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

2005/0214(COD) - 16/04/2014 - Final act

PURPOSE: to facilitate the exercise of the right of workers to freedom of movement and of the right to occupational mobility within the same Member State, by reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.
LEGISLATIVE ACT: Directive 2014/50/EU of the European Parliament and of the Council on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights.

CONTENT: this Directive lays down rules aimed at **facilitating the exercise of the right of workers to freedom of movement between Member States** by reducing the obstacles created by certain rules concerning **supplementary pension schemes** linked to an employment relationship.

Scope and definition of "an outgoing worker”: 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 on the coordination of social security systems;
- supplementary pension schemes that, on the date of entry into force of this Directive, no longer accept new active members and remain closed to them;
- supplementary pension schemes that are subject to measures involving the intervention of administrative bodies established by national legislation or judicial authorities, which are intended to preserve or restore their financial situation, including winding-up proceedings;
- insolvency guarantee schemes, compensation schemes, national reserve funds or one-off payments unrelated to retirement provision.

This Directive does **not apply to invalidity and/or survivor's benefits** attached to supplementary pension schemes, with the exception of the specific provisions of Articles 5 (preservation of dormant pension rights) and Article 6 (information) relating to survivor's benefits.

Conditions governing the acquisition of rights under supplementary pension schemes: the Directive stipulates 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 Directive 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.

The Directive 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: Member States shall ensure that active scheme members can obtain, on request, information on how a termination of employment would affect their supplementary pension rights.

Where the scheme allows early access to vested pension rights through the payment of a capital sum, the information provided shall also include a **written statement** that the member should consider taking advice on investing that capital sum for retirement provision.

Member States shall ensure that **deferred beneficiaries** obtain, on request, information regarding the value of their dormant pension rights and the conditions governing the treatment of dormant pension rights. Under this Directive, **surviving beneficiaries** shall obtain information as regards the payment of survivor's benefits.

Information shall be provided clearly, in writing, and within a reasonable period of time.

Minimum requirements and non-regression: Member States may adopt or maintain provisions on the acquisition of supplementary pension rights for workers, on the preservation of supplementary pension rights of outgoing workers and on active scheme members' and deferred beneficiaries' right to information which are more favourable than those set out in this Directive. The transposition of this Directive shall not under any circumstances be used as a reason for reducing existing rights.

By 21 May 2020, the Commission shall draw up a **report** on the application of this Directive.

ENTRY INTO FORCE: 20.05.2014.

TRANSPOSITION: at the latest 21.05.2018.