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NOTE

from:	General Secretariat
to:	Permanent Representatives Committee/Council
Subject:	Proposal for a Directive of the European Parliament and of the Council on improving the portability of supplementary pension rights – Outcome of the European Parliament's first reading (Strasbourg, 18 to 21 June 2007)

I. INTRODUCTION

The Rapporteur, Mrs Ria OOMEN-RUIJTEN (EPP/ED –NL), presented a report consisting of 34 amendments (amendments 1-33 and 52) to the proposal for a Directive on behalf of the Committee on Employment and Social Affairs. In addition:

- the EPP/ED political group tabled a further five amendments (amendments 34-37 and amendment 39);
- Thomas MANN (EPP/ED - DE) tabled amendment 38;
- the IND/DEM political group tabled amendment 40;
- amendment 41 was withdrawn;
- the EPP/ED, PES and ALDE political groups jointly tabled amendment 42;
- the EPP/ED and PES political groups jointly tabled amendment 43;
- the ITS political group tabled two amendments (44 and 45);
- the Greens/EFA political group tabled four amendments (46-49); and
- the EUL/NGL political group tabled two amendments (amendments 50 and 51).

II. DEBATE

Commissioner ŠPIDLA opened the debate, which took place on 20 June 2007, by:

- expressing his regret that it had not been possible to reach an agreement in first reading, but his hopes for a rapid adoption in second reading;
- stressing the importance of the Directive for workers who wish to move to work in another Member State. Obstacles should be removed, but without damaging the stability of pension schemes;
- noting the Parliament's basic agreement with the Commission. This is the basis for a future agreement with the Council;
- regretting the differences of opinion within the Council, but noting the fact that there is a lot of determination within the Council to reach an agreement;
- supporting the proposed amendment to focus on workers over 25 years of age. The Council will not agree to this, however, and it will be necessary to negotiate with the Council on this point;
- observing that the deadline for transposing the Directive into national law will be another key point of contention with the Council;
- supporting the proposed amendment to Article 10; and
- opposing the proposed amendment to delete Article 6.

Minister GLOSER:

- recalled the need for unanimity within the Council on this proposal;
- noted that many Member States had problems with the transfer of pension rights as capital. The Netherlands in particular rejected this from the start. Even under the Finnish Presidency, portability in the limited sense of the term had been removed from the scope of the Directive in view of the requirement for unanimity;
- observed that the German Presidency had decided to concentrate on other points in the proposed Directive (for example, duty to provide information, scope and timescale);
- noted that agreement had been reached within the Council at expert level, but that one Member State could still not accept the agreement at a higher, political, level;
- argued that a less ambitious stance will actually achieve more; and
- noted that whilst some Member States do not have occupational pension schemes, other Member States have very complex ones. It will take time for different Member States to gain confidence in each others' systems.

The Rapporteur;

- called for action to respond to changing demographic trends;
- recalled that in the United Kingdom and Germany 50% of employees have occupational pension schemes. In Denmark, the figure is greater than 90%;
- noted that all parties agree in principles. The problems lie in the detail;
- argued that the Directive will not work if there are lots of loopholes and if the Directive only comes to force from 2018; and
- stated that she would enter into second-reading negotiations with a positive and constructive spirit.

Speaking on behalf of the Committee on Economic and Monetary Affairs, Mr Eoin RYAN (UEN – IE):

- stressed the importance for the single market of the proposed Directive;
- noted that employers who provide these pension schemes do so voluntarily. The Directive should not increase their burden; and
- emphasised the need to avoid damaging the interests of those scheme members who do not leave.

Speaking on behalf of the Committee on Women's Rights and Gender Equality, Mrs Astrid LULLING (EPP/ED – LU):

- stressed the difficulty of balancing the wish of employers to offer complementary pension schemes in order to retain the loyalty of their employees against the need to facilitate worker mobility; and
- stated that the main aim must be to guarantee employees' pensions rights, but without compromising either the financial viability of pension schemes or employers' readiness to offer complementary pension schemes. This aim, in the case of employees moving to work in another Member States, must be achieved whilst at the same time respecting both subsidiarity and flexibility.

