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

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In adopting the report drafted by Ms Ria **OOMEN-RUIJTEN** (EPP-ED, NL), the Committee on Employment and Social Affairs amended, in the first reading of the procedure, the proposal for a directive of the European Parliament and of the Council on improving the portability of supplementary pension rights.

The main amendments are as follows:

- the Committee redrafted the article defining the aim of the proposed directive so as to facilitate the exercise of the right of persons to freedom of movement and of the right to occupational mobility , as well as the early, comprehensive development of supplementary pension provision, by removing the obstacles created by certain provisions on supplementary pension schemes;

- the Committee considered that this Directive should not apply to the following pension schemes: a) supplementary pension schemes which at the time when this directive enters into force have stopped accepting new active members and remain closed to new members, b) supplementary pension schemes that are subject to measures comprising intervention by an authority under the law of a Member State or a court, with the aim of safeguarding or restoring their financial situation, including liquidation procedures, and c) insolvency protection arrangements, compensation arrangements and national pension reserve funds;

- Members of the Committee further clarified certain terms such as that of a 'supplementary pension' which is a retirement pension provided for by the rules of a supplementary pension scheme established in conformity with national legislation and practice, a "vesting period" which is the period of active membership of a scheme, required under national law or under the rules of a supplementary pension scheme, for entitlement to a supplementary pension and the "value of dormant entitlement" which means the capital value of the pension rights, calculated according to recognised actua rial principles in conformity with national practice and custom;

- Members sought to lay down common minimum standards acquisition rights to a supplementary pension. Where the supplementary pension scheme stipulates a vesting period, that period should not exceed five years. In any event, no vesting condition shall be applied to a member of a supplementary pension scheme once that member has reached the age of 25. Where an outgoing worker has not yet acquired vested pension rights when the employment relationship is terminated, the supplementary pension scheme shall reimburse the contributions paid by the outgoing worker, or paid by the employer on the worker's behalf in accordance with legal provisions or collective agreements or contracts, or, if the outgoing worker bears the investment risk, the investment value arising from these contributions . Lastly, the Member States may allow the social partners to include in collective agreements non-discriminatory arrangements not covered by the aforementioned points, as long as these arrangements provide at least equivalent protection to those concerned;

- in order to guarantee fair treatment of dormant entitlements, the Committee calls on the Member States to adopt the measures they deem necessary to ensure that outgoing workers can retain their vested pension rights in the supplementary pension scheme in which they have acquired them. Member States should also

adopt the measures in order to ensure fair treatment of the value of the dormant pension rights of outgoing workers and to protect these pension rights against insolvency of the undertaking.

According to Members, fair treatment means, in particular: (a) that the value of the dormant rights develops generally in line with the value of the rights of active scheme members, or (b) that the pension rights in the supplementary pension scheme are set as a nominal sum, or (c) that the deferred beneficiary continues to benefit from a rate of interest built into the pension scheme, or (d) that the value of the dormant pension rights is adjusted in accordance with the inflation rate, salary levels, current pensions or the return on investment intended by the supplementary pension provider;

Members of the Committee took a more cautious approach as far as the transfer of pension rights is concerned by rejecting the Commission's proposal to include this right in the new directive. The Commission had proposed that employees must make application for the transfer of their pension rights within a Member State or between 2 Member States within 18 months of terminating their (old) employment relationship. To encourage the free movement of workers, Committee members consider that Member States should endeavour, as far as possible and in particular when introducing new supplementary pension schemes, gradually to improve the transferability of vested pension rights;

Lastly, Members call on the Commission to draw up a report no later than five years following the implementation of the Directive, regarding the conditions of transferring capital representing workers' supplementary pension rights. This report could serve as a basis for the amendment of the directive.