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Committee on Employment and Social Affairs

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PE 376.423v01-00

AMENDMENTS 31-219

Draft report

(PE 374.180v01-00)

Ria Oomen-Ruijten

Improving the portability of supplementary pension rights

Proposal for a directive (COM(2005)0507 – C6-0331/2005 – 2005/0214(COD))

Draft legislative resolution

Amendment by Derek Roland Clark

Amendment 31

Paragraph 1

1. ***Rejects the Commission proposal.***

Or. en

Justification

Pension firms offering supplementary pensions are experts and know their business. The EU lays down that there should be free movement, among other things, of services. This directive would not be necessary if pension firms were allowed to offer their services across borders.

Amendment by Carlo Fatuzzo

Amendment 32

Recital 2

(2) The social protection of workers with regard to pensions is guaranteed by statutory social security schemes, together with

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PE 376.423v01-00

supplementary social security schemes linked to the employment contract, which are becoming increasingly common in the Member States.

supplementary social security schemes linked to the employment contract, **including periods of unemployment**, which are becoming increasingly common in the Member States.

Or. it

Justification

It is important to allow insurance under supplementary schemes, even during periods of unemployment, so as to enable workers to build up their future pensions as much as possible.

Amendment by Maria Matsouka

Amendment 33
Recital 3

(3) The Council has wide powers of discretion regarding the choice of measures which are the most appropriate when it comes to achieving the objective of Article 42 of the Treaty; the system of coordination provided for in Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community and Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 and, in particular, the rules applicable to aggregation do not relate to supplementary pension schemes, except for schemes covered by the term “legislation”, as defined in the first paragraph of Article 1(j) of Regulation (EEC) No 1408/71, or which have been the subject of a declaration to this effect by a Member State pursuant to this Article. Supplementary pension schemes should therefore be the subject of specific measures in order

(3) The Council has wide powers of discretion regarding the choice of measures which are the most appropriate when it comes to achieving the objective of Article 42 of the Treaty; the system of coordination provided for in Council Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community, **Regulation (EC) 883/2004, as amended by the abovementioned regulation**, and Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 and, in particular, the rules applicable to aggregation do not relate to supplementary pension schemes, except for schemes covered by the term “legislation”, as defined in the first paragraph of Article 1(j) of Regulation (EEC) No 1408/71, or which have been the subject of a declaration to this effect by a Member State pursuant to this

to take account of their nature and specific characteristics and of the diverse nature of these schemes within the Member States and from one Member State to another, and in particular the role played by the social partners in their implementation.

Article. Supplementary pension schemes should therefore be the subject of specific measures in order to take account of their nature and specific characteristics and of the diverse nature of these schemes within the Member States and from one Member State to another, and in particular the role played by the social partners in their implementation.

Or. el

Justification

Contains a reference to Regulation 883/2004 which will replace Regulation 1408/71 until 2007.

Amendment by Jiří Maštálka

Amendment 34 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 **persons** to freedom of movement (**deleted**). Thus, in order to improve the portability of the supplementary pension rights of **persons** 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, **also with a view to the Community's aims of promoting social progress and a decent pension for all.**

Or. en

Justification

The Directive should follow the same logic as the Regulations 1408/71 and 883/2004, which address "persons" instead of "workers", thereby assuring that the scope includes anybody (e.g. self-employed, or workers switching from employment to self-employment and vice versa) who might be entitled to supplementary pensions.

Amendment by Jean Lambert

Amendment 35
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 **persons** to freedom of movement and the operation of the internal market. Thus, in order to improve the portability of the supplementary pension rights of **persons** 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.

Or. en

Justification

The Directive on improving the portability of supplementary pension rights should follow the same logic as the Social Security Regulations 1408/71 and 883/2004, which address "persons" instead of "workers", thereby assuring that the scope encloses anybody who might be entitled to supplementary pensions.

Amendment by Jan Andersson and Ole Christensen

Amendment 36
Recital 5 a (new)

(5a) Acknowledging the vital role of the social partners in the organisation and

management of supplementary pension schemes, the improvement of the portability of supplementary pension rights must be achieved without violating the social partners' freedom to negotiate and conclude agreements.