Speaking on behalf of the EPP/ED group, Mr Othmar KARAS (EPP/ED- AT):

- called for pension rights to be strengthened;
- stressed the need for pension portability; and
- emphasised the need to balance companies' financial security and employees' social security.

Speaking on behalf of the PES group, Mr Harald ETTL (PES – AT) opposed the calls for a five-year implementation period.

Speaking on behalf of the ALDE group, Mr Luigi COCILOVO (ALDE – IT) called on the Member States to show greater flexibility. They are blocking all the Parliament's efforts to address social matters in a balanced manner.

Speaking on behalf of the Greens/EFA group, Mrs Jean LAMBERT (Greens/EFA – UK):

- supported those amendments which would change the scope of the Directive from workers to persons;
- stated that the Directive should cover all those who have contributed to second-pillar schemes through their work. It should be non-discriminatory;
- noted that worker mobility is becoming increasingly important, but stressed the importance of mobile workers having secure pension schemes;
- argued that individuals should be able to benefit from the accrual of pension payments and should not see their contributions left in a number of different schemes 'like drying slices of salami'. She called for the reintroduction of portability into the Directive and, though she acknowledged that this would not receive majority support in the Parliament, urged the Council to address this issue. The Council currently seems to many MEPs to be applying a delaying tactic and, at times, betraying its own calls for greater mobility;
- stressed the need for rules to protect the dormant rights of scheme members; and
- called for the early implementation of the Directive.

Speaking on behalf of the EUL/NGL group, Mr Jiří MAŠTÁLKA (EUL/NGL - CZ):

- regretted the Council's inability to reach unanimity;
- could not understand why the EPP/ED group does not support full portability; and
- called for the deletion of Article 6.

Speaking on behalf of the IND/DEM group, Mr Derek CLARK (IND/DEM – UK) opposed the Directive as a whole.

Mr Jim ALLISTER (NI – UK) argued that the Member States should retain control of pension arrangements within their own borders.

Mr Jan ANDERSSON (PES – SE) called for:

- greater attention to be paid to safeguarding dormant pension rights;
- the ending over the long-term of vesting periods and minimum ages; and
- a second-reading agreement.

Mrs Ona JUKNEVIČIENĖ (ALDE – LT):

- welcomed the fact that the proposed Directive would create more freedom and social guarantees for workers, and that it would also improve the Community's competitiveness by freeing up the labour market;
- noted that seven of the ten new Member States (i.e. preceding the accession of Bulgaria and Romania) do not have supplementary pension schemes;
- called on all Member States to promote employer pension schemes; and
- stressed the need to avoid derogations as far as possible.

Mrs Elisabeth SCHRÖDTER (Greens/EFA- DE):

- noted that workers are becoming increasingly mobile, but that state pensions are not sufficient; and
- accused the German Presidency of hiding behind the Dutch government. She said that the German Presidency's proposals themselves are not adequate.

Mrs Mary Lou McDONALD (EUL/NGL – IE):

- opposed calls to increase the age threshold from 21 years to 25 years; and
- asked why the Directive does not cover self-employed workers.

Mrs Kathy SINNOTT (IND/DEM – IE) stated that ordinary citizens simply do not trust national governments to administer state pensions in the citizens' best interests.

Mr José Albino SILVA PENEDA (EPP/ED – DE):

- stated that the Directive is an essential step in the completion of the single market;
- argued that demographic trends require a significant change to social security models; and
- stressed the need for supplementary pensions to complement state pensions.

Mrs Anne JENSEN (ALDE – DK):

- supported the principle of non-transferability of pensions; and
- argued that workers should be able to change jobs easily.

Mr Kyriacos TRIANTAPHYLLIDES (EUL/NGL – CY) regretted the fact that the Directive is more market-driven than employer-mobility driven, and warned that workers' fundamental rights will be impaired.

Mr Csaba ÓRY (EPP/ED – HU) argued that the proposed Directive is essential if the European Community is to be globally competitive.

Mr Alejandro CERCAS (PES - ES):

- stressed the need for free movement of workers;
- called for workers' rights to be respected and guaranteed; and
- stated that ordinary European citizens are calling for this Directive. Governments must listen and act.

