organisations (PACCO), sent us written contributions, which were read out at the Assembly.

The one – big – regret I must express concerns the refusal of the International Service for Remunerations and Pensions (ISRP) to take part in this year's General Assembly.

In their speeches and written contributions, Syd Maddicott, Patrice Billaud-Durand and Jean-Pierre Cusse reviewed the principal topics under discussion at Co-ordination, and in particular the reform of the Co-ordinated Pension Scheme. ***On this question, which is of the utmost importance for us in AAPOCAD, significantly diverging views were expressed. I invite you to take cognisance of these views by carefully reading the relevant speeches and contributions***, which are presented in full in the following pages.

In his written contribution, Bernard Job presented PACCO's many-faceted activities and responsibilities, including active monitoring of the Co-ordinated Pension Scheme, the New Pension Scheme and, for the Council of Europe alone, the Third Pension Scheme – validating pension calculations, working on the different sets of Rules and on changes to them (including – *horribile dictu* - changes to take account of the possible adjustment of pensions in line with inflation), tax aspects, contribution rates, and so on. The full text of his contribution is reproduced later in this Bulletin.

Axel Reichl presented a NATO Pensions Unit which, with a staff of only six, does an amazing amount of work: administering the benefits of nearly 4000 NATO pensioners, not to mention managing the rights and responding to the information needs of over 5000 serving staff members, be they affiliated to the Co-ordinated Pension Scheme or to the extremely complex *Defined Contribution Pension Scheme* (DCPS). The Unit runs a fine information policy directed at pensioners and maintains excellent relations with the various associations that represent NATO pensioners. Axel Reichl's speech, like those of the other speakers, is reproduced in full below.

The morning ended with a masterly presentation by Michele de Salvia of the influence of the case law of the European Court of Human Rights on the protection of international civil servants. In his treatment of this vast subject, Michele de Salvia included several references to cases involving one or other of our Organisations. Be sure to read the full text of the speech, which you will find later in the Bulletin.

The rest of the General Assembly, the details of which you will find in the summary record in the January 2020 Bulletin, followed the usual agenda and included the presentation of the 2018 accounts and 2019 budget, the result of the elections, and the Chairman's annual report.

In the evening all the participants gathered again on board the *Confluentia* for a dinner cruise that took them on the mythical Rhine from Koblenz to Boppard, a journey offering a wealth of majestic vistas of vine-covered hillsides and scattered castles, of small towns and villages clinging to the riverbanks, of lights twinkling in the fast flowing waters ...

The following day's programme provided, in the morning, for a cable-car crossing of the Rhine to reach the Ehrenbreitstein fortress, whose turbulent, thousand-year history was presented and explained by English and French-speaking guides. After returning to Koblenz and after luncheon in a riverside restaurant, the programme ended with a guided visit of the old city, whose architectural and cultural heritage had been seriously damaged by bombing in 1944-45.

Organising a General Assembly outside of Paris is always a tricky operation. On behalf of everyone I would like to express our heartfelt gratitude to Rüdiger Neitzel for doing everything in Koblenz to ensure the success of this 41<sup>st</sup> Assembly, and to his wife, Astrid, who oversaw a very attractive programme for spouses and partners. My thanks go also to our Executive Secretary Elfi Lindner and our Permanent Assistant Doris Cachin who, both from Paris and in Koblenz itself, were vigilant in ensuring that the whole operation ran smoothly, and, of course, to our Treasurer Michèle Lobin, as always responsible for the financial aspect.

#### IV. At-source deduction of income tax (France)

There is still nothing to report on this matter, as none of the requests for information addressed by ISRP to Bercy or by some of our Organisations to the competent authorities has yet been answered. In the meantime, AAPOCAD has forwarded to its members the advice given by ISRP and by the CRSG that individual approaches to the tax authorities should be avoided, pending, precisely, receipt of the answers that have been requested.

That said, it is essential that neither ISRP nor, in particular, our Organisations rely on their international status to shirk their responsibilities to pensioners. The rule in France is that the body which pays the pension is responsible for collecting, on behalf of the State, any income tax which is due on the pension. At the very least our Organisations and ISRP must, when the time comes, provide us with a statement of the particular situation that is ours, and of the steps (they have) taken to obtain trustworthy official information on the means by which Co-ordinated Organisation pensioners can pay any income tax that is due.

#### V. Information for members

**a. Your requests for information:** We aim to reply promptly to any requests for information. Sometimes we have ourselves to seek information from other sources, and this inevitably means that our answer will take longer, depending on how quickly our own questions are answered. Please be patient!

**b. Information booklet on the tax adjustment (Article 42 of the Pension Scheme Rules):** This booklet, published by

ISRP, was hitherto available only in English and in French. As ISRP was unwilling to pay for its translation into other languages widely used among pensioners, AAPOCAD – with ISRP’s permission – decided to commission and pay for its translation into Dutch, German, Italian and Spanish. These language versions are now available from the AAPOCAD secretariat.

#### VI. General Assembly 2020

The next General Assembly will be held at OECD, Paris, on **Friday 15 May 2020**. As usual, it will be followed in the evening by a dinner (venue still to be decided), and, on Saturday 16 May, there will be an excursion or visit in Paris or the surrounding area, and a lunch.

So, book those dates – 15 and 16 May 2020 – now. We hope to see you in large numbers both at the General Assembly and for the other activities that will be programmed for those two days!

*John Parsons*  
Chairman



## Election Results for the 2019-2020 AAPOCAD Governing Board

All the votes received by mail and electronically were counted on 10 May 2019 by the appointed scrutineers (Mrs. Davies, Faurie and Roberts), under the Chairmanship of Ms. Lindner. The result of the elections is as follows:

Number of votes cast :	716
Invalid votes:	22
Valid votes cast:	694 (of which 406 electronically)

The candidates have received the following numbers of votes:

**1) NATO (2 vacant posts)**

Michel DESBOIS	367
Fortunato IACONELLI	293
Michèle LOBIN	364

**2) OECD (2 vacant posts)**

Bernard HUGONNIER	515
Nicholas VANSTON	507

**3) ESA (3 vacant posts)**

David CAMPBELL	413
Nico DE BOER	386
Frans JAGTMAN	325
Eva ORIOL-PIBERNAT	298
Michel PAMBOUKIAN	171

**4) CoE (1 vacant post)**

John PARSONS	508
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**5) WEU (1 vacant post)**

Floris DE GOU	484
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**6) ECMWF (2 vacant posts)**

Jochen ERLER	462
Austin WOODS	460

**7) EUMETSAT (2 vacant posts)**

Angela NICHOLAS	480
Volker THIEM	479

As a result, the following candidates are declared elected or re-elected\*:

<b>NATO:</b>	<b>Mr. Desbois, Mrs. Lobin*</b>
<b>OECD:</b>	<b>Messrs. Hugonnier*, Vanston*</b>
<b>ESA:</b>	<b>Messrs. Campbell*, De Boer*, Jagtman*</b>
<b>CoE:</b>	<b>Mr. Parsons*</b>
<b>WEU:</b>	<b>Mr. De Gou*</b>
<b>ECMWF:</b>	<b>Messrs. Erler*, Woods*</b>
<b>EUMETSAT:</b>	<b>Mrs. Nicholas, Mr. Thiem*</b>

Results certified consistent with the count performed by the scrutineers,  
Paris, 10 May 2019, Certified, the Executive Secretary,

*E. Lindner*





## Statements by Invited Guests at the 2019 AAPOCAD General Assembly

**Mr Syd Maddicott**  
*Chairman of the CCR*

Mr Chairman, Officers of AAPOCAD, members of AAPOCAD, fellow pensioners, fellow panel members, Good morning to you all. I am grateful for the opportunity to address this General Assembly for the fourth year in succession.

For those of you who are attending the General Assembly for the first time I mean today to explain a little about my role in Co-ordination before going on to speak about the issues facing Co-ordination at present.

The Chairman of the Co-ordinating Committee on Remuneration (CCR) is elected by the member countries involved in Co-ordination for an initial three-year period and is then subject to an annual re-election thereafter.

One point I made at my interview was that I intended to be an impartial Chairman and that I was following no agenda – neither one of my own, nor of the member country that proposed my candidature, nor any other country or group of countries. If anyone was expecting me to follow their agenda they will, I think, have been disappointed. I have, however, recently been elected for a further period up to 30 June 2020.

I do at times represent the views of the member countries of the CCR, especially to the other committees in bilateral and tripartite meetings at Co-ordination sessions. In such cases the views I outline are not my own but those of the CCR. Where the CCR has not arrived at a consensus it may be a question of outlining views expressed by groups of delegations in order to keep the other committees abreast of CCR thinking.

My role in chairing the three or four Co-ordination meetings that take place each year involves me in drawing up the agendas, in consultation with my co-Chairs and the secretariat, chairing the meetings and sometimes at short notice rescheduling meetings in the interest of reaching agreements among the three committees.

Let me underline the fact that while you may not like everything decided at Co-ordination, please don't shoot the CCR Chairman! I do not decide the policy of the CCR. My general tendency has been to encourage compromise and agreement among the three committees.

Let me now move on to cover the issues facing Co-ordination at the moment. At last year's Assembly I predicted that Co-ordination would discuss four topics in the year following the Assembly:

- The Co-ordinated Pension Scheme
- The Education Allowance
- A separate scale for salaries paid to staff in Luxembourg
- The beginning of discussions on the Remuneration Adjustment Method

Only one of those topics has been concluded. A CCR recommendation for a separate Luxembourg Salary Scale was agreed at a Co-ordination meeting last year to come into effect on 1 January 2020.

The other three topics are still under discussion and have been joined by a fourth. I'll give you a brief overview of all four that we will be discussing at the next meeting in early July.

The first is the Salary Adjustment Method (SAM). This is now falling due for debate and in the coming months the CCR must make a recommendation. The Committee of Representatives of the Secretaries/Directors-General (CRSG) has put forward a proposal to extend the current method, partly because it has not been in operation for very long. At the moment the CCR is debating internally whether it wishes to extend the existing method, adopt some changes to the existing method or to counter-propose a different method. One Member country has made such a counter-proposal and the CCR is analysing it and evaluating it. I wouldn't necessarily expect an early decision on this topic.

