

Basic information	
<p><b>2000/0260(COD)</b></p> <p>COD - Ordinary legislative procedure (ex-codecision procedure) Directive</p>	Procedure completed
<p>Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions</p> <p>Repealed by <a href="#">2014/0091(COD)</a> Amended by <a href="#">2009/0064(COD)</a> Amended by <a href="#">2009/0161(COD)</a> Amended by <a href="#">2011/0360(COD)</a></p> <p><b>Subject</b></p> <p>2.50.05 Insurance, pension funds 4.10.11 Retirement, pensions</p>	

Key players					
European Parliament	<b>Committee responsible</b>		<b>Rapporteur</b>	<b>Appointed</b>	
	<b>ECON</b> Economic and Monetary Affairs		KARAS Othmar (PPE-DE)	06/11/2000	
	<b>Former committee responsible</b>		<b>Former rapporteur</b>	<b>Appointed</b>	
	<b>ECON</b> Economic and Monetary Affairs		KARAS Othmar (PPE-DE)	06/11/2000	
	<b>Former committee for opinion</b>		<b>Former rapporteur for opinion</b>	<b>Appointed</b>	
	<b>JURI</b> Legal Affairs and Internal Market		The committee decided not to give an opinion.		
	<b>EMPL</b> Employment and Social Affairs		PRONK Bartho (PPE-DE)	13/12/2000	
	<b>FEMM</b> Women's Rights and Equal Opportunities		LULLING Astrid (PPE-DE)	23/01/2001	
	Council of the European Union	<b>Council configuration</b>		<b>Meetings</b>	<b>Date</b>
		Economic and Financial Affairs ECOFIN		2345	2001-05-07
Economic and Financial Affairs ECOFIN		2432	2002-06-04		
Economic and Financial Affairs ECOFIN		2375	2001-10-16		
Economic and Financial Affairs ECOFIN		2506	2003-05-13		
Economic and Financial Affairs ECOFIN		2442	2002-06-20		

	Economic and Financial Affairs ECOFIN	2460	2002-11-05
European Commission	Commission DG		Commissioner
	Financial Stability, Financial Services and Capital Markets Union		

Key events			
Date	Event	Reference	Summary
11/10/2000	Legislative proposal published	COM(2000)0507 	Summary
11/12/2000	Committee referral announced in Parliament, 1st reading		
07/05/2001	Resolution/conclusions adopted by Council		Summary
19/06/2001	Vote in committee, 1st reading		Summary
19/06/2001	Committee report tabled for plenary, 1st reading	A5-0220/2001	
03/07/2001	Debate in Parliament		
04/07/2001	Decision by Parliament, 1st reading	T5-0380/2001	Summary
16/10/2001	Debate in Council		
05/11/2002	Council position published	11212/4/2002	Summary
20/11/2002	Committee referral announced in Parliament, 2nd reading		
19/02/2003	Vote in committee, 2nd reading		Summary
19/02/2003	Committee recommendation tabled for plenary, 2nd reading	A5-0042/2003	
11/03/2003	Debate in Parliament		
12/03/2003	Decision by Parliament, 2nd reading	T5-0086/2003	Summary
13/05/2003	Act approved by Council, 2nd reading		
03/06/2003	Final act signed		
03/06/2003	End of procedure in Parliament		
23/09/2003	Final act published in Official Journal		

Technical information	
Procedure reference	2000/0260(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Amendments and repeals	Repealed by <a href="#">2014/0091(COD)</a> Amended by <a href="#">2009/0064(COD)</a> Amended by <a href="#">2009/0161(COD)</a> Amended by <a href="#">2011/0360(COD)</a>

<b>Legal basis</b>	EC Treaty (after Amsterdam) EC 055 EC Treaty (after Amsterdam) EC 047-p2 EC Treaty (after Amsterdam) EC 095
<b>Stage reached in procedure</b>	Procedure completed
<b>Committee dossier</b>	ECON/5/14950