Mrs Anneli JÄÄTTEENMÄKI (ALDE – FI):

- stressed the need of workers for the proposed Directive. They should be able to receive their pensions without having to endure unnecessary red-tape; and
- stated that supplementary pensions should be portable. Portability is expensive, however, and it would be better and cheaper simply to reimburse pension contributions.

Mr Dimitrios PAPANIMOU (EUL/NGL - EL):

- opposed the Rapporteur's position on supplementary pension rights;
- called for a five-year, and not a two-year, implementation period; and
- called for a 25 years age limit, not 21 years.

Mr Johannes BLOKLAND (IND/DEM - NL):

- argued that there is a self-evident right for workers to take their supplementary pension rights with them when they change employment; and
- stressed the need to take due account of the financial viability of individual pension schemes.

Mrs Anja WEISGERBER (EPP/ED - DE):

- noted that only 1.5% of workers move to work in another Member State, but that the other 98.5% will be affected by the proposed Directive;
- warned that there is a real danger that employers may not offer occupational pension schemes if the Directive makes this too burdensome; and
- agreed on the desirability of portability – but not at the price of undermining occupational pension schemes.

Mrs Ieke VAN DEN BURG (PES –NL) stated that there is no justification for treating dormant and active pension rights differently.

Mr Carlo FATUZZO (EPP/ED-IT):

- argued that, since the money in pensions schemes belongs to workers, they should be able to take it with them if they move abroad; and
- regretted the fact that the Council seemed to be dragging its feet and blocking progress,

Mr Proinsias DE ROSSA (PES – IE) regretted the fact that the proposed Directive really only addresses acquired rights and not portability.

Mrs Monica IACOB-RIDZI (EPP/ED - RO):

- warned against undue haste. Some Member States have complex pension systems; and
- favoured a five-year implementation period.

Mrs Piia-Noora KAUPPI (EPP/ED – FI):

- found confusing the Commission’s proposals on the retroactive implementation of the rules on vesting periods, and about the difference between public, private and supplementary pensions. The Parliament’s first-reading amendments should improve on this;
- stressed the importance of the bigger picture. If the Directive makes voluntary schemes too bureaucratic and radically different from current alternatives, no employers (and especially not SMEs) will provide them. Companies will therefore not be able to use voluntary schemes to recruit and maintain employees. Investments will suffer;
- stated that the aim is to encourage as many companies as possible to select the right kind of supplementary schemes. This will help to address the demographic time-bomb implications for publicly funded social security schemes; and
- called for Member States to be allowed to decide for themselves when and how they will develop portability. Their companies will therefore not have to run the risk of a bad surprise.

Mrs Avril DOYLE (EPP/ED – IE) warned that the proposed Directive should not deter employers from offering generous pensions packages as a way to attract good employees.

Minister GLOSER once more took the floor to:

- reiterate the need for unanimity in Council;
- stress the fact that one Member State is clearly stating that its hands are tied by a decision taken by its parliament;
- reject Mrs Schrödter’s criticisms as unfounded;
- emphasise the fact that it was already clear before the German presidency where it would be possible to find common ground and where not. That was why the decision was taken to remove portability in the strict sense of the word;
- reiterate the fact that the Presidency had invested considerable time and effort in the attempt to reach an agreement, but ultimately one Member States’ agreement was lacking; and
- inform the Parliament that he had received positive signals from the Netherlands and from the incoming Portuguese presidency. Provided there is the necessary goodwill, it should hopefully be possible to find agreement in certain areas.

Commissioner ŠPIDLA once more took the floor to deny that either the Commission proposal or the Rapporteur’s report seek to make pension rights more dynamic.

III. VOTE

The Parliament adopted 34 amendments when it voted in plenary later on the same day, 20 June 2007 (amendments 1-20, 22, 24-33, 42-43 and 52). The Commission did not indicate its position regarding the adopted amendments.

The text of the amendments adopted and the European Parliament legislative resolution are annexed to this note.