The next topic is the implementation of the five-yearly review of Co-ordinated Pension Scheme Contributions. The review has produced a significant increase in pension contributions. This does not of course affect existing pensioners but does mean an increase for both serving members of staff and the Member countries, which are responsible for funding the employers' pension contributions made by the Co-ordinated Organisations.

At the last Co-ordination meeting in March the CRSG presented a proposal to increase contributions in line with the outcome of the review conducted by the ISRP. The Committee of Staff Representatives (CRP) has lodged an objection and suggested some changes to the methodology. It was agreed by the CRSG that it would ask the Pensions Administrative Committee of the Co-ordinated Organisations (PACCO), its special body, to re-examine the question. My feeling is that, despite the increases implied for Member countries, the CCR is likely to follow whatever recommendation emerges from PACCO

and the CRSG in July. I might add that this adds considerably to the costs of Member countries.

The Education Allowance negotiation has been a long one (as I predicted last year) but I think we are close to agreement. A CRSG proposal to allow all payments to be made in the form of an averaged lump sum has been rejected by the CCR (it was also strongly opposed by the CRP, I note).

This crystallizes part of the debate about the Education Allowance. Is it what it purports to be – an allowance to enable expatriated staff to recover (some of) the costs of educating their children imposed by their expatriation? Or has it become a significant allowance in attracting and retaining expatriate staff that goes beyond the original purpose? The truth is that the Education Allowance has been permitted to assume a role more significant than simply covering (part of) the necessary costs of educating children.

In rejecting the idea of paying staff an averaged lump sum payment for tuition fees and some other expenses (it will continue to be possible for many categories of expenditure), CCR has ensured fairness in reimbursing staff for educational expenditure actually incurred rather than create a system in which there would be winners and losers and it has, to some extent at least, tied the allowance to its original purpose.

Some issues remain over precise wording on how the allowance should be reviewed and on the cap on spending that will apply if staff chose to educate their children in third countries. The CCR is also looking to save costs in the form of ancillary payments. I hope and expect that agreement can be reached in July.

The final topic I will mention is of most interest to pensioners is reform of the Co-ordinated Pension Scheme. I realise that this may be seen as controversial and unpopular among pensioners.

Let me explain the background: the CCR has been discussing reform of the CPS for at least six years without any result to date. Some of the proposals from CCR delegations were fairly radical, including a proposal to remove the tax adjustments made to pensions that effectively gave a 50 % tax rebate, a change in the salary considered pensionable from the final salary to a career average salary and the imposition of a levy on existing pensioners to reduce contributions from member countries and serving staff. It is quite clear that some CCR delegations would have been quite happy to impose several reforms that would have reduced their countries' expenditure on the CPS.

It was difficult to proceed for some time during the six-year period in the absence of a CCR Legal Adviser. Following the appointment of a Legal Adviser, various proposals have been reviewed and legal advice given on each of them. This advice has been shared with the other two committees.

In the end the CRSG (minus one Co-ordinated Organisation which did not agree) has made a proposal for two changes to the CPS. They are the removal of the Education Allowance from pensioners and the replacement of the existing method of reviewing pensions from one based on the same index used to review salaries for serving staff to one based on local inflation. The CCR may also consider changing the normal retirement age though this is not in the proposal from the CRSG (minus one).

Taking each of the two elements in the CRSG (minus one) proposal in turn it seems to the CCR that the payment of the Educational Allowance to pensioners cannot be seen as necessary in terms of recruitment or retention and the CCR is likely to agree to this proposal, provided certain exceptions to be made on the grounds of personal staff difficulty (death of the staff member, forced redundancy) can be agreed. Transition arrangements will need to be agreed, too.

AAPOCAD and the CRP generally have made clear their opposition to the proposal to change the method of reviewing pensions to one based on local inflation. The CCR is minded to agree with the proposal as it looks, based on historical data, likely to reduce expenditure and secondly it brings the CPS into line with other pension schemes more generally and specifically those other schemes in use within the Co-ordinated Organisations. It also corresponds more closely to pensioners' actual situation: while there is no logical reason pensions should vary (up or down) according to the pay scales of current Co-ordinated Organisations (and, indirectly, national civil services) staff, there is a very clear logic to linking them to changes in their actual purchasing power.

Your esteemed Chairman wrote to me recently to complain specifically about this latter proposal. He also complained that there had been insufficient consultation on the matter with the CRP (including AAPOCAD). As a result I have proposed, and it has been agreed by my co-Chairs, that there will be a bilateral CRP/CCR meeting at the beginning of the next Co-ordination session in July to discuss the matter before any decisions are finalised.

This will give CRP and AAPOCAD an opportunity to put their points directly to the CCR delegations. Your Chairman stressed in his letter that the CPS is a closed scheme and as a result could not or should not be changed. This, I have to say, is a view unlikely to be shared by CCR delegations. The legal advice given to them has



been unwelcome in many respects, indicating as it does that the CCR has limited scope to make changes to the CPS without risking successful legal challenges. But the advice does make it clear that some modest reforms are possible. Given the high and increasing costs of the CPS some member states will look to make savings where this can be done consistent with legal advice.

I will be writing to CCR delegates to encourage them to take part in the discussions with CRP wholeheartedly. As an impartial Chairman I cannot, of course, guarantee what the outcome of the discussions will be.

I have to say that if I were a CPS pensioner and given the choice between the two methods of reviewing pensions I think I'd find it quite difficult to decide which I'd prefer. Historically, linkage to the RAM index has given slightly bigger increases than a method based on inflation - hence the inclination of some CCR delegations to change the method - but pressure on the RAM index from CCR delegations is likely to continue in the future and using local inflation offers a guarantee that may be worth having.

On the question of the retirement age, this will be a matter that affects serving staff rather than those who have already retired and I am not sure there will be an early decision on this. The CRSG is against it for various reasons but again it would probably save some money and would bring the CPS into closer alignment with other pension schemes.

Before closing I'd like to record my thanks to my co-Chairs for their helpful co-operation and to the ISRP for its diligent preparation and creative input into the Co-ordination process.

I am happy to take questions.

*Syd Maddicott*

**Mr Patrice Billaud-Durand**  
*Chairman of the CRSG*

Mr Chairman, dear John,

Chairmen of the Co-ordinating Committee on Remuneration (CCR) and Committee of Staff Representatives (CRP) — Syd and Jean-Pierre, Ladies and Gentlemen of the Governing Board, Ladies and Gentlemen,

I would like to thank AAPOCAD once again for inviting me to speak at this General Assembly here in Koblenz. Unfortunately I am unable to attend personally this year because of a prior obligation, and I do apologise for this.

I will focus my remarks on the Co-ordination work carried out since the last General Assembly in June 2018, and I would like to make four major points.

**First**, as I said at the last General Assembly, the CCR has decided to put a complete review of the salary adjustment method on the Co-ordination agenda. The CRSG has firmly stated its opposition to a further review of the current method, less than two years after the adoption of the moderation clause.

We propose that the current method be extended in line with the regulations in order to give us some objectivity before another review. The CCR has been examining this issue since the end of 2018, but we do not currently know what new system the member countries would like to propose.

**Second**, the review of the Education Allowance, launched in the autumn of 2017, continued over the last twelve months, between the three committees. The CRSG presented a proposal which was designed to retain the flexibility obtained after the adoption of the 164th Report of the CCR in 2005 on the Education Allowance, which allowed all the Co-ordinated Organisations to adapt the allowance to their needs. After discussions with the CRP and CCR, especially at the Co-ordination session hosted by NATO in March 2019, the possibility of a compromise seemed closer. The CRSG will unveil a new proposal at the Co-ordination session in July which will take account of some of the CCR's demands.

**Third** is the subject of the Co-ordinated Pension Scheme (CPS). As you all know, this subject is on the Co-ordinated agenda. The latest developments in this area came in the form of a proposal by the Executive Directors of five of the six Co-ordinated Organisations (the OECD was not in a position to support these proposals) for the implementation of two CPS reforms: (i) a change to the pensions adjustment conditions, which will no longer be based on the salary adjustment but on inflation; and (ii) the abolition of the Education Allowance for pension-

ers, and the introduction of transition measures and exceptions in order to maintain existing rights in some specific situations.

In a unanimous decision, however, the Executive Directors decided not to put forward a proposal in response to the CCR's idea of raising the retirement age from 60 to 62 or 63 before having examined all the financial, legal and staff policy consequences in detail.

The CCR welcomed these proposals and talks will continue in July. The CRSG remains categorically opposed, however, to any discussion of the other CPS reforms suggested by the CCR in the spring of 2018, namely the reform of the tax adjustment, the possibility of increasing employees' share of the contribution to the CPS (e.g. from one third to 40%), the introduction of a levy on pensions currently being paid to bring them into line with the new defined-benefit pension schemes operated in the Co-ordinated Organisations, the calculation of pension rights based on the average over the years of service instead of the final salary, or reducing the current accrual rate of 2% per annum.

**Fourth**, a subject of most interest to NATO, but nonetheless significant. The adoption of a specific scale for basic pay in Luxembourg was also discussed in detail in 2018, and these discussions led to the adoption of a report by the Chairman of the CCR setting out a proposal for the creation of the specific pay scale as of 1 January 2020. Two member countries—France and Italy—were not able to join the consensus and expressed reservations. Their opposition was based on the impact of the separate pay scale on pensions paid in Luxembourg. If the proposal to sever the link between the adjustment of pensions and that of salaries were to be adopted in July and implemented at the end of the year, the French and Italian reservations would be lifted, paving the way for the adoption of the new Luxembourg pay scale.

May I thank you again for this opportunity to address the meeting through your Chairman. I wish you an excellent General Assembly.

*Patrice Billaud-Durand*

**Mr Jean-Pierre Cusse**  
*Chairman of the CRP*

Dear colleagues, dear Chairman,

My speech this year takes on a different dimension, given that I am reaching the end of my term as Chairman of the OECD's Staff Association and as Chairman of the Committee of Staff Representatives (CRP).

In a year's time, I will be joining your ranks.

Over these many long years, I have seen our Organisations change. And in the course of this change we have lost sight of the human factor. The current feeling of malaise is a result of factors such as the legalisation of short-term contracts, the erosion of allowances, the incessant attacks on our salary package, individualism, and a lack of solidarity.