Or. en

Amendment by Eva-Britt Svensson

Amendment 37
Recital 5 a (new)

(5a) Acknowledging the vital role of the social partners in the organisation and management of supplementary pension schemes, the improvement of the portability of supplementary pension rights must be achieved without violating the social partners' freedom to negotiate and conclude agreements.

Or. en

Amendment by Jean Lambert

Amendment 38
Recital 5 a (new)

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

Or. de

Justification

This makes it clear that the Commission proposal also has a substantial degree of social significance. The focus should not just be on improving the flexibility of labour markets, but

also on the goal of securing people's standard of living in old age.

Amendment by Maria Matsouka

Amendment 39

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.

(6) In order to ensure that the conditions for **establishing, safeguarding and** acquiring supplementary pension rights do not undermine the exercise of the right of workers to freedom of movement within the European Union, **it is essential to determine the general legislative framework for the relevant provisions**, 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.

Or. el

Justification

In order that they do not face obstacles regarding freedom to move within the European market, European workers must know the conditions and procedures for establishing, safeguarding and acquiring supplementary pension rights through regulation of these matters by legislation.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 40

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.

(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 **and to ensure that worker mobility is neither hindered nor penalised**, 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.

Or. it

Justification

As well as guaranteeing the right to freedom of movement, it is necessary to ensure that worker mobility is not penalised as regards the possibility of acquiring rights under supplementary schemes.

Amendment by Karin Jöns

Amendment 41
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.

(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 satisfactory *supplementary provision or occupational retirement provision* at the end of their career.

Or. de

Justification

The term 'pension' is mostly used to mean statutory retirement insurance. It should therefore be spelled out at this juncture that what is at issue is supplementary provision or occupational retirement provision.

Amendment by Jan Andersson and Ole Christensen

Amendment 42
Recital 6 a (new)

(6a) The aim of safeguarding the supplementary pension rights of mobile workers in order to facilitate the exercise of

the right of workers both to freedom of movement between Member States, and to occupational mobility within the same Member State, can be achieved either by guaranteeing the preservation of dormant pension rights of workers who leave an employment relationship or by allowing such workers to transfer capital to another supplementary pension scheme in connection with a new employment relationship.

Or. en

Amendment by Eva-Britt Svensson

Amendment 43
Recital 6 a (new)

(6a) The aim of safeguarding the supplementary pension rights of mobile workers in order to facilitate the exercise of the right of workers both to freedom of movement between Member States, and to occupational mobility within the same Member State, can be achieved either by guaranteeing the preservation of dormant pension rights of workers who leave an employment relationship or by allowing such workers to transfer capital to another supplementary pension scheme.

Or. en

Amendment by Thomas Mann

Amendment 44
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, *deleted*

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.

Or. de

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 45

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. **deleted**

Or. de

Justification

An obligation to adjust dormant rights arises from this provision of the proposal for a directive, in conjunction with Article 5(1). Activating the vested rights of outgoing workers would increase the costs of occupational pension provision by around 20-30%. In the medium term this will result in lower pension benefits for colleagues and will even put the entire occupational pension system in Germany, which is relied on by workers, at risk.

Amendment by Harald Ettl

Amendment 46

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*

*(7) Steps must also be taken to ensure **equal treatment** of dormant rights. This objective **will** be achieved by **linking** dormant rights **to the rights of retired scheme members in such a way that when the rights of retired scheme members are adjusted, the dormant rights of scheme members are adjusted, too,***

are in the course of being paid, or the rate of return on assets under the supplementary pension scheme.

or, if that is not possible, by means of an adjustment based on other reference measures, such as 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.

Or. de

Justification

There are schemes in which there are no retired scheme members. Consequently, dormant rights cannot be adjusted in the same way as those of retired scheme members.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 47
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) Steps must also be taken to ensure fair *treatment* of dormant rights so as to avoid that outgoing workers are penalised . This objective could be achieved by *treating* 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 *in the same way as those of active members* of the supplementary pension scheme.