European Parliament legislative resolution of 20 June 2007 on the proposal for a directive of the European Parliament and of the Council on improving the portability of supplementary pension rights (COM(2005)0507 – C6-0331/2005 – 2005/0214(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0507)¹,
 - having regard to Article 251(2) and Articles 42 and 94 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0331/2005),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Women's Rights and Gender Equality (A6-0080/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

Amendment 1
Recital 5

(5) Recourse should also be had to Article 94 of the Treaty, given that the disparities between the national legislation governing supplementary pension schemes are likely to hamper both the exercise of the right of workers to freedom of movement and the operation of the internal market. Thus, in order to improve the *portability of the supplementary pension* rights of workers moving within the Community and within the same Member State, certain *conditions governing the acquisition of pension rights must be harmonised and the rules on the preservation of dormant rights and the transfer of acquired rights must be brought closer together.*

(5) Recourse should also be had to Article 94 of the Treaty, given that the disparities between the national legislation governing supplementary pension schemes are likely to hamper both the exercise of the right of workers to freedom of movement and the operation of the internal market. Thus, in order to improve the rights of workers moving within the Community and within the same Member State, *provision should be made for certain minimum requirements for the establishment and preservation of the vested pension rights of outgoing workers in a supplementary pension scheme linked to an employment relationship.*

Amendment 2
Recital 5 a (new)

(5a) Moreover, account should be taken of the characteristics and special nature of supplementary pension schemes and the way they differ within and among the Member States. The introduction of new schemes, the sustainability of existing schemes and the expectations and rights of current pension scheme members should be adequately protected. This Directive should also take particular account of the role of the social partners in designing and implementing supplementary pension schemes.

Amendment 3
Recital 5 b (new)

(5b) This Directive should not require Member States that have no supplementary pension schemes to adopt legislation to introduce such schemes.

Amendment 4
Recital 5 c (new)

(5c) This Directive should apply only to supplementary pensions which, according to the rules of the relevant pension scheme or national law, are based on reaching retirement age or fulfilling other conditions. It should apply neither to individual pension arrangements with no employer participation nor to invalidity or survivors' pensions.

Amendment 5
Recital 5 d (new)

(5d) This Directive should apply to all supplementary pension schemes established in conformity with national legislation and practice that offer supplementary pensions for workers, such as group insurance contracts, pay-as-you-go schemes agreed by one or more branches or sectors, funded schemes or pension promises backed by book reserves, or any collective or other comparable arrangement.

Amendment 6
Recital 5 e (new)

(5e) This Directive should not apply to supplementary pension schemes that have been closed to the effect that no new members can be accepted because the introduction of new rules could place an unjustifiable burden on such schemes.

Amendment 7
Recital 5 f (new)

(5f) This Directive does not aim to harmonise or affect national law on reorganisation measures and winding-up proceedings; it is irrelevant whether any proceedings are opened because of insolvency, or whether they are entered into voluntarily or compulsorily. Similarly, this Directive does not affect national legislation on reorganisation measures under Directive 2001/17/EC¹. Measures taken under Article 16(2) of Directive 2003/41/EC² do not constitute reorganisation measures for these purposes.

¹ ***Directive of the European Parliament and of the Council of 19 March 2001 on the reorganisation and winding-up of insurance undertakings (OJ L 110, 20.4.2001, p.28).***

² ***Directive of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement (OJ L 235, 23.9.2003, p.10).***

Amendment 8
Recital 5 g (new)

(5g) This Directive should not affect any arrangements for insolvency protection or compensation arrangements which are not part of a supplementary pension scheme linked to an employment relationship and which aim to protect the pension rights of workers in the event of insolvency of the undertaking or the pension scheme. Similarly, this Directive should not affect national pension reserve funds.

Amendment 9
Recital 5 h (new)

(5h) Since supplementary retirement provision is becoming increasingly important in all the Member States for securing people's standard of living in old age, the conditions for acquiring, maintaining and transferring acquired rights should be improved.