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When I joined the OECD, retired colleagues said to me, with genuine emotion, "if only you had known what it was like before", and now I find myself in a similar position, having to admit that, in terms of enjoying work and the human dimension, things were better before.

Admittedly we live a changing world, and our Organisations need to evolve with it. That said, I cannot consider it evolution when it comes at the cost of the human dimension.

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And has the Co-ordination system evolved?

Yes, but in the wrong way.

The purpose of the Co-ordination system is to advise our Councils on allowances, remuneration and pensions. Over the years, the Co-ordinating Committee on Remuneration (CCR) has come to think of itself as a "Supreme Council" which claims to know what is good for the six Organisations and our pension system. It forgets or flouts the agreements made in the past.

If truth be told, the delegates of the Member countries have forgotten that it is in their countries' interests to have international organisations. They compare their situation to ours. They constantly attack our salary package by reviewing allowances, reducing their amounts and restricting conditions of eligibility. The affordability clause was not enough for them, they had to go and add a salary moderation clause.

They say, of course, that their intentions are noble; that they want to improve our Organisations, to make them more competitive and more modern. In reality, they are completely out of touch with the Organisations and the problems that the latter face.

Are they aware, for example, that officials are now being granted short-term contracts, that they can be made redundant without any explanation at the end of their contract, which can last as long as eight years at the OECD?

Recently, in my Organisation, officials aged over 50 with over 30 years of service were given three months' notice that their contract was being terminated. This does not happen in the administrations of our member countries!

Are the members of the CCR aware that, in order to save money, every year our colleagues are sent on lengthy missions that include weekend work? And that others suffer from professional burnout due to excessive workloads?

No, they know nothing about all that, or they do not want to know.

They now want to review the salary adjustment method just two years after its implementation, as it is not delivering the results expected. Which is another way of saying that it is not managing to reduce salary increases.

The CCR also wants to have a look at the 1974 Co-ordinated Pension Scheme (CPS). We thought that it was protected by the commitments given in the past, in particular the Noordwijk agreement. Well apparently it is not! The value of an agreement does not seem to carry much weight for them.

The CCR is examining several possibilities, some of which have been gifted to them by the representatives of the Secretaries/Directors-General (CRSG), except for that of the OECD, which is opposed to reopening the Co-ordinated Pension Scheme. The CRSG, minus the OECD, is proposing two amendments: removing the right to the education allowance from the 83 pensioners who currently receive it, and indexing pensions to inflation. The CRSG, minus the OECD, says that it is not in favour of raising the age of pension entitlement, and suggests estimating the cost of this option should the CCR decide to pursue it.

The proposal to index pensions to inflation is particularly dangerous, as it severs the bond between serving staff and officials, a bond which our Councils have stressed on many occasions and which is nevertheless overlooked by the heads of our Organisations. Some may think that aligning the pension adjustment on inflation affords protection, as salary adjustments might be affected by the affordability clause or the moderation clause. This is not true as the CCR Chairman, Syd Maddicott, who spoke earlier, intends to append a version of the affordability clause to it. Yes, you heard me correctly, your purchasing power would therefore not be guaranteed.

The fact of having pensions adjusted on the same basis as salaries offers you a guarantee. By defending the remuneration of serving staff, the Staff Associations by the same token defend pensions. Going forward, if this proposal is approved, pensioners will no longer have a means of making themselves heard and of asserting their rights. So it is clear that we will support all the appeals that will inevitably be lodged.

As you can see, I am angry. I am angry with the CCR for pursuing its crusade against international civil servants, but I am also angry with the European Centre for Medium-Range Weather Forecasts (ECMWF), the Council of Europe, the ESA, EUMETSAT and NATO for selling out our pension scheme. Apparently, once you are no longer a serving official, you count for nothing.

Naturally, our administrations justify their proposal to downgrade our pension scheme on the grounds that they need to be constructive in tabling options which are acceptable to both themselves and the CCR. And, funnily enough, the CCR has sat down and helped itself to all of them...

It has taken up all three of the options which I mentioned earlier.

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Do you remember, though, what CCR Chairman Syd Maddicott said when he stood before you last year? He said he expected there to be minor amendments which would not affect current pensioners.

Are adjusting pensions on inflation and removing pensioners' rights to the education allowance minor amendments which do not affect current pensions? And is raising the age of pension entitlement a minor amendment for serving staff?

And what is to be made of the recommendations made by Peter Olson, the CCR's Legal Advisor and Syd Maddicott's Vice-Chairman, who pointed out in a note written for the three committees, [CCR/CRSG/CRP/WD(2018)2] that, "*any reform whatsoever will change the expectations of current contributors on the basis of the conditions of their contributions to date, and therefore risks being examined by a tribunal in terms of "acquired rights". He also stated that, "to date, the [Co-ordinated Organisations] have chosen to address at least some of the issues of the economic cost of pensions by introducing new systems which apply only to new officials [...] without modifying the old system in any way for its contributors. In doing so, they have primarily avoided a legal risk [...]."*

The OECD understood this and had it appended in the position of the five other Organisations<sup>1</sup> that:

*"The OECD representatives have constantly said that any change to this closed system would not only breach the deal made with our staff 17 years ago, but would be ineffective and inefficient. Given the specificities of the OECD, any modification to a system that has been closed for 17 years is very likely to be seen by staff as motivated by political reasons only, without any sound organisational, financial or budgetary grounds.*

*The OECD is proud to promote evidence-based policies that have real and measurable impact. Changing the adjustment method of the CPS by aligning it with inflation (Option 1) and removing the pensioners' right to the education allowance (Option 2) will only have a marginal financial impact (depending on the evolution of inflation). On the other hand, it will create social unrest, heavy administrative burden and legal risks that will represent, in the end, a much higher cost.*

*This is why the OECD is not in a position to support these two options proposed by other members of the CRSG and is opposed, more broadly, to reopening the CPS."*

In stating its position, the OECD clearly demonstrates that the planned review of the CPS is not driven by budgetary imperatives, but by politics and dogma.

Is the CCR aware, as it sells out our pension scheme, that by riding roughshod over Article 36 of the Pension Scheme Rules, it is challenging a cornerstone of our scheme?

In case you have forgotten, the article in question provides that, "*Whenever the salaries of staff serving in the Co-ordinated Organisations are adjusted -- whatever the basis for adjustment -- an identical proportional adjustment will, as of the same date, be applied to both current and deferred pensions, by reference to the grades and steps and salary scales taken into consideration in the calculation of these pensions"*.

Indeed, we have paid into a defined-benefit pension scheme, meaning that the contribution rate can be revised but not the payments.

By choosing to overlook Article 36, the CCR is substantially changing the terms of our contract. In addition, it sends out a worrying message to staff, "the commitments and pledges made by countries do not count for much".

If it persists in going down this road, the CCR will have to face the visible anger of our colleagues.

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<sup>1</sup> CCR/CRSG/CRP/WD(2019)5



I am sorry that my speech does not chime with the previous interventions. That is because we, the CRP, are dedicated to defending both the serving staff and the pensioners of our Organisations and, in doing so, to defending our Organisations, against constant and essentially baseless attacks.

I insist on this lack of justification and offer as proof the fact that the CCR has not calculated the impact of these proposals. Remove the right to the education allowance from the 83 pensioners who currently receive it? Talk about making savings! Dealing with the consequent appeals will cost the member countries far more.

Your CRP representatives will keep you informed of what happens next, and of the actions that we will inevitably pursue.

At the end of this speech, I shall hand over to CCR Chairman Syd Maddicott the letters sent to the Secretaries- and Directors-General of their Organisations from the Staff Associations of ECMWF, the Council of Europe, the ESA, EUMETSAT, NATO and the OECD, from AAPOCAD and from the International Association of Former Council of Europe Staff Members, EUMETSAT pensioners, and ARES for retired ESA staff. This will give the Chairman of the CCR a clear idea of the common and united front coalescing in opposition to this planned review of the CPS.

On an entirely different note, I would also like to draw your attention to the initiatives taken here and there by some pensioners to go before the courts with regard to such or such aspect of their situation. Throughout my speech, I have alluded to the unwavering bond between serving staff and pensioners, to a dimension of mutual support which unites us. Accordingly, any ill-advised initiative may have unfortunate repercussions on all members of staff. That is why I encourage you to contact the AAPOCAD Governing Board, which is better placed to offer advice and, where there is a threat to the general interest, to back appeals.

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Lastly, I would like to thank your Chairman, John Parsons, as well as Ivan Divoy who has been following the Co-ordination's work for so long that he is its memory and guarantor. I would also like to thank Michel Garrouste, who chairs the pension group in the CRP, your former Chairman Bernard Wacquez, who always offers sound advice, and Jean Le Ber, who chairs the group on the salary method.

Together, they do a wonderful job and their input is essential to the CRP. So, on behalf of the CRP, I would like to thank them for their investment. Thank you.

*Jean Pierre Cusse*

## **Mr Bernard Job**

### *Chairman of Pensions Administrative Committee of the Co-ordinated Organisations (PACCO)*

Mr Chairman, dear John, dear Colleagues,

Once again, I am very sorry not to be able to join you in person for the General Assembly and I also regret that it was not possible to arrange a video link. I am therefore putting my remarks as PACCO Chairman in writing.

PACCO, the Pensions Administrative Committee of the Co-ordinated Organisations, which I have been privileged to chair for... twelve years (!) was set up in 1974 in order to ensure that our pension rules were applied consistently.

PACCO reports to the Committee of Representatives of the Secretaries/Directors-General (CRSG) and meets four times a year or more, and will meet for the 198<sup>th</sup> time next month in The Hague at the premises of the European Patent Office, because it is not only representatives of the six Co-ordinated Organisations who can attend, but also those of observers — the Institute for Security Studies and the Satellite Centre, which both emerged from the former Western European Union, the Residual Administrative Tasks Unit (RATU), which manages the WEU's pensioners, and the European Patent Office, whose pensions are managed by the International Service for Remunerations and Pensions (ISRP).

PACCO's secretariat is managed with great efficiency by the ISRP, which means that we enjoy the benefit of its legal, administrative, tax and actuarial competencies.

Before entering into details, I should remind you that PACCO's responsibilities have become significantly more complex since the emergence of the new schemes from 2002. Up until that point the job had been relatively straightforward, with a single pension scheme for everybody—the Co-ordinated Pension Scheme.