<a href="#">Documentation gateway</a>				
<b>European Parliament</b>				
Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A5-0220/2001</a>	19/06/2001	
Text adopted by Parliament, 1st reading/single reading		<a href="#">T5-0380/2001</a> OJ C 065 14.03.2002, p. 0058-0135 E	04/07/2001	<a href="#">Summary</a>
Committee recommendation tabled for plenary, 2nd reading		<a href="#">A5-0042/2003</a>	19/02/2003	
Text adopted by Parliament, 2nd reading		<a href="#">T5-0086/2003</a> OJ C 061 10.03.2004, p. 0151-0268 E	12/03/2003	<a href="#">Summary</a>
<b>Council of the EU</b>				
Document type		Reference	Date	Summary
Council position		<a href="#">11212/4/2002</a> OJ C 299 03.12.2002, p. 0016 E	05/11/2002	<a href="#">Summary</a>
Council statement on its position		<a href="#">12868/2002</a>	05/11/2002	
<b>European Commission</b>				
Document type		Reference	Date	Summary
Legislative proposal		<a href="#">COM(2000)0507</a>  OJ C 096 17.03.2001, p. 0136 E	11/10/2000	<a href="#">Summary</a>
Commission communication on Council's position		<a href="#">SEC(2002)1215</a> 	14/11/2002	<a href="#">Summary</a>
Commission opinion on Parliament's position at 2nd reading		<a href="#">COM(2003)0254</a> 	07/05/2003	<a href="#">Summary</a>
Follow-up document		<a href="#">COM(2009)0203</a> 	30/04/2009	<a href="#">Summary</a>
<b>Other institutions and bodies</b>				
Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	<a href="#">CES0403/2001</a> OJ C 155 29.05.2001, p. 0026	28/03/2001	

Additional information		
Source	Document	Date
European Commission	EUR-Lex	

Final act	
<a href="#">Directive 2003/0041</a> <a href="#">OJ L 235 23.09.2003, p. 0010-0021</a>	<a href="#">Summary</a>

## Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions

2000/0260(COD) - 05/11/2002 - Council position

In principle, the Council can subscribe to the objectives of the Commission proposal. However, the Council differs from the proposal in its view of their relative importance as well as the means to achieve them, and is of the opinion that some of the objectives are immediate, others for the longer term. It has been of paramount importance to the Council that Member States should retain full responsibility for the organisation of their pension systems as well as for the decision on the role of each of the three "pillars" of the retirement system. These views have led the Council to modify the Commission proposal on a number of points as outlined in the following section, in many cases drawing directly or indirectly on the amendments of the European Parliament. The common position furthermore takes account of nearly all the amendments proposed by Parliament and accepted by the Commission. These have been incorporated, in some cases after being reworded in the interests of internal consistency of the text. Three of Parliament's amendments that were accepted by the Commission have not, however, been taken on board, chiefly on account of reorganisation of the text and for the sake of internal consistency. The common position develops and clarifies the main provisions of the Commission proposal concerning in particular:

- the title of the common position : The title has been adjusted in order to bring out more clearly the fact that the Directive not only relates to the activities of IORPs but is also intended to enable their activities to be supervised;
- scope : this provision ensures that the Directive applies where IORPs do not have legal personality and are run by management entities, as is the case in some Member States;
- optional application to life assurance companies : this provision spells out the conditions in which Member States can decide to apply certain provisions of the Directive to life assurance companies. The Council common position states that, in that case, the assets and liabilities corresponding to the occupational retirement provision business must be ring-fenced. It also stresses that the competent authorities of the home Member State are responsible for verifying the strict separation of the relevant occupational retirement provision business;
- conditions for operation : the wording introduced in the common position affirms the home-country principle, whereby Member States are entitled to monitor the conditions of operation of institutions established in their territory;
- information to be given to members and beneficiaries of the scheme : the common position stresses that it is for the home Member State to lay down the rules on information to be given to members and beneficiaries while fully respecting the *acquis communautaire*. It has also been amended to stipulate that the list of information to be provided is a minimum and that Member States are free to lay down more detailed rules on information to be supplied by IORPs located in their territory;
- funding of technical provisions : this provision lists the conditions in which a Member State may allow an institution to depart from the rule that it must always have sufficient assets to cover technical provisions. The Council was anxious to make it clear in the common position that transfer procedures relate not only to assets but also to the corresponding liabilities;
- investment rules : the Council common position has clarified the wording of this paragraph by referring to the prudent person rule, a well-known concept, and stipulating that the rules of behaviour listed thereafter are the essential aspects of that concept. The rule on self-investment (i.e. investment in the sponsoring undertaking) has been confirmed and supplemented with a ceiling of 10% in cases where the sponsoring undertaking belongs to a group;
- management and custody : the Council common position has broadened the freedom to provide asset management services to include services offered by managers authorised in accordance with the new UCITS Directive (2001/107/EC) and the management entities. A new paragraph introduced by the common position requires Member States to have arrangements in place under their national law enabling them to freeze assets held by a depository or custodian, at the request of the authority of the IORP's home Member State;
- cross-border activities : the text has been clarified. The Council was also anxious to make it clear in the common position that any cross-border activity must be developed in full compliance with the provisions of national social and labour legislation on the organisation of Member States' pension systems, including compulsory membership. This is fully in line with the objectives of the Directive, which is not intended to interfere with national pension schemes. Furthermore, a new article has been by the common position which establishes the principle of effective cooperation between Member States and the Commission as essential to the satisfactory application of the Directive. The Council has agreed to enter into its minutes the statements set out below:

- statement made by Belgium : Belgium states that it cannot endorse the text of the proposal for a Directive as contained in the compromise which the Presidency has submitted to the Council. It considers that, owing to the shortcomings in quantitative rules, the security of operations in the context of cross-border membership cannot be guaranteed, and as a consequence Belgium cannot subscribe to the principle of mutual recognition that this involves. It would reiterate that the economic and social cost in the event of such a failing and the related political risk would be borne, directly or indirectly, by the Member State in which the commitment is made, and not by the State where the retirement institution is located. Moreover, Belgium regrets that it has not been possible to extend the scope of the Directive to include institutions for occupational retirement provision which operate pay-as-you-go or book-reserve schemes, as this contributes towards maintaining systems which offer less security.
- statement made by the Netherlands : in accordance with the principle of subsidiarity, Member States should retain full responsibility for the organisation of pension systems, as well as for the decision on the role of each of the three pillars in individual Member States.

Each Member State may make the conditions of operation of an institution located in its territory subject to additional requirements, in order to realise a level playing field. This Directive is not intended to call this prerogative into question.

## Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions

2000/0260(COD) - 20/06/2002

The Council confirmed the political agreement reached at the ECOFIN session on 4 June 2002 on the so-called "Occupational Pension Funds directive" and took note of a statement presented by the Belgium delegation.

## Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions

2000/0260(COD) - 30/04/2009 - Follow-up document

The Commission presents its report on some key aspects concerning Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision (IORP Directive).

The IORP Directive had to be implemented by Member States by 23 September 2005.

As of 2007 all Member States had notified their implementation measures, although two infringement procedures for incorrect implementation are still open.

At the request of the Commission, the Occupational Pensions Committee (OPC) of CEIOPS engaged in an extensive fact-finding exercise concerning the actual implementation of the IORP Directive by Member States. CEIOPS submitted the OPC Report to the Commission on 2 April 2008.

With a view to fulfilling the Commission's reporting requirements set out in the IORP Directive, this report sets out the Commission's position on the following key aspects: technical provisions, investment rules, adaptation of national supervisory systems and custodianship. The report is limited to the fulfilment of the Commission's reporting requirement on the four aspects set out in the IORP Directive itself.

**Technical provisions:** the examination of the calculation of technical provisions underlines that IORPs in the different Member States use different methods and assumptions to determine their technical provisions. This results in significant variations in the size of technical provisions across countries for comparable defined benefit commitments. The Commission is considering whether or not to come forward with a proposal to further harmonise the rules for the calculation of technical provisions in the context of cross-border activities.

**Investment rules:** the examination identified a number of issues. These include a lack of common understanding of the scope of the single issuer rule, which aims at preventing excessive reliance on a particular asset, issuer or group; and a lack of common understanding of the term 'risk capital markets', which prohibits Member States from preventing IORPs located in their territory from investing in such markets. The findings of the OPC suggest that despite some differences in the application of investment rules, these do not seem to hinder the convergence process towards an internal market and cross-border activities of IORPs. The Commission supports this conclusion, and encourages CEIOPS to continue its analysis in relation to risk capital markets and the single issuer rule.

**Adaptation of national supervisory systems:** the Commission supports the ongoing work of supervisors not only under, but also on the Budapest Protocol, which is currently being reviewed by the OPC with a view to a public consultation by CEIOPS of a revised version in the first half of 2009.

**Custodianship:** the Commission encourages enhanced cooperation between IORP Supervisory Authorities and foreign custodian/depository Supervisory Authorities and stands ready to put forward legislative proposals if needed.

**Conclusion:** as regards the 4 key aspects on which the IORP Directive requires the Commission to report, the Commission considers that there is no immediate need for legislative change. This report is, however, limited to the fulfilment of the Commission's reporting requirements set out in the IORP Directive itself. The need for possible legislative changes arising from other issues affecting IORPs, in particular solvency rules is being examined by the Commission separately.

The Commission believes that the IORP Directive has already delivered first results in the establishment of an internal market for occupational retirement provision organised on a European scale. More time is needed for the full effects of the Directive to unfold. At the same time, the examination carried out by CEIOPS has indicated that there is a need to continue the monitoring of several aspects of the IORP Directive.

## Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions

2000/0260(COD) - 03/06/2003 - Final act

PURPOSE : to establish rules for the taking up and pursuit of activities carried out by institutions for occupational retirement provision. LEGISLATIVE ACT : Directive 2003/41/EC of the European Parliament and of the Council on the activities and supervision of institutions for occupational retirement

provision. CONTENT : This Directive represents a first step on the way to an internal market for occupational retirement provision organised on a European scale. It sets the "prudent person" rule as the underlying principle for capital investment and makes it possible for institutions to operate across borders. In addition, the redirection of savings into the sector of occupational retirement provision is encouraged, thus contributing to economic and social progress. The prudential rules laid down in this Directive are intended both to guarantee a high degree of security for future pensioners through the imposition of stringent supervisory standards, and to clear the way for the efficient management of occupational pension schemes. The Directive contains: - strict prudential rules to protect beneficiaries. Institutions for occupational retirement provision (IORPs) must be subject to detailed rules of operation. Members and beneficiaries must be properly informed of the terms of the scheme, the financial situation of the institution and their rights. Benefits promised must be calculated prudently and be covered by sufficient assets. If an IORP offers any financial guarantees, it must hold own funds. Lastly, the supervisory authorities must have the necessary powers to monitor adequately the IORPs for which they are responsible; - investment rules tailored to the characteristics of IORPs and geared towards effective savings management. IORPs invest on a very-long term basis and can predict with relative ease the amount of benefits they will have to pay out. They should, therefore, be allowed a certain amount of freedom in determining the investment policy which best suits their commitments. They should, in any event, ensure that their assets are fairly widely spread. Member States may, if necessary, lay down more detailed rules for supervision of the institutions within their territory. However, such rules should not interfere excessively with the international diversification of investment portfolios and investments in shares, which generally offer high long-term returns and satisfactory security. The Directive sets out certain minimum investment rules; - rules enabling cross-border (and, consequently, more efficient) management of occupational pension schemes. At present, it is impossible for an IORP to manage a pension scheme for a company located in another Member State. A firm which has offices in the fifteen Member States must set up fifteen different schemes. Substantial economies of scale could be achieved if one institution managed all the schemes, while respecting local social and labour law requirements. This would necessitate mutual recognition of supervisory regimes, which is one of the key objectives of the Directive. It also provides for a cooperation procedure between supervisory authorities. In addition, the following should be noted: - appropriate cover for biometrical risks in occupational pension arrangements is an important aspect of the fight against poverty and insecurity among elderly people. When setting up a pension scheme, employers and employees, or their respective representatives, must consider the possibility of the pension scheme including provisions for the coverage of the longevity risk and occupational disability risks as well as provision for surviving dependants. - Member States may exclude from the scope schemes which together have less than 100 members in total. ENTRY INTO FORCE : 23/09/03. DATE OF TRANSPOSITION : 23/09/05.

## **Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions**

2000/0260(COD) - 04/07/2001 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report by Othmar KARAS (EPP/ED, Austria) and amended the Commission's proposal on occupational pension schemes by 458 votes to 111 with 11 abstentions. (Please refer to previous text.) Parliament believes that the new rules based on home country supervision should ensure high standards while allowing pension funds considerable freedom of action. One amendment seeks to bring life assurance companies under the scope of the directive. Another deals with liabilities for the funds and funds facing difficulties. Other amendments take up issues such as the transfer of pension rights, the reduction of discrimination against migrant workers and equality questions.

## **Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions**

2000/0260(COD) - 07/05/2001

The Council notes that the demographic challenge is one of the main economic and social issues to be addressed in the first decade of the 21st century. The ageing society calls for clear strategies for ensuring the adequacy of pension systems. These issues are being addressed at both a national level and the EU level. The Stockholm European Council set in train work on the portability of pensions. It also gave a new impetus to economic reform, building on the goals set by the Lisbon European Council. As part of this process, work is under way to put in place a framework for prudential regulation of the activities of institutions for occupational retirement provision (the IORP Directive). The Council considers that the Directive should promote: - the affordability of pension schemes and the provision of a high level of protection of the rights of present and future pensioners as well as the facilitation of cross-border activity by IORPs; - the delivery of the European Council's economic reform goals; - cross-border membership based on mutual recognition of national prudential systems complemented by regulatory and supervisory co-operation to ensure effective enforcement of relevant social and labour laws in the state of the pension rights holder. The Council intends to make every effort to reach political agreement on the basis of the above principles, respecting the timetables of the Financial Services Action Plan and of the report of the Wise Men.