Amendment 10
Recital 6

(6) In order to ensure that the conditions for acquiring supplementary pension rights do not undermine the exercise of the right of workers to freedom of movement within the European Union, limits must be established concerning the conditions governing the acquisition of such rights so that workers, when they exercise their right to freedom of movement or move within a Member State, can receive a satisfactory pension at the end of their career. ***deleted***

Amendment 11
Recital 6 a (new)

(6a) If the pension scheme or employer bears the investment risk (particularly for defined-benefit schemes), the scheme should refund the contributions of the outgoing worker, regardless of the current investment value of the contributions. If the outgoing worker bears the investment risk (particularly for defined-contribution schemes), the pension scheme should refund the investment value produced from these contributions. The investment value may be higher or lower than the sum of the contributions paid by the outgoing worker. If the investment value is negative, the amount should not be repaid.

Amendment 12
Recital 6 b (new)

(6b) Outgoing workers should have the right to leave their vested pension rights as dormant rights in the supplementary pension scheme in which their entitlement was established.

Amendment 13
Recital 7

(7) Steps must *also* be taken to ensure *a fair adjustment* of dormant rights *so as to avoid that outgoing workers are penalised. This objective could be achieved by adjusting dormant rights in line with a variety of reference measures, including inflation, wage levels, or pension contributions which are in the course of being paid, or the rate of return on assets under the supplementary* pension scheme.

(7) In conformity with national legislation and practice, steps must be taken to ensure fair treatment of the value of dormant rights. The value of the rights when the employee leaves the pension scheme can be calculated according to generally recognised actuarial principles. In calculating the value, account should be taken of the particularities of the scheme, the interests of the outgoing worker, and those of the members remaining in the pension scheme.

Amendment 14
Recital 8

(8) *In order to avoid excessive administrative costs resulting* from the management of a large number of low-value dormant rights, pension schemes must be given the option not to preserve *acquired rights but to use a transfer or a payment of a capital sum representing the acquired rights when these do not exceed a threshold established by the Member State concerned.*

(8) If the value of the vested pension rights of an outgoing worker does not exceed a threshold amount established by the Member State, and in order to avoid excessive costs arising* from the management of a large number of low-value dormant rights, pension schemes must be given the option not to preserve *these vested pension rights, but to pay a capital sum in proportion to the vested rights. The amount of the capital payment should always be determined by recognised actuarial principles and reflect the current value of the vested pension rights at the time of the payment.

Amendment 15
Recital 9

(9) Workers who change jobs must be granted the possibility of choosing either to retain their pension rights acquired under the original supplementary pension scheme or to transfer the corresponding sum to another supplementary pension scheme, including one in another Member State. ***deleted***

Amendment 16
Recital 9 a (new)

(9a) This Directive does not aim to limit outgoing workers' ability to transfer vested pension rights. To encourage the free movement of workers, 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.

Amendment 17
Recital 10

(10) For reasons of financial sustainability of supplementary pension schemes, the Member States have the possibility in principle to exempt unfunded schemes from the obligation to allow workers to transfer acquired rights. However, to ensure equal treatment for workers covered by funded schemes and workers covered by unfunded schemes, Member States should endeavour to progressively improve the transferability of rights from unfunded schemes. ***deleted***

Amendment 18
Article 1

The aim of this Directive is 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***.

The aim of this Directive is 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***.

Amendment 19
Article 2

This Directive applies to supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71.

1. This Directive applies to supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71 ***on the coordination of social security schemes***.

2. ***This Directive does not apply to the following:***

(a) supplementary pension schemes, which, on the date of entry into force of this Directive, no longer accept new active members and remain closed to them;

(b) supplementary pension schemes that are subject to measures that provide for intervention by a Member State's authority or court, with the aim of safeguarding or restoring their financial situation, including liquidation procedures;

(c) insolvency protection arrangements, compensation arrangements and national pension reserve funds.