Since 2002, we have seen the adoption of the New Pension Scheme (NPS) by the OECD (2002), the Council of Europe (2003), ESA and EUMETSAT (2010), of the Defined Benefit Funded Pension Scheme (DBFPS) by ECMWF in 2003, and the Third Pension Scheme (TPS) by the Council of Europe in 2013. The Council of Europe was the first and remains the only Organisation to have approved a second reform to date. All these new schemes are the off-shoots of the Co-ordinated Pension Scheme.

One major exception to this rule is the introduction of the Defined Contribution Pension Scheme (DCPS) at NATO in 2005. This scheme is completely different, since it is a defined *contribution* scheme and not a defined *benefit* scheme, and members therefore do not know how much pension they will eventually receive.

This, then, is the context to PACCO's work—the various pensions schemes, except for NATO's DCPS.

Although the vast majority of you know this already, I will very briefly outline PACCO's responsibilities.

- First, making any changes to the rules if a discrepancy or loophole is identified. After holding discussions with the CRP pensions group, obtaining the agreement of the CRSG and consulting the Committee of Staff Representatives (CRP), it will introduce changes to instructions in the rules or changes to the wording of the rules themselves. In the latter case, those changes will require the approval of the Co-ordinating Committee on Remuneration (CCR) (for the Co-ordinated Pension Scheme only) and the Council of each Organisation.

At the request of the CCR, PACCO has recently been working on changes to the wording of the articles on the education allowance, the indexing of pensions to inflation, and on a whole series of corrections and amendments, such as those accounting for the non-judicial divorces now available in France.

- Second, proposing a review of officials' contribution rates to the pension schemes. This work is supported by the ISRP's actuaries. As you know, the rules of the various pension schemes provide for a rate review every five years and we are finalising the next review on 1 January 2020. Substantive work by PACCO involves checking all the method's parameters and an in-depth analysis of the CRP's counterproposal. In the light of the significance of this review, PACCO has already decided to analyse all alternatives in order to prevent a continuous increase in the contribution rate in the next years.
- Last — and this is always a complex task led by the ISRP — establishing and finalising transfer agreements with other international organisations, national schemes and even between Co-ordinated Organisations, known as inner circle transfers. It is important to ensure that our colleagues can guarantee mobility, especially when mobility is often forced on officials by the contractual policies of several organisations where jobs for life are no longer standard.

I said that this was complex, because efforts to reach agreement, generally with member countries, often go unrewarded, since a number of those countries do not or no longer want such agreements. Member countries now prefer social security agreements under which the rights can

be fully transferred to national schemes. The aim is to prevent pensioners who have not accumulated the required number of years in their national scheme being penalised.

- Monitoring tax aspects, the application of tax adjustments and the simplification of annual forms. PACCO keeps a close eye on changes in the French system: whether the CSG (general social contribution) is applied to pensions paid in France, and taxation reforms including the introduction of deduction at source. Unfortunately and regrettably, on this last point, the lack of information from the French authorities, despite our many reminders, prevents our being able to give our pensioners reliable information.
- Approving changes to the ISRP's communication with you. You can see the results for yourselves, especially on the website.
- Breaking down and analysing our scheme's annual figures. At 31 December 2018, we had 8,216 pensioners (up 2.6% compared to the previous year), and annual outgoings of EUR 389 million (excluding new schemes) — up 3.6%. For obvious demographic reasons, these figures will continue to climb, so AAPOCAD can look forward to strong growth in the future!
- Last but not least, approving the statements of calculation for new pensions, including those of the new pension schemes.

While these recurrent tasks take up a lot of our time, they are not the only subjects that PACCO broaches at its meetings. It needs to keep up with, or stay ahead of, the changes that always lie before us. As you know, changes in pension schemes are always on the agenda. Rising longevity (the life expectancy of former European international civil servants is more than 25 years at the age of sixty), the failure of the member countries to pay any contributions for years, even decades, and the budgetary and political crises that our Organisations are going through give us plenty of reasons to monitor the funding of our pension schemes very closely, in order to secure their future.

This, of course, is the context to the CCR's resumption of work on a review of the Co-ordinated Pension Scheme; the CPS is the only scheme over which it has jurisdiction. In addition to the two points mentioned above (indexing pensions to inflation and the education allowance), the CCR will also consider raising the retirement age from 60 to 63, despite the fact that the Executive Directors have not made this suggestion to the CCR. PACCO examined this subject some time ago and passed all relevant information on to the CRSG.

PACCO also keeps up with the latest news and one way it does this is through the Pension Workshop (re-named Workshop for Remunerations, Allowances and Pensions—WRAP) which is organised jointly by the ISRP and the United Nations Pension Fund every 18 months. The 13<sup>th</sup> Workshop took place on 14 and 15 May in Brussels, at the premises of Eurocontrol, and was a decided success, attracting around a hundred participants from some forty International organisations.

My dear colleagues, let me assure you that PACCO will continue to look ahead, keeping informed, constructing arguments and maintaining a watch in order to protect our pension schemes as best we can, in the hope that our pensions can continue to be a highlight of our remuneration package as they have been for almost 45 years.

Before signing off, I would like to pay tribute, as I always do, to the ISRP for the excellent work that it carries out, providing PACCO's secretariat and managing both your pensions and those of other international organisations with the professionalism and courtesy now familiar to us. PACCO could not function without this support.

Thank you for your attention.

*Bernard Job*

**Mr Axel Reichl**

*Head of NATO Pensions Unit (NPU)*

Dear Mr. Chairman,

Distinguished speakers and AAPOCAD members,  
Ladies and Gentlemen,

Thank you for your kind invitation to today's General Assembly, and thank you for giving me the opportunity to introduce the services of the NATO Pensions Unit (NPU). I had the privilege to address the gathering of the AAPOCAD once already, several years ago, when you met at the E3A Component in Geilenkirchen.

Although I work at NATO headquarters and am therefore physically located in Brussels, I do have the pleasure of knowing all those of you who were previously employed by NATO, by virtue of my function as the Head of the NATO Pensions Unit.

Over time, the North Atlantic Treaty Organization put into place three different pension provisions: the Provident Fund, which was closed in 1974, the Co-ordinated Pension Scheme, which was closed in 2005, and the NATO Defined Contribution Pension Scheme (DCPS).

Following the departure of the last active Provident Fund member in 2018, today about 32% of the 5,800 active NATO staff are affiliated to the Co-ordinated Pension Scheme, and 68% to the NATO Defined Contribution Pension Scheme (DCPS).

The NATO Pensions Unit, or NPU, is a small team of six staff including myself. It is the first "NATO Shared Service" and has been operating NATO-wide since 2001, when NATO decided to centralise all pension-related operations in one single unit.

Originally, the human resources sections of the larger NATO bodies were administering the entitlements of their former staff on their own, and passed instructions for the pension payments to the pensions office located at NATO headquarters. With the increase of the number of beneficiaries, NATO bodies could not afford to duplicate resources anymore, and it was decided to create the NPU.

Over the last decade, the activities of the NATO Pensions Unit have gradually evolved from the traditional pension payroll service - also known as "Computation Unit II" in reference to our colleagues at the International Service on Remunerations and Pensions (ISRP) - to a multi-functional service responsible for the overall management of two entirely different pension schemes.

Today, the NPU is the focal point of contact for all pension and tax adjustment related issues for active and former staff, and replies to the queries of approximately

10,000 customers. In addition, the NPU has become a human resources shared service partner with an active role in advising the different NATO instances on pension related policies, as is the case in the conduct of the NATO DCPS review.

The volume of the core business of the NPU, i.e. the timely and accurate payment of pension benefits, has been increasing steadily due to the growing number of retirees under the Co-ordinated Pension Scheme, with an average annual increase of 3%, and first pension payments under the NATO Defined Contribution Pension Scheme (DCPS).

Currently, the NPU handles the payroll administration for 3,983 beneficiaries under the Co-ordinated Pension Scheme, and benefit payments totalled an amount of EUR 189 million for year 2018. We also pay the pension benefits to a few dozen beneficiaries under the DCPS. The NPU replies to the queries of all these former NATO colleagues and their remaining family members, establishes and oversees all family allowance related entitlements, co-ordinates on insurance related questions, and liaises with other NATO offices or external services, as required.

Parallel to the increase in the number of beneficiaries, we have also witnessed an increase in terms of complexity of pension related activities. The number of changes affecting the family situation or the residence are growing. The same goes for the number of queries regarding entitlements and benefits, and pay scale and tax adjustment related questions. Although we consider that our customers deserve to be treated with the utmost respect, we are bound to apply the rules, which are defined in the NATO Civilian Personnel Regulations. Cases of litigation, although still exceptional, occur principally because of a divergent interpretation of the pension rules, or as a consequence of non-payment of taxes or maintenance.

Some new challenges have emerged with the appearance of new information technology, which allows for rapid exchange and treatment of information and data. As a result, the notion of “customer service” itself has changed and defined new standards with regard to rapidity of exchange, quality of service and effectiveness of the processes in use.

A comparatively new objective is to better inform pensioners, and to engage proactive communication with beneficiaries. Ideally, the aim is to reply to potential questions before the question has been formulated, without drowning the recipient with unnecessary or undesired information.

In this context, the NPU issues quarterly newsletters on specific topics of interest and importance to our pensioners. Such subjects include what to do in case of

the death of a pensioner, the reversion pension, the choice of the pay scale option, background information on the tax adjustment mechanism, or communication of bank details. They have been summarised in the format of a one-pager, in English and French language, in order to be a quick and easily understandable source of information, also for family members.

The emergence of new standards of communication probably has its roots in NATO’s need to better assist active staff in taking informed decisions.

The NATO DCPS is one of the most complex Defined Contribution Pension Schemes which has so far been implemented in any international organisation. Under the DCPS, each affiliate is responsible for the investment of the pension contributions and consequently, bears all the investment risks. In exchange, NATO has the responsibility to provide affiliates with the level of pension related information and education that enables members to take informed decisions.

