Improving the acquisition and preservation of supplementary pension rights in order to enhance worker mobility

2005/0214(COD) - 18/02/2014 - Council position

The Council adopted its position at first reading with a view to the adoption of the Directive

of the European Parliament and of the Council on minimum requirements for enhancing worker mobility by improving the acquisition and preservation of supplementary pension rights.

The Council’s position in first reading reflects the compromise reached in negotiations between Parliament and Council, with the help of the Commission.

On the basis of the Commission’s amended proposal, the co-legislators conducted negotiations with a view to concluding an early second-reading agreement. On 16 December 2013, the Council reached a political agreement on its position at first reading. The main points of the compromise text are as follows :

Legal basis: the legal basis chosen is Article 46 TFEU.

Scope and definition of "an outgoing worker»: the compromise text provides that the Directive shall apply to outgoing workers **who move between Member States**. It will not apply to workers moving within a single Member State. However, Member States may, nevertheless, consider using their national competences to extend the rules applicable pursuant to the Directive to scheme members who change employment within a single Member State.

Moreover, the Directive will only apply to periods of employment falling after its implementation. It will not apply to:

- pension schemes covered by Regulation (EC) No 883/2004, nor to schemes which no longer accept new active members or schemes that are subject to measures such as winding-up proceedings ;

- insolvency guarantee schemes, compensation schemes, national reserve funds or one-off payments unrelated to retirement provision ;

- invalidity benefits.

Certain provisions regarding the preservation of vested and dormant pension rights and information apply to survivor's benefits which are otherwise excluded.

Protection of pension rights :

- **Conditions governing the acquisition of pension rights**: these are strengthened to the effect that, where a vesting period and/or a waiting period is applied, the total combined period shall not exceed three years. The minimum age for vesting shall not exceed 21 years.

- **Preservation of vested pension rights**: the compromise text provides for national measures to ensure that the vested pension rights of outgoing workers can remain in the scheme in which they vested. However, schemes also have the option of paying the worker a capital sum up to a certain nationally established threshold and with the worker's informed consent, including as regards applicable charges.

- **Fair treatment of pension rights:** the text provides that outgoing workers' and their survivors' dormant pension rights or their values are treated in line with the value of the rights of active scheme members, or the development of pension benefits currently in payment, or by other means which are considered fair treatment.

Information : the compromise text also improves the information rights of active scheme members as well as deferred beneficiaries and survivors :

- active scheme members may obtain on request information on how a termination of employment would affect their pension rights;

- deferred beneficiaries are also to obtain, on request, information regarding the value of their dormant rights and the conditions regarding their treatment ;

- surviving beneficiaries also have the right to the information as regards the payment of survivor's benefits attached to supplementary pension schemes.

Transposition: four years from the date of adoption.

Reports : Member States shall report to the Commission concerning the application of the Directive within five years of its entry into force. A year later, the Commission is to report back to the European Parliament, the Council and the Economic and Social Committee on the application of the Directive.

In a letter to the Chair of the Permanent Representatives Committee, the Chair of the European Parliament's Committee on Employment and Social Affairs indicates that she will recommend to the members of the EMPL Committee, and subsequently to the plenary, that they accept the Council's position at first reading.