Amendment 20
Article 3

For the purposes of this Directive, *the following definitions shall apply:*

(a) “supplementary pension” means retirement *pensions and, where* provided for by the rules of a supplementary pension scheme established in conformity with national legislation and practice, *invalidity and survivors’ benefits, intended to supplement or replace those provided in respect of the same contingencies by statutory social security schemes;*

(b) “supplementary pension scheme” means *any occupational* scheme established in conformity with national legislation and practice, *such as a group insurance contract, a pay-as-you-go scheme agreed by one or more branches or sectors, a funded scheme or a pension promise backed by book reserves, or any collective or other comparable arrangement* intended to provide a supplementary pension for employed *or self-employed* persons;

(c) “scheme members” means *those persons* whose *occupation* entitles them or is likely to entitle them to a supplementary pension in accordance with the provisions of a supplementary pension scheme;

(d) “pension rights” means any *benefits to which scheme members and others holding entitlement are entitled* under the rules of a supplementary pension scheme and, where applicable, under national legislation;

(e) “*termination of employment*” means a *decision to terminate an employment relationship;*

For the purposes of this Directive:

(a) “supplementary pension” means *a* retirement *pension* provided for by the rules of a supplementary pension scheme established in conformity with national legislation and practice;

(b) “supplementary pension scheme” means *a pension* scheme established in conformity with national legislation and practice *and linked to an employment relationship,* intended to provide a supplementary pension for employed persons;

(c) “*active* scheme members” means *workers* whose *current employment relationship* entitles them or is likely to entitle them, *after fulfilling any membership conditions,* to a supplementary pension in accordance with the provisions of a supplementary pension scheme;

(d) “*vested* pension rights” means any *entitlement to a supplementary pension which has been acquired, after fulfilling any membership conditions,* under the rules of a supplementary pension scheme and, where applicable, under national legislation;

(*da*) “*vesting period*” means *the period of active membership of a scheme, required under national law or the rules of a supplementary pension scheme, in order to trigger entitlement to a supplementary pension;*

(f) “outgoing worker” means *a worker who, before becoming eligible for a pension, leaves an employment relationship through which he has acquired pension rights or could have acquired such rights by remaining in that employment relationship;*

(g) “portability” means *the option open to workers of acquiring and retaining pension rights when exercising their right to freedom of movement or occupational mobility;*

(h) “deferred beneficiary” means *any former scheme member whose pension rights remain dormant under the supplementary pension scheme until the eligibility requirements for receipt of a supplementary pension have been met;*

(i) “dormant pension rights” means *pension rights retained under the scheme under which they have been acquired by a deferred beneficiary who will receive a pension through this supplementary scheme once the eligibility requirements have been met;*

(j) “transfer” means *the payment by a supplementary pension scheme of a capital sum representing all or part of the pension rights acquired under the scheme, with the possibility of transferring this sum to a new supplementary pension scheme or another financial institution which provides pension rights.*

(f) “outgoing worker” means *an active scheme member whose current employment relationship ends before he has acquired a supplementary pension;*

(h) “inactive scheme member” means *a former member of a supplementary pension scheme who has acquired pension rights in the scheme but is no longer an active member of the scheme and is not yet receiving any supplementary pension from the scheme;*

(i) “dormant pension rights” means *vested pension rights retained in the scheme in which an inactive scheme member acquired them;*

(j) “value of dormant entitlement” means *the capital value of the pension rights, calculated according to recognised actuarial principles in conformity with national practice and custom.*

Amendment 43
Article 4, point (a)

(a) where *pension rights have not yet been acquired when employment is terminated, all the contributions paid by, or on behalf of, the outgoing worker are reimbursed or transferred;*

(a) 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;*

Amendment 22
Article 4, point (b)

(b) where *a minimum age is stipulated for the acquisition of pension rights, this is not more than 21* years.

(b) where *the supplementary pension scheme stipulates a vesting period, that period shall not exceed five* years. *In any event, no vesting condition shall be applied to the member of a supplementary pension scheme once that member has reached the age of 25.*

Amendment 24
Article 4, point (d)

(d) *a worker acquires pension rights after a maximum membership period of two years.*

(d) *in objectively justified cases, the Member States may allow the social partners to include in collective agreements non-discriminatory arrangements not covered by points (a) and (b), on the basis that these arrangements provide at least equivalent protection;*

Amendment 25
Article 5

1. Member States shall adopt the measures they deem necessary in order to ensure *a fair adjustment* of dormant pension rights *so as to avoid that outgoing workers are penalised.*

-1. Member States shall 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 in accordance with paragraphs 1 and 2.