This particularity has obliged the NPU to refine its communication strategy and, even more importantly, has called for a more systematic and accurately documented transfer of knowledge between the Organisation, and the individual affiliates. Optimising the flow of pension related information represents a win-win situation in the sense that the efforts deployed will help DCPS affiliates to have greater awareness and assist them in taking informed decisions. At the same time the provision of documented support can help to protect NATO in case of litigation.

Pension related subjects enjoy growing interest shared by all stakeholders, but for a different variety of reasons. There have been structural changes in certain NATO bodies. We have also seen an increase in the rate of turnover of staff as a result of a broader use of short-term assignments across NATO. All this has resulted in a significant increase in the number of requests for pension related information and for individual retirement projections.

NATO member nations have also called for reforms, and these can have a direct or indirect impact on the pension benefits package. Such changes may introduce more flexibility but they also increase the level of uncertainty for staff. The need to accompany and assist affiliates to improve their understanding and awareness about pension benefits requires the NPU to be an active presence in the thick of human resource operations. The recruitment service often calls on the NPU to reply to pension specific questions from potential new recruits, and the topic of pensions is very much at the heart of human resource strategy initiatives.



The steady increase in the day-to-day core business of the NPU, the strategic work on the DCPS review, and the implementation of the initial changes coming out of the review, have been pushing the Unit to identify new ways to further increase its effectiveness within a context, it must be said, of limited resources. In this context, the Unit has been striving to streamline further its work processes, to replace manual interventions where possible with information technology based solutions, and to shift gradually from paper-based provision of information to electronic data transmission and digital data storage. A particular consideration, in that respect, is that progress in the field of electronic data transmission and storage also depends to a large extent on data security policies, which are obviously particularly rigorous in NATO.

Nevertheless, in 2016 the NPU managed to implement a change from paper-based distribution to electronic distribution of pension statements for those beneficiaries who agreed to receive their statements in this way. Today, 58% of the monthly pension statements are distributed in electronic format, which represents a reduction to the cost of postal fees equivalent to EUR 2,500 per month, and we hope that, with the co-operation of our customers, we can increase this percentage further.

Another of our initiatives was the production of a DCPS e-learning module to train new hires on the main features of the DCPS. The module, which has become a mandatory training requirement for new entrants, and is deployed NATO-wide, ensures that all new recruits receive the same level of DCPS related information, no matter in which geographical location they are hired. At the same time the module also serves as a valuable reference tool for existing staff.

The NPU strives to further improve the service it provides to its customers. In this context, the excellent relations with the various associations of NATO Retired Staff grouped under the umbrella of the Confederation of Retired Staff Associations, and the AAPOCAD, have been extremely helpful. The informed advice from former experts represents added value at no cost.

Currently and in co-ordination with the representatives of former NATO staff members, the NPU is looking into the possibility of organising a "Pensioner's Day". Planning for this is at an early stage but we are hopeful that we can bring it about. Our intention is to set up a mixture of testimonials and back in time memories, an exposition supported by the official NATO archives and a series of workshop sessions. We would very much like to realise this initiative in honour of our former colleagues, and as a valuable means of keeping in touch with pensioners.

In that respect we have also been investigating with our information technology colleagues in view to set up an NPU online information sharing and collaboration tool, to keep our pensioners informed and from which they could have access to pension-related documents.

So, all in all, I think it is fair to say that the NATO Pensions Unit has not been standing still. There are many challenges ahead and many interesting initiatives to work on which will be of benefit both to NATO and to the pensioner community.

Thank you for your attention. I will be pleased to answer any questions you may have.

*Axel Reichl*

## Mr Michele de Salvia

Former Registrar of the European Court of Human Rights

### The influence of the European Court of Human Rights on the protection of international civil servants

1. The scope of the subject that I have been asked to cover is too broad to unravel all the hidden secrets of the professional, and even personal, situation of so-called “international”<sup>1</sup> civil servants in a talk aimed at providing a brief introduction to the range of guarantees which the European Convention on Human Rights (ECHR) can offer to people working in international co-operation.

The title of this talk judiciously refers to the “influence” of the Strasbourg Court (hereinafter “Court”), through its casework, on the various aspects of the personal and professional life of the international civil servant.

Indeed, it is established case-law that, as a rule, disputes involving the international civil service as such, i.e. in so far as they do not relate to a situation covered by ordinary law in force in a specific State, fall outside the competence, in principle and subject to the provisions described later, of nation States (the State in which the headquarters of the Organisation are located and the other member States comprising the Organisation) and of the competence of the Court itself.

Although the outcome would appear to be the exclusion from the ordinary law that applies to all individuals of whole swathes of the personal and professional activities that are performed by international civil servants, this lack of jurisdiction is readily comprehensible.

It has been confirmed both by national court practice and by doctrine. Indeed, all the International Organisations, governed by public international law and composed of States, Organisations which we refer to as being intergovernmental, enjoy privileges and immunities. These privileges and immunities include immunity from jurisdiction and execution.

The origins of these privileges and immunities are to be found in both the Regulations of the different Organisations and the headquarters agreements signed with the host country on whose territory they operate.

Their purpose has been established as follows by the Court.

*“The attribution of privileges and immunities to International Organisations is an essential means of ensuring the proper functioning of such Organisations free from unilateral interference by individual governments.*

*The immunity from jurisdiction commonly accorded by States to International Organisations under the Organisations’ constituent instruments or supplementary agreements is a long-standing practice established in the interest of the good working of these Organisations. The importance of this practice is enhanced by a trend towards extending and strengthening international cooperation in all domains of modern society.” (Waite and Kennedy, para. 63).*

Therefore, according to the Court, there is a legitimate purpose for the rule of immunity from jurisdiction.

Does this mean, therefore, that the Court has absolutely no interest in international civil servants?

Certainly not, but it needs to take into consideration the specificities of potential disputes which may concern them and which are situated within the framework of an Organisation comprising States that are parties to the ECHR.

2. In addition, it needs to be borne in mind that international civil servants are also, and above all, citizens and, as such, have a right to the legal guarantees offered by the State in which they carry out their duties, providing that these guarantees concern aspects of life in society and are not directly related to the performance of the duties they have been assigned by the Organisation for which they are working.

Accordingly, civil servants are entitled, provided that the acts in question are attributable to a public body of a State which is a party to the ECHR, to all the rights and freedoms guaranteed by this text. By the same token, civil servants may exercise the right to make an application to the Court if they consider that one of the aforementioned rights or freedoms has been infringed to their detriment.

The Court’s practice clearly demonstrates that this is indeed the case.<sup>2</sup>

3. However, it is the “specificity” of the situation of the international civil servant with regard to aspects related to working relations within the Organisation which needs to be addressed in greater detail. After all, that is

<sup>1</sup> The notion of “international civil servant” can be defined in several ways. The ultimately equivalent notion of “agent” is used very often and even predominantly. To date, the authoritative definition seems to be the one that appears in the Advisory Opinion of the ICJ of 11 April 1949 according to which, “The Court understands the word “agent” in the most liberal sense, that is to say, any person who, whether a paid official or not, and whether permanently employed or not, has been charged by an organ of

the Organisation with carrying out, or helping to carry out, one of its functions-in short, any person through whom it acts.”

<sup>2</sup> See, for example, the “Hentrich” and “Sitiropoulos and Giakoumopoulos” judgments.

often where a mismatch occurs between the civil servant's appointment within a given Organisation and the protection of rights deriving therefrom.

Naturally, I will only refer to disputes involving the Co-ordinated Organisations, which are primarily European.

It is established case-law of the Court that an application made against an International Organisation on the basis of alleged infringements of the ECHR cannot be accepted because of the incompatibility *ratione personae* stemming from the fact that the Organisation in question is not a contracting party to the ECHR. It is therefore against a State or group of States (parties to both the ECHR and the Regulations of the Organisation concerned) that an application may possibly be made, provided that certain conditions of admissibility are met.

In this respect, the Court has identified some important principles in some cases, for which it had been required to establish whether the States parties to the ECHR could be held liable on account of acts or omissions resulting from these States' membership of an International Organisation.

The Court referred in particular to the principles laid down in its *Bosphorus Airways*<sup>3</sup> judgment, the salient points of which can be summed up as follows.

- The ECHR does not prohibit Contracting Parties from transferring sovereign power to an International Organisation in order to pursue co-operation in certain fields of activity.
- Moreover, even as the holder of such transferred sovereign power, that Organisation is not itself held responsible under the Convention for proceedings before, or decisions of, its bodies.
- On the other hand, it has also been accepted that a Contracting Party is responsible under Article 1 of the Convention for all acts and omissions of its bodies regardless of whether the act or omission in question was a consequence of domestic law or of the necessity to comply with international legal obligations.
- In reconciling both these positions and thereby establishing the extent to which a State's action can be justified by its compliance with obligations flowing from its membership of an International Organisation to which it has transferred part of its sovereignty, the Court has recognised that absolving Contracting States completely from their Convention responsibility in the areas covered by

such a transfer would be incompatible with the purpose and object of the Convention. The State is considered to retain Convention liability in respect of treaty commitments subsequent to the entry into force of the Convention.

- It follows from these principles that State action taken in compliance with such legal obligations is justified as long as the relevant Organisation is considered to protect fundamental rights, as regards both the substantive guarantees offered and the mechanisms controlling their observance, in a manner which can be considered at least equivalent to that afforded by the ECHR.
- By "equivalent" the Court means "comparable": any requirement that the Organisation's protection be "identical" could run counter to the interest of international co-operation pursued. However, any such finding of equivalence could not be final and would be susceptible to review in the light of any relevant change in fundamental rights' protection.
- If such equivalent protection is considered to be provided by the Organisation, the presumption will be that a State has not departed from the requirements of the Convention when it does no more than implement legal obligations flowing from its membership of the Organisation.
- However, any such presumption can be rebutted if, in the circumstances of a particular case, it is considered that the protection of ECHR rights was **manifestly deficient**. In such cases, the interest of international co-operation would be outweighed by the ECHR's role as a "constitutional instrument of European public order" in the field of human rights.

4. Nevertheless, "immunity from jurisdiction", meaning the impossibility of bringing before a national court a dispute falling within the sphere of the International Organisation and concerning the scope of the rights and obligations of civil servants in the performance of their duties, even when they have retired, may represent a seemingly insurmountable obstacle.