## **Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions**

2000/0260(COD) - 07/05/2003 - Commission opinion on Parliament's position at 2nd reading

Parliament adopted thirteen amendments to the common position. They clarify certain provisions but do not jeopardise the scope of the common position. The Commission accepts all the amendments, the main ones being as follows: - a new recital proposing that the Commission monitor the situation in the occupational pensions market and assess the possibility of extending the optional application of the Directive to institutions other than life assurance companies; - where their common objective is to ensure financial protection, retirement benefits should be in the form of a lifetime payment. Payments may, however, be made for a temporary period or as a lump sum; - a new recital underscoring the importance of appropriate cover for biometrical risks in the fight against poverty. Consideration should be given to providing such cover when a pension scheme is set up; - the

establishment of a register listing all registered institutions and indicating, where appropriate, the Member States in which they operate; - Member States have the right to ensure that in the case of agreement between employers and employees, cover for biometric risks is offered to members; - a new amendment adds to the list of information the right of members to receive the arrangements relating to the transfer of pension rights in the event of termination of employment. Institutions must send each year to their members brief particulars on the financial situation of the institutions and on the current level of individual entitlements; - finally, institutions are required, in the event of a transfer of assets following termination of a scheme, to inform the competent authorities and to provide members with a general outline of the transfer procedure.

## **Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions**

2000/0260(COD) - 04/06/2002

The Council noted that political agreement existed on the text of a draft directive on the pension funds directive, on the basis of a Spanish Presidency compromise text. It invited the Permanent Representatives Committee to finalise the preamble to the directive and agreed to adopt a common position at one of its future meetings, following revision of the text by legal-linguistic experts.

## **Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions**

2000/0260(COD) - 14/11/2002 - Commission communication on Council's position

The Commission takes the view that the common position adopted unanimously by the Council preserves the main thrust of its proposal as well as the substance of the amendments proposed by the European Parliament and accepted by the Commission. Despite the large number of amendments made to its initial proposal, the Commission is convinced that the common position strikes a satisfactory balance between, on the one hand, upholding a high standard of prudential control and security of pensions and, on the other, maintaining the efficiency of existing schemes and a high level of financial accessibility of pensions. The Commission approves the common position and accordingly recommends that the European Parliament approve the common position. It hopes that the Directive will be adopted by the end of the year. In addition, the Commission made a statement on the occasion of the adoption of the common position: the Commission considers that the directive aims at providing a high level of protection for members and beneficiaries. A prudent calculation of technical provisions is an essential condition to achieve this objective. This would imply that the interest rate and other economic and demographic factors should be chosen prudently. The Commission considers that the report provided for in Article 15(6) is an important element to improve transparency and mutual confidence. It undertakes to assess carefully and regularly, in close consultation with Member States whether the situation prevailing in Member States leads to any forum-shopping, and to prudential standards which are not sufficiently prudent. It will also pay particular attention to any information drawn to its attention by Member States regarding the possibilities of such forum-shopping. After consultation with Member States the Commission will propose any measure necessary to prevent possible distortions and to protect the interests of beneficiaries and members of any scheme.

## **Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions**

2000/0260(COD) - 11/10/2000 - Legislative proposal

PURPOSE: to present a Commission proposal for a directive of the European Parliament and of the Council on the activities of institutions for occupational retirement provision. CONTENT: This proposal is concerned with institutions operating occupational pension schemes. These are private schemes, usually seen as supplementing statutory social security schemes. It is essential to preserve a clear distinction between statutory social security and private/supplementary schemes. This proposal is therefore not concerned with social security schemes which are covered by the term "legislation" as defined by Article 1 of Regulation 1408/71/EEC or in respect of which a Member State has made a declaration under that Article. Against this background, the main provisions of the proposed directive relate to the following areas: - application to institutions operating social security schemes; - operational application to institutions covered by Directive 79/267/EEC; - small pension schemes and statutory schemes; - conditions of operation; - disclosure of information; - technical provisions; - investment rules; - cross-border activities.

## **Institutions for occupational retirement, pension funds: laws, regulations and administrative provisions**

2000/0260(COD) - 12/03/2003 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a resolution drafted by Othmar KARAS (EPP-ED, Austria) and made some amendments to the common position. As well as some additional recitals, the main changes are as follows: - retirement benefits usually take the form of payments for life, but they may also be payments made for a temporary period or as a lump sum; - taking due account of the scale of pension benefits offered by the social security regimes, Member states may provide that the option of longevity and disability cover, provision for surviving dependants and a guarantee of repayment of contributions as additional benefits be offered to members if employers and employees, or their respective representatives, so agree; - members of schemes should also receive information on the arrangements relating to transfer of pension rights to another institution for occupational retirement

provision if their employment ends, as well as each year, brief particulars of the situation of the institution and the current level of financing of their accrued individual entitlements.