Or. it

Justification

The aim is to prevent discrimination between the treatment of active scheme members and that of outgoing workers.

Amendment by Jean Lambert

Amendment 48
Recital 7

(7) Steps must also be taken to ensure a fair

(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.

adjustment of dormant rights so as to avoid that outgoing workers are penalised . This objective *should* 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.

Or. en

Justification

self explanatory

Amendment by Carlo Fatuzzo

Amendment 49
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) 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 ***and the outgoing worker has given express consent.***

Or. it

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 50
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

(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.

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, ***after consulting the social partners.***

Or. it

Amendment by Jan Andersson and Ole Christensen

Amendment 51

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.

(9) Workers who change jobs must ***have their supplementary pension rights guaranteed either through an option*** to retain their pension rights acquired under the original supplementary scheme or to transfer the corresponding sum to another supplementary pension scheme, including one in another Member State.

Or. en

Amendment by Eva-Britt Svensson

Amendment 52

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.

(9) Workers who change jobs must ***have their supplementary pension rights guaranteed either through an option*** to retain their pension rights acquired under the original supplementary scheme or to transfer transferring the corresponding sum to another supplementary pension scheme, including one in another Member State.

Or. en

Amendment by Maria Matsouka

Amendment 53

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.

(9) Workers who change **work or who find a new job after a period of unemployment** 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.

Or. el

Justification

Reference to the fact that workers at present do not automatically transfer from one job to another. Very often workers may return to the labour market after a longer or shorter period of unemployment.

Amendment by Jean Lambert

Amendment 54

Recital 9 a (new)

(9a) Above all, the objectives of facilitating mobility and ensuring effective supplementary retirement income protection can be achieved only if differing taxation systems in Member States are also adjusted.

Or. en

Amendment by Carlo Fatuzzo

Amendment 55

Recital 10

(10) For reasons of financial sustainability of supplementary pension schemes, the Member States have the possibility in principle to exempt unfunded schemes

Deleted

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.

Or. it

Justification

There should be no exemptions based on methods for the funding and management of different pension schemes.

Amendment by Maria Matsouka

Amendment 56
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. ***Delete***

Or. el

Justification

This paragraph is deleted on the grounds of equal treatment between workers covered by funded and unfunded schemes.

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 57
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.***

(10) For reasons of financial sustainability of supplementary pension schemes, the Member States have the possibility to exempt unfunded schemes from the obligation to allow workers to transfer acquired rights.

Or. de

Justification

Transfer rights harm the liquidity of firms which organise their occupational pension schemes using internal arrangements, since it is of the essence of internal financing that the capital used for the pension scheme is locked up in the firm, and thus is not available for transfer by an outgoing worker. A right of transfer would lead to many firms turning away from internal arrangements for providing occupational pensions. This will put the entire occupational pension system in Germany, on which workers rely, at risk.

Amendment by Thomas Mann

Amendment 58 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.***

(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.

Or. de

Amendment 59

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.

(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, ***in respect of contributions paid before the entry into force of this Directive***. 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.

Or. it

Justification

See the justification to the amendment tabled to Article 9(3).

Amendment by Jean Lambert

Amendment 60

Recital 11

(11) Without prejudice to Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision¹, ***workers*** who exercise or plan to exercise their right to freedom of movement should be suitably informed by those responsible for managing supplementary pension schemes, particularly regarding how a termination of their employment would affect their supplementary pension rights.

(11) Without prejudice to Directive 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision, ***persons*** who exercise or plan to exercise their right to freedom of movement should be suitably informed by those responsible for managing supplementary pension schemes, particularly regarding how a termination of their employment would affect their supplementary pension rights.