In this case, only a specific right to an "endogenous" protection within the Organisation in question is able to compensate for the lack of external legal protection, but the procedures related thereto still need to be effective if they are to be accepted by the Strasbourg Court, in view

<sup>3</sup> Judgment of 30 June 2005.

and within the limits of the principle of equivalent protection.

Based on the nature of the cases that the Court has dealt with in relation to disputes involving the European civil service, and the principles which can be inferred from the Court's case-law and which can help provide solutions for a dispute raising important points, such as those concerning the retirement of civil servants, a distinction must be drawn between **procedural issues** and **substantive issues**.

5. For the most part, the **procedural dimension** is related to the application to the dispute of the principle of immunity from jurisdiction for International Organisations, as well as the concomitant account taken of the right to a fair trial provided for in Article 6 of the ECHR, these two aspects being moreover linked.

As we have just noted, immunity from jurisdiction is a principle which limits the competency of national authorities to consider disputes falling within the sphere of the internal decisions of a given Organisation.

Nevertheless, this lack of competency does not appear to be absolute.

It is, so to speak, embedded by the Court in a framework within which the fundamental right to a fair trial seems to prevail over all other considerations.

In other words, immunity from jurisdiction is contingent on effective protection within the Organisation of the rights guaranteed by the ECHR. The Organisation in question is therefore required to put in place a judicial system capable of resolving disputes resulting from an act taken by the administration concerned.

These are the founding principles behind an innovative approach in this field, which derive from the Waite and Kennedy judgment.

This was a dispute involving temporary officials working on behalf of the ESA. Given that they had performed services at the ESOC in Darmstadt for a long period, under contracts with foreign companies, they argued in the German courts that they had acquired the status of permanent ESA employees, pursuant to specific legislation regulating the German labour market. The German courts declared their claims inadmissible, having regard to ESA's immunity from jurisdiction. Before the Court, the applicants claimed that their "right of access to a court" had been infringed.

The Court's arguments far exceed the scope of the Waite and Kennedy case. Here are the relevant parts.

*"The Court is of the opinion that where States establish International Organisations in order to pursue or strengthen their cooperation in certain fields of activities,*

*and where they attribute to these Organisations certain competences and accord them immunities, there may be implications as to the protection of fundamental rights. It would be incompatible with the purpose and object of the Convention, however, if the Contracting States were thereby absolved from their responsibility under the Convention in relation to the field of activity covered by such attribution. It should be recalled that the Convention is intended to guarantee not theoretical or illusory rights, but rights that are practical and effective. This is particularly true for the right of access to the courts in view of the prominent place held in a democratic society by the right to a fair trial". (para. 67).*

The Court based its final conclusion that there had been no violation of the ECHR on the following items:

- A material factor in determining whether granting ESA immunity from German jurisdiction is permissible under the Convention is whether the applicants had available to them reasonable alternative means to protect effectively their rights under the Convention.
- The ESA Convention, together with its Annex I, expressly provides for various modes of settlement of private-law disputes, in staff matters as well as in other litigation.
- Since the applicants argued an employment relationship with ESA, they could and should have had recourse to the ESA Appeals Board, which has jurisdiction "to hear disputes relating to any explicit or implicit decision taken by the Agency and arising between it and a staff member".
- As to the notion of "staff member", it would have been for the ESA Appeals Board, under Rule 33 § 6 of the ESA Staff Regulations, to settle the question of its jurisdiction and, in this connection, to rule whether in substance the applicants fell within the notion of "staff members".

Accordingly,

*"... bearing in mind the legitimate aim of immunities of International Organisations, the test of proportionality cannot be applied in such a way as to compel an International Organisation to submit itself to national litigation in relation to employment conditions prescribed under national labour law. To read Article 6 § 1 of the Convention and its guarantee of access to court as necessarily requiring the application of national legislation in such matters would, in the Court's view, thwart the proper functioning of International Organisations and run counter to the current trend towards extending and strengthening international cooperation" (para. 72).*



The conclusion to be drawn from these arguments is that an internal system within an International Organisation that does not provide for an effective jurisdictional approach for resolving disputes involving its staff, does not comply with the requirements of the ECHR.

The Court addressed another important issue raised in a labour law dispute concerning Eurocontrol. This issue had resulted in an unfavourable ruling for the interested party by the competent jurisdictional body in the matter, i.e. the ILOAT. The case brought before the Court actually concerned two members of Eurocontrol, namely France and Belgium.<sup>4</sup> The objections related to the inadequacy of the reasons given for the ILOAT's judgment (Article 6 of the ECHR) and the amount of compensation granted, on the grounds that the ILOAT's decision relative to his claim for compensation was a violation of his right to receive full compensation for the loss suffered, in violation of Article 1 of Protocol No. 1.

In this respect, the Court examined the objections in the light of the principles enshrined in the *Bosphorus Airways* judgment.

The Court noted that in reality the applicant's complaints were directed essentially against the judgment delivered by ILOAT in the context of an individual labour dispute with Eurocontrol.

The Court also stressed that the contested decision had been made by an international tribunal outside the jurisdiction of the respondent States, in the context of a labour dispute that lay entirely within the internal legal system of an International Organisation endowed with its own legal personality separate from that of its member States. It noted that at no time had France or Belgium intervened directly or indirectly in the dispute, and no action or omission by those States or their authorities could be considered to engage their responsibility under the Convention.

The Court dealt with another case in which the scope of the dispute broadened significantly, as it also concerned the legitimacy of the internal control system of an International Organisation, in this case NATO, in relation to the requirements of the ECHR.

This was the *Gasparini* case, which was actually brought against two States parties to the treaty which had created the Organisation, Belgium and Italy. The case concerned a civil dispute, in which the applicant contested the increase in the rate of staff contribution to the NATO pension scheme, a complaint which the NATO Appeals Board rejected.

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<sup>4</sup> This was the *Boivin* case, which was declared inadmissible by the Court on 9 September 2008.

In his application to the Court, Mr Gasparini alleged that the proceedings before the NATO Appeals Board had not met the requirements of a fair hearing. He specifically complained that the hearings had not been public and that the members of the Appeals Board had not been impartial, as they had been appointed by the North Atlantic Council, NATO's decision-making body, and any appeal to the Appeals Board, which was formally lodged against the head of the competent NATO body, would in reality and in essence concern an act based on the will of the Council.

In addition, the process for appointing the members of the Appeals Board would be difficult to reconcile with the notion of an independent and impartial tribunal.

In general the applicant claimed that Belgium, as NATO's host State, and Italy, the country of which he was a national, had failed to ensure the creation by the Organisation, at the outset, of an internal judicial system that complied with Convention requirements.

The Court started by pointing that the applicant had expressly alleged that NATO's internal dispute resolution mechanism did not protect fundamental rights in a manner which was equivalent to that of protection under the ECHR.

Fundamentally, the Court examined these issues from the perspective of its case-law on these aspects, while nonetheless observing that its scrutiny exercised in order to determine whether the proceedings before the NATO Appeals Board, a body of an International Organisation which had its own legal personality and was not a party to the Convention, were "manifestly deficient", would necessarily be less extensive than its scrutiny under Article 6 in respect of domestic proceedings in States that were parties to the ECHR.

According to the Court, it had in reality to ascertain whether the respondent States, at the time they joined NATO and transferred to it some of their sovereign powers, had been in a position, in good faith, to determine that NATO's internal dispute resolution mechanism did not flagrantly breach the provisions of the Convention.

The Court declared Gasparini's application inadmissible on the grounds that:

- The ECHR does not necessarily require the holding of a hearing in all proceedings.
- The provision whereby "The meetings of the Appeals Board are held in private" was considerably tempered by the article allowing parties to a dispute to "attend the hearings and make oral statements in support of the arguments put forward in

their submissions and to be aided or represented for this purpose either by a member of the civilian or military personnel of NATO or by counsel selected by them."

- As to the applicant's complaint about alleged bias on the part of the Appeals Board's members, the Court observed that the three members of the NATO Appeals Board, who were appointed for three years by the North Atlantic Council, had to be persons from outside the Organisation and of "recognised" competence. In addition, appellants were entitled to ask for a change in the composition of the Appeals Board on account of "presumed partiality".

In view of the foregoing, the Court found that the two respondent States had rightly considered, at the time they approved the NATO Civilian Personnel Regulations and its annexes, that the provisions governing the procedure before the Appeals Board guaranteed a fair hearing.<sup>5</sup>

6. In terms of the **substantive issues** likely to affect the interests and rights of international civil servants, a brief mention must be made, even if they are nevertheless important, of those issues which may concern them directly in the course of their professional activities within the Organisation with regard to working conditions, with the exception of "economic" rights, which will be dealt with separately.

Let me say straightaway that the Court's case-law in this area may be useful for backing claims and strengthening arguments in support of appeals brought before Organisations' judicial review bodies.

An illustration of this is the right to respect for private and family life (Article 8), which offers optimum guarantees in terms of both the personal actions of officials and the granting of allowances and benefits related to the idea of "family".

Concerning the first aspect, the monitoring of private Internet communications is of great importance as it is, in most cases, difficult to draw a distinction between professional contacts and primarily personal contacts.

To this end, the Court's judgment in the *Barbulescu* case establishes a specific legal framework all employers, even International Organisations.<sup>6</sup> Here are the main relevant factors.

- The employer must have been properly authorised to take measures to monitor correspondence and other communications, and the employee

must have been duly informed of the implementation of such measures.

- For the measures to be deemed compatible with the requirements of Article 8 of the Convention, the notification should normally be clear about the nature of the monitoring and be given in advance;
- As regards the extent of the monitoring by the employer and the degree of intrusion into the employee's privacy, a distinction should be made between monitoring of the flow of communications and monitoring of their content.
- The employer must have provided legitimate reasons to justify monitoring the communications and accessing their actual content. Since monitoring of the content of communications is by nature a distinctly more invasive method, it requires weightier justification.

Furthermore:

- Would it have been possible to establish a monitoring system based on less intrusive methods and measures than directly accessing the content of the employee's communications?
- What were the consequences of the monitoring for the employee subjected to it? What use did the employer make of the results of the monitoring operation, and in particular were the results used to achieve the declared aim of the measure?
- Was the employee afforded adequate safeguards, especially when the employer's monitoring operations were of an intrusive nature?