1. Member States shall adopt the measures they deem necessary, *having regard to the nature of the pension scheme*, 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. Fair treatment means, in particular, that:*

(a) the value of the dormant rights develops generally in line with the value of the rights of active scheme members; or

(b) the pension rights in the supplementary pension scheme are set as a nominal sum; or

(c) the inactive scheme member continues to benefit from a rate of interest built into the pension scheme; or

(d) 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.

2. The Member States may allow supplementary pension schemes not to preserve *acquired* rights but to *use a transfer or payment of* a capital sum *representing the acquired rights when these do* not exceed a threshold established by the Member State concerned. The Member State shall inform the Commission of the threshold applied.

2. The Member States may allow supplementary pension schemes not to preserve *vested* rights but to *pay* a capital sum *equivalent to the value of the vested pension rights to the outgoing worker, as long as the value of the vested pension rights does* not exceed a threshold established by the Member State concerned. The Member State shall inform the Commission of the threshold applied.

2a. The Member States may allow the social partners to include in collective agreements arrangements not covered by paragraphs 1 and 2, as long as these arrangements provide at least equivalent protection for the people concerned.

Amendment 26
Article 6

Article 6

deleted

Transferability

1. Unless a capital payment is made in accordance with Article 5(2), the Member States shall take the necessary action to ensure that if an outgoing worker is not covered by the same supplementary pension scheme in his new job, he may obtain on request and within 18 months after the termination of his employment the transfer within the same Member State or to another Member State of all his acquired pension rights.

2. Member States, in accordance with their national practice, shall ensure that where actuarial estimates and those relating to the interest rate determine the value of the acquired rights to be transferred, these shall not penalise the outgoing worker.

3. Under the supplementary pension scheme to which the rights are transferred, the rights shall not be subject to conditions governing acquisition and shall be preserved at least to the same extent as dormant rights in accordance with Article 5(1).

4. Where administrative costs need to be paid during a transfer, the Member States shall take the necessary action to prevent them from being disproportionate to the length of time the outgoing worker has been a scheme member.

Amendment 27
Article 7

1. Without prejudice to the obligations of the institutions for occupational retirement provision stemming from Article 11 of Directive 2003/41/EC, **concerning the information to be provided** to members and beneficiaries, the Member States shall adopt the **necessary** measures to ensure that **workers are informed by the person responsible for managing the supplementary pension scheme of** how a termination of employment will affect their supplementary pension rights.

2. Sufficient information shall be provided within a reasonable period of time to **workers** who request it. It shall relate, in particular, to the following:

(a) the conditions governing the *acquisition* of supplementary pension rights and the effects of applying them when employment is terminated;

1. Without prejudice to the obligations of the institutions for occupational retirement provision stemming from Article 11 of Directive 2003/41/EC **to provide** information to members and beneficiaries, the Member States shall adopt the measures **they deem to be necessary** to ensure that **active pension scheme members, can request information on** how a termination of employment will affect their supplementary pension rights, **in accordance with paragraph 2.**

2. Sufficient information shall be provided **in writing and** within a reasonable period of time to **active pension scheme members** who request it. It shall relate, in particular, to the following:

(a) the conditions governing the *establishment* of supplementary pension rights and the effects of applying them when employment is terminated;

(b) the pension benefits envisaged when employment is terminated;

(c) the *conditions governing the* preservation of dormant pension rights;

(d) the conditions governing the transfer of acquired rights.

3. *A deferred beneficiary* who so requests shall receive from the person responsible for managing the supplementary pension scheme information on dormant pension rights and on all changes to the rules governing the supplementary pension scheme concerning them.

4. The information referred to in the present article shall be provided in writing and in a comprehensible form.

(b) the pension benefits envisaged when employment is terminated;

(c) the **amount and** preservation of dormant pension rights.

3. *An inactive scheme member* who so requests shall receive from the person responsible for managing the supplementary pension scheme information on dormant pension rights and on all changes to the rules governing the supplementary pension scheme concerning them.

Amendment 28
Article 8

1. The Member States may adopt or maintain provisions on the *portability* of supplementary pension rights which are more favourable than those set out in this Directive.

2. The implementation of this Directive may *not* under any circumstances be used as a reason for *reducing the degree of portability of supplementary pension rights which exists* in the Member States.

1. The Member States may adopt or maintain provisions on the **establishment and preservation** of supplementary pension rights **by outgoing workers** which are more favourable than those set out in this Directive.

2. The implementation of this Directive may under *no* circumstances be used as a reason for **cutting back the existing provisions** in the Member States **for the establishment and preservation of supplementary pension rights by outgoing workers**.

Amendment 29
Article 9, paragraph 1

1. The Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than 1 July 2008, or *may grant* the social partners, *at their joint request, responsibility for implementing this Directive as regards* the provisions *relating to collective agreements. In that case, Member States shall ensure that, no later than 1 July 2008, the social partners have introduced the requisite measures by*

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than 1 July 2008, or **shall ensure, by that date, that** the social partners **introduce the required provisions by way of agreement, and that the Member States are required to take** the necessary steps **enabling them at all times** to guarantee the **results imposed by** this Directive. They shall

agreement; the Member States concerned must take all the necessary steps to ensure that they are at all times able to guarantee the outcomes prescribed in this Directive. They shall forthwith inform the Commission thereof.

forthwith inform the Commission thereof.

Amendment 42
Article 9, paragraph 2

2. Notwithstanding the first paragraph, the Member States may be granted, where necessary, an extension of 60 months starting on 1 July 2008 in order to achieve the objective referred to in **Article 4 (d)**. Any Member State wishing to be granted this extension shall inform the Commission accordingly, indicating the provisions and schemes concerned and the specific reasons for the extension.

2. Notwithstanding the first paragraph, the Member States may be granted, where necessary, an extension of 60 months starting on 1 July 2008 in order to achieve the objective referred to in **Articles 4 and 5**. Any Member State wishing to be granted this extension shall inform the Commission accordingly, indicating the provisions and schemes concerned and the specific reasons for the extension.

Amendment 30
Article 9, paragraph 3

3. Notwithstanding the first paragraph, and in order to take account of specific conditions duly substantiated and linked to financial sustainability of supplementary pension schemes, the Member States may exempt pay-as-you-go schemes, support relief funds and companies which constitute book reserves with a view to paying pensions to their workers from the application of Article 6(1). Any Member State wishing to make use of this possibility shall immediately notify the Commission, indicating the schemes concerned and the specific reasons for the exemption, together with the measures adopted or planned with a view to improving the transferability of rights from the schemes concerned.

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Amendment 31
Article 10, paragraph 1

1. Every five years after 1 July 2008, the Commission shall draw up a report for submission to the Council, *the European Parliament*, the European Economic and Social Committee and the Committee of the Regions on the basis of the information provided by the Member States.

1. Every five years after 1 July 2008, the Commission shall draw up a report for submission to the *European Parliament*, Council, the European Economic and Social Committee and the Committee of the Regions on the basis of the information provided by the Member States. ***The report shall contain an assessment of employers' willingness to offer a supplementary pension scheme from the entry into force of this Directive.***

Amendment 32
Article 10, paragraph 1 a (new)

1a. It shall include a proposal on how and when acquired pension rights can be transferred, which shall also conclude the undertaking's liability for transferred pension rights.

Amendment 52
Article 10, paragraph 2

2. No later than 10 years after 1 July 2008, the Commission shall draw up a specific report on the application of Article 9(3). On the basis thereof, if appropriate, the Commission shall present a proposal containing any amendments to this Directive which prove necessary in order to ensure equal treatment in terms of transferability of acquired rights for workers covered by funded schemes and workers covered by schemes as referred to in Article 9(3).

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Amendment 33
Article 10, paragraph 2 a (new)

2a. No later than five years after the entry into force of this Directive, the Commission shall draw up a report, in particular with regard to the conditions of transferring capital representing workers' supplementary pension rights. On the basis of that report, the Commission shall present any proposal containing amendments to this Directive or other instruments which prove necessary in order further to reduce the obstacles to the mobility of workers created by certain rules on supplementary pension provision.