The Court concluded that the domestic authorities should ensure that an employee whose communications have been monitored has access to a remedy before a judicial body with jurisdiction to determine, at least in substance, how the criteria outlined above were observed and whether the impugned measures were lawful.

With regard to the second aspect concerning the notion of family, it should be made clear that by "family" we mean any relations between persons constituting a *de facto* family and not necessarily solely the family created through marriage. Consequently, family-related benefits and allowances must be granted to all officials, regardless of the nature of the family ties with their partners.

7. The protection of the economic rights of officials, especially with regard to their pensions, may be subject

<sup>5</sup> Decision on inadmissibility of 12 May 2009.

<sup>6</sup> Judgment of 5 September 2017.

to several considerations in terms of both their content and the conditions used for setting the amounts thereof.

The regulatory framework governing pensions applies both to benefit schemes based on the payment of contributions and to non-contributory social assistance schemes.

The Court's case-law sets out principles applicable to the notion of "possession" as referred to in Article 1 of Protocol 1.

This notion, as you know, must be interpreted independently and cannot, as such, refer to any other national law concept.

Accordingly, "possession" naturally means a right pertaining to a tangible or intangible asset, as well as the possibility to purchase an asset where this expectation relates to a "legitimate expectation".

The case-law provides a specific framework for social benefits, such as pensions.

The Stec case offers a clear illustration.

In this case, the Court examined whether a claim to a non-contributory social benefit was protected by the ECHR.

One of the principles established by the Court is that,

*"If ... a Contracting State has in force legislation providing for the payment as of right of a welfare benefit – whether conditional or not on the prior payment of contributions – that legislation must be regarded as generating a proprietary interest falling within the ambit of Article 1 of Protocol No. 1 for persons satisfying its requirements" (para. 54).*

Similarly, with regard to upgrading the levels of pensions, the Court confirmed that,

*"While Article 1 of Protocol No. 1 places no restriction on the Contracting State's freedom to decide whether or not to have in place any form of social security or pension scheme, where one of them has in force legislation providing for the payment as of right of a welfare benefit – whether conditional or not on the prior payment of contributions – that legislation must be regarded as generating a proprietary interest falling within the ambit of Article 1 of Protocol No. 1 for persons satisfying its requirements" (para. 64).*

However, the scope of the aforementioned principles needs to be qualified, due to the economic and financial problems which have affected and continue to affect

many European countries, and which have had repercussions on levels of remuneration and other benefits paid by the State.

A good example is the case of Aielli and Arboit versus Italy.<sup>7</sup> The applicants alleged that the legislative provisions adopted by the State had amounted to interference that was immediate and unwarranted with regard to the years 2012 and 2013, and permanent in terms of the block placed on successive reappraisals, which was not in the general interest and was disproportionate.

The Court noted that the principles generally applicable in cases related to Article 1 of Protocol No. 1 remained relevant in cases pertaining to pensions, and the suspension or reduction of a pension can raise an issue under Article 1 of Protocol No. 1, in that it could constitute an infringement of property rights which would have to be substantiated.

The Court's argument, based on ample case-law on the issue, covered the three issues referred to in the text of the convention, i.e.: the legal basis; the legitimate purpose of the disputed measures; and the proportionality of the said measures.

Concerning the "public utility" of the disputed measures, the Court observed that the decision to legislate on social benefits generally involved a review of political, economic, and social issues, and accepted that the States parties were allowed wide discretion in implementing these policies. For the Court, this was particularly relevant when adopting policies for controlling public expenditure and laws introducing austerity measures imposed by a serious economic crisis.

The key points in the Court's reasoning referred to the "public utility" of the measures, as well as their proportionality.

Regarding the first point, the Court stated that,

*"The notion of public utility is by nature broad. Within the framework of measures adopted for the implementation of social and economic policies, the legislator has considerable latitude. In view of the above, the Court sees no reason to depart from the considerations of the Government and the Constitutional Court, nor to doubt that by deciding to reform the pension equalisation mechanism, the Italian legislature was pursuing a cause of public utility." (para. 31).*

As to proportionality, the Court's starting point was that the legislation did not affect the nominal amount of the pension but generally reduced the mechanism for matching the value of the pension to the cost of living.

<sup>7</sup> Decision on inadmissibility dated 10 July 2018.

In addition, the Court did not share the applicants' view that their pension rights, once acquired, could never be amended for subsequent years because, under the ECHR, the legislative power of States extends to the reduction or modification of the amount of benefits granted under a social security scheme.

Ultimately, the Court considered that

*"The effects of the reform of the equalisation mechanism on the applicants' pensions were not so severe that they risked causing the applicants difficulties in meeting living costs to an extent that would be incompatible with Article 1 of Protocol No. 1. In view of the above and the difficult economic conditions in which it occurred, the disputed interference could not therefore be regarded as imposing an excessive burden on the applicants" (par 41).*

8. What conclusions can be drawn from this brief - and fairly rapid - overview of the Court's case-law with regard to international civil servants? The impressions that can be drawn from the Court's case-law principles may seem somewhat mixed. However, these principles are not without relevance, if they are used properly.

On the one hand, with regard to the procedural issues of the civil servant's situation within the framework of his Organisation, it is clear that these principles can have a genuine impact.

The notions of "right of access to a court" and "fair trial" are generally firmly rooted in the practices of Organisations and the case-law of internal control bodies, as they are naturally attentive to Strasbourg. All of these bodies are familiar with the Court's case-law on "equivalent protection" which hangs over them like a sort of sword of Damocles; clearly they are aware of the fact that in the event of a significant deviation from the principles of the ECHR, an appeal may be lodged against one or all of the member States of the Organisation. All this clearly derives from the conditions laid down by the Court with regard to the transfer of sovereignty to the Organisation in question.

In short, the useful effect of the Court's case-law is that it makes it possible to counter shortcomings in the functioning of the internal control system.

As regards the substantive issues and in particular those of an economic nature as is the case with those regarding pensions, it is important to establish a distinction between two situations, namely: those that concern damage suffered as a result of the illegality of the measures affecting pensions, and those concerning the validity of these measures in the light of the economic context.

Regarding the first point, any measure affecting the level of pensions must meet the imperative condition of "legality", i.e. its conformity with the legal rule established by the Organisation and must be predictable and clearly expressed. What is at stake here is respect of the condition of legality as specified in the Court's case-law concerning any infringements concerning "possessions", as well as compliance with well-known rules related to "legal certainty", "legitimate expectations", and "good faith".

Indeed, if this were not the case, it could be argued that in a given case the protection of the rights guaranteed by the ECHR was "manifestly deficient" in the sense of the *Bosphorus Airways* judgment.

As for the second point, the situation is inevitably more delicate.

The Court's case law to date has been very tolerant of austerity measures imposed in the context of a serious economic crisis.

For example, it held that in a given economic and financial situation, the mechanism of pension equalisation may pursue a cause of public utility.

In particular, the Court considered whether these measures might have placed an excessive or exorbitant burden on the persons concerned.

The way forward might therefore be to challenge the assessment made by the competent authorities regarding the determination of the scales, from the point of view of their relevancy, and/or to claim that one has been treated differently as compared with other international civil servants in comparable situations.

In either case, however, the options are quite limited.

*Michèle de Salvia*







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## AAPOCAD Financial Situation 2018 and Budget 2019 – 2020

The 2018 Financial Report takes account of the new presentation of income and expenditure for 2018 in the accounting statements. Now that the accounting principles have been complied with, it is possible to determine and compare the results for each financial year.

I would like to remind you that the accounts for 2017 were approved at the General Assembly held in Paris on 15 June 2018.

The following tables are submitted for approval by the General Assembly, and to discharge the financial management for 2018:

- The statement of financial position of AAPOCAD at 31 December 2018
- The 2018 Income Statement.
- The table of Income and Expenditure 2017 – 2018 and the draft budget for 2019 and 2020, including the comments below.

### Situation at 31 December 2018

#### Financial statement at 31/12/2018 and 2018 Income Statement

##### Income

Taking account of the information given above, the comparison of income (subscriptions) received in 2017, amounting to EUR 162 497.37, to income received in 2018, amounting to EUR 160 685.84, reveals a decrease of EUR 1 811.53 (1.12%)

##### Expenditure

The main items of expenditure with amounts which were higher or lower than the Revised Budget are:

- Reduced expenses of the 2017 General Assembly. The forecast budget was EUR 4 000 and the outturn minus the participants' contribution was EUR 2 266.74, resulting in savings of EUR 1 733.26.
- Creation of a new entry "Missions for everyday management". This account contains all expenses related to the position of the Chairman, including missions to Paris (travel and accommodation), in the performance of his duties and for visits to the different bodies falling within the scope of AAPOCAD. It should be noted that the Chairman of AAPOCAD lives in Strasbourg and that many meetings are held in Paris. In view of this, the figure for 2018 amounted to EUR 2 561.21
- IT costs, with a forecast budget of EUR 4 000. In reality, expenditure for 2018 rose by EUR 5 746.16. AAPOCAD's ACCESS database, hosted by the OECD, had become obsolete and it had become necessary to contact a software company to make significant changes to it. As a result of these changes, it is now possible to process the sending of e-mails much more quickly, for example, as well as to carry out searches within the database and generate statistics on members of our association, etc. This expenditure was authorised, after cost assessment, on the basis that savings generated in other items would ensure that the forecast outcome of the budget voted for 2018 would be respected.

All other items are comparable to previous years.



AAPOCAD's assets amount to EUR 373 593.30 for 2018 compared to EUR 352 722.51 for 2017, an increase of 5.91%.

**Revised budget 2019 and draft budget for 2020**

The Revised Budget for **2019** takes into account the actual income and expenditure for 2018, including the additional expenditure for holding the General Assembly in Koblenz.

The initial 2020 budget was drawn up in the light of current knowledge, including IT costs and the cost of holding a General Assembly in Paris in 2020.

Certified exact,

*Michèle Lobin*  
Treasurer

\* \* \* \* \*

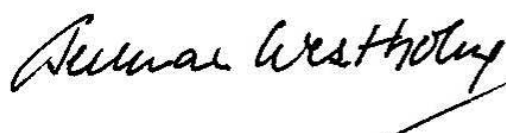
**AUDITOR'S REPORT FOR THE ACTIVITY YEAR 2018 OF THE  
ASSOCIATION OF PENSIONED STAFF OF THE CO-ORDINATED ORGANISATIONS  
AND OF THEIR DEPENDANTS – AAPOCAD**

I certify that I have audited the accounts and the financial state of your Association for the year ended 31 December 2018. The details of these accounts (income, expenditure, balance and financial assets and liabilities) are presented and commented upon in the Treasurer's report "*FINANCIAL SITUATION 2018 AND BUDGETS 2019 AND 2020*" and its *Tables*.

The balance for 2018 shows a surplus of 20 870.79 Euros (40 926.93 Euros on 31.12. 2017).

The global asset value at 31.12.2018 stood at 373 593.30 Euros (352 722.51 Euros on 31.12.2017) and the financial assets at 377 745.19 Euros. These credit amounts are as registered at 31.12.2018 in AAPOCAD's current and investment accounts at the OECD office of the Société Générale.

As a result of my audit, I consider that the accounting statements, the supporting material and the Treasurer's report provide a true and fair view of the strict business conduct and the financial situation of AAPOCAD and that discharge may therefore be granted to the Treasurer and to the Governing Board of your Association for the year concerned.



Gunnar Westholm  
Paris, 03 May 2019

AAPOCAD  
2 RUE PASCAL  
75016 - PARIS

2018 STATEMENT OF FINANCIAL POSITION

ASSETS		LIABILITIES	
<b><u>FIXED ASSETS</u></b>	€0.00	<b><u>CARRYFORWARD</u></b>	€352,722.51
<b><u>ADVANCES</u></b>		<b><u>ACCOUNTS PAYABLE</u></b>	€22,334.14
Preparation for G.A. in Koblenz (E.Linder)	€605.00	OECD INVOICE - SALARIES 4TH QUARTER 2018	€18,426.90
		OECD INVOICE - SERVICES RENDERED 4TH QUARTER 2018	€3,907.24
<b><u>ACCOUNTS RECEIVABLE</u></b>	€17,577.25	<b><u>RESULT</u></b>	
NATO - DECEMBER 2018	€4,944.88	SURPLUS 2018	€20,870.79
ESA - DECEMBER 2018	€2,691.19		
COUNCIL OF EUROPE 4TH QUARTER 2018	€5,453.83		
ECMWF 2018	€3,069.38		
WEU DECEMBER 2018	€323.16		
INTEREST 2018	€1,094.81		
<b><u>LIQUIDITIES</u></b>	€377,745.19		
SOCIETE GENERALE - CURRENT ACCOUNT	€50,130.80		
SOCIETE GENERALE - SAVINGS ACCOUNT	€327,587.67		
CASH	€26.72		
TOTAL	<b><u>€395,927.44</u></b>	TOTAL	<b><u>€395,927.44</u></b>

**AAPOCAD  
2 RUE PASCAL  
75016 - PARIS**

**INCOME STATEMENT - 2018**

EXPENDITURE		INCOME	
	2018		2018
Cost of travel and accommodation		Subscriptions for 2018 sent by the organisations	€ 160,213.66
Coordination mission	€ 7,410.11	Individual subscriptions for 2018	€ 472.18
Mission for everyday management	€ 2,561.21	Interest	€ 1,094.81
Governing Board	€ 21,705.85		
Regional Delegates	€ 2,734.93		
Secretariat (salary)	€ 73,492.00	General Assembly - May 2018	
General Assembly - May 2018		Participants' contributions	€ 8,890.18
Reception	€ 9,012.67		
Travel and miscellaneous (coach, tips, speakers)	€ 2,144.25		
Contribution to CRP operation (incl. report 2017 and 2018)	€ 2,181.01		
Administrative costs			
Printing and postage of documents	€ 16,362.37		
Office supplies - telephone - bank fees	€ 763.54		
Reception - miscellaneous	€ 188.99		
Insurance of AAPOCAD association	€ 1,496.95		
IT costs			
Modification of database	€ 6,840.00		
IT site maintenance - Symediane	€ 2,304.00		
OECD IT service invoicing	€ 602.16		
2018 RESULT - SURPLUS	€ 20,870.79		
<b>TOTAL</b>	<b>€ 170,670.83</b>	<b>TOTAL</b>	<b>€ 170,670.83</b>

**AAPOCAD**

**INCOME AND EXPENDITURE 2017 - 2018 AND DRAFT BUDGET 2019 - 2020**

	2017		2018		2019	2020
	Revised Budget	Outturn	Revised Budget (a)	Outturn	Revised Budget (aa)	Initial Budget - PROPOSAL
<b>INCOME</b>						
2016 subscriptions received in 2017		15,567.70				
2017 subscriptions received in 2017	152,000.00	141,098.40				
2017 subscriptions outstanding at 31/12/2017		21,398.97				
Total subscriptions for 2018			160,000.00	160,685.84	162,000.00	162,000.00
Interest	1,800.00	1,252.79	1,200.00	1,094.81	1,200.00	1,000.00
Adjustment of previous year	0.00	0.00	0.00	0.00	0.00	0.00
	153,800.00	179,317.86	161,200.00	161,780.65	163,200.00	163,000.00
<b>EXPENDITURE</b>						
General Assembly: a) reception	2,000.00	8,202.47	2,000.00	9,012.67	8,000.00	8,000.00
b) other (room rental, interpretation)	7,000.00	7,173.30	2,000.00	2,144.25	7,000.00	3,000.00
- Participants' contribution to the GA		-7,163.00	0.00	-8,890.18	-6,000.00	-6,000.00
	9,000.00	8,212.77	4,000.00	2,266.74	9,000.00	5,000.00
Travel - Coordination Missions	8,500.00	8,191.92	8,500.00	7,410.11	8,500.00	8,500.00
- Missions for everyday management		0.00	0.00	2,561.21	2,500.00	2,800.00
- Governing Board and Regional Delegates*	25,000.00	22,210.37	24,000.00	21,705.85	24,000.00	24,000.00
		4,796.42	5,000.00	2,734.93	5,000.00	3,000.00
<b>TOTAL</b>	33,500.00	35,198.71	37,500.00	34,412.10	40,000.00	38,300.00
Experts/consultants/CRP/Conf.Pens.Ass.	7,500.00	5,401.12	7,500.00	2,181.01	5,500.00	5,500.00
Miscellaneous	500.00	371.23	500.00	188.99	500.00	500.00
Representation	500.00	447.65	500.00	0.00	500.00	0.00
Secretariat (salary)	75,000.00	73,358.68	75,000.00	73,492.00	75,000.00	76,000.00
Office supplies, telephone and bank fees	1,000.00	909.29	1,300.00	763.54	1,300.00	1,300.00
IT costs	2,000.00	3,445.03	4,000.00	9,746.16	4,000.00	5,000.00
Printing	4,000.00	2,303.03	3,000.00	3,958.41	3,000.00	4,500.00
Packaging and postage	12,500.00	11,073.42	13,500.00	12,403.96	13,500.00	13,500.00
Insurance of AAPOCAD association	0.00	0.00	0.00	1,496.95	1,550.00	1,600.00
Assistance and participation in appeals	4,500.00	0.00	4,500.00	0.00	4,500.00	4,500.00
- Participants' contribution to the Conf.Pens.Ass.	0.00	-2,330.00	0.00	0.00	0.00	0.00
<b>TOTAL EXPENDITURE</b>	107,500.00	94,979.45	109,800.00	104,231.02	109,350.00	112,400.00
	150,000.00	138,390.93	151,300.00	140,909.86	158,350.00	155,700.00
<b>BALANCE (surplus)</b>	3,800.00	40,926.93	9,900.00	20,870.79	4,850.00	7,300.00

(a) Revised at the Governing Board meeting in October 2018

(aa) Revised at the G.A. in May 2019

\*includes the travel expenses of Regional Delegates attending meetings of the Governing Board



**COMPARISON OF INCOME STATEMENTS 2017 - 2018**

EXPENDITURE			INCOME	
	2017	2018	2017	2018
Cost of travel and accommodation				
Coordination mission	€ 8,191.92	€ 7,410.11	Subscriptions for 2018 sent by the organisations	€ 160,213.66
Mission for everyday management	€ 0.00	€ 2,561.21	Individual subscriptions for 2018	€ 472.18
Governing Board	€ 22,210.37	€ 21,705.85	Interest	€ 1,252.79
Regional Delegates	€ 4,796.42	€ 2,734.93		€ 1,094.81
Secretariat (salary)	€ 73,358.68	€ 73,492.00		
General Assembly - May 17 and May 2018			General Assembly - May 2017 and May 2018	
Reception	€ 8,202.47	€ 9,012.67	Participants' contributions	€ 7,163.00
Travel and miscellaneous (coach, tips, speakers)	€ 7,173.30	€ 2,144.25		€ 8,890.18
Conference of International Pensioners Associations			Conference of International Pensioners Associations	
Total cost of event	€ 4,632.90	€ 0.00	Participants' contributions	€ 2,330.00
Contribution to CRP operation (incl. report) 2017 and 2018	€ 768.22	€ 2,181.01	2016 subscriptions received in 2017	€ 15,567.70
Administrative costs			2017 subscriptions received in 2017	€ 141,098.40
Printing and postage of documents	€ 13,376.45	€ 16,362.37	2017 subscriptions outstanding at 31/12/2017	€ 21,398.97
Office supplies - telephone - bank fees	€ 909.29	€ 763.54		
Reception - miscellaneous	€ 818.88	€ 188.99		
Insurance of AAPOCAD association	€ 0.00	€ 1,496.95		
IT costs				
Acquisition of accounting software	€ 330.00	€ 0.00		
Modification of database	€ 0.00	€ 6,840.00		
IT site maintenance - Symediane	€ 2,604.00	€ 2,304.00		
OECD IT service invoicing	€ 511.03	€ 602.16		
2017 RESULT - SURPLUS	€ 40,926.93	€ 20,870.79		
<b>TOTAL</b>	<b>€ 188,810.86</b>	<b>€ 170,670.83</b>	<b>TOTAL</b>	<b>€ 188,810.86</b>
				<b>€ 170,670.83</b>

Certified exact,

*Michèle Lobin*  
Treasurer



## Photos of the 2019 AAPOCAD General Assembly in Koblenz



*Photos Courtesy of Malcolm Gain*