Or. en

Justification

Self-employed persons are also included in Directive 2003/41, key terms used here:
*Institutions for occupational retirement provision: an institution, irrespective of its legal form, operating on a funded basis and established separately from any sponsoring undertaking or trade for the purpose of providing retirement benefits in the context of an occupational activity on the basis of an agreement or contract **agreed individually or collectively between the employer(s) and employee(s) or their respective representatives, or with self-employed persons**, in compliance with the legislation of the home and host Member States, and which carried out activities directly arising from that purpose.*

Amendment by Jean Lambert

Amendment 61
Recital 12 a (new)

(12a) One of the aims of this Directive is to remove barriers to competition for companies intending to become established in other Member States, as long waiting periods and a high entry age tie down employees and therefore inhibit mobility.

Or. en

Justification

Stressing the Internal Market side of the Directive

Amendment by Thomas Mann

Amendment 62
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 freedom of movement ***for workers*** and ***their*** right to occupational mobility ***between*** Member ***States*** by ***enabling them, when they change employers, to transfer vested pension rights to their new employers'*** supplementary pension schemes.

Or. de

Amendment by Maria Matsouka

Amendment 63

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 workers to freedom of movement **in order to find available jobs and extend employment to include more and better jobs in accordance with the Lisbon Strategy**, by reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

Or. el

Justification

This refers to the fact that freedom of movement of workers is chiefly linked to combating unemployment and increasing employment.

Amendment by Anne Van Lancker

Amendment 64

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 workers to freedom of movement and of the right to occupational mobility within the same Member State **and between the Member States, and to protect workers' rights when they avail themselves of this entitlement**, by reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

Or. fr

Justification

The purpose of this amendment is to introduce equal treatment for all mobile workers moving either from one Member State to another or within a given Member State.

Amendment by Jan Andersson

Amendment 65
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 workers to freedom of movement and of the right to occupational mobility within the same Member State, by ***protecting acquired pension rights and thereby*** reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

Or. en

Amendment by Eva-Britt Svensson

Amendment 66
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 workers to freedom of movement and of the right to occupational mobility within the same Member State, by ***protecting acquired pension rights and thereby*** reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

Or. en

Amendment by Jean Lambert

Amendment 67
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

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,***

Member State, by reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

comprehensive development of supplementary pension provision, within the same Member State, by reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

Or. de

Justification

The directive should follow the same logic as Regulations Nos. 1408/71 and 883/2004, which concern 'persons' and thus ensure that it encompasses all those who have access to supplementary pensions.

This makes it clear that the Commission proposal also has a substantial degree of social significance. The focus should not just be on improving the flexibility of labour markets, but also on the goal of securing people's standard of living in old age.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 68 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 workers to freedom of movement and of the right to occupational mobility within *the European Union and protect workers' rights when they avail themselves of this entitlement*, by reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

Or. it

Amendment by Jiří Maštálka

Amendment 69 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

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 *both* within the

Member State, by reducing the obstacles created by certain rules governing supplementary

European Union and within the same Member State, by reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

Or. en

Justification

The Directive should follow the same logic as the Social Security Regulations 1408/71 and 883/2004, which address "persons" instead of "workers", thereby assuring that the scope includes anybody (e.g. self-employed, or workers switching from employment to self-employment and vice versa) who might be entitled to supplementary pensions.

If this amendment is adopted, definitions in other articles should change accordingly (Articles 3f, 3g, 4a, 4c).

Amendment by Astrid Lulling

Amendment 70 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 workers to freedom of movement and ***(deletion)*** occupational mobility within ***a given*** Member State ***or between Member States***, by reducing the obstacles created by certain rules governing supplementary pension schemes in the Member States.

Or. fr

Amendment by Ria Oomen-Ruijten

Amendment 71 Article 2

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

This Directive applies to ***all*** supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71, ***and only to entitlements granted under employment contracts concluded after the***

entry into force of this Directive.

Or. nl

Amendment by Harald Ettl

Amendment 72

Article 2

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

This Directive applies to ***all*** supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71, ***and only to rights acquired after this Directive enters into force.***

Or. de

Amendment by Kathy Sinnott

Amendment 73

Article 2

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

This Directive applies to ***all*** supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71 ***but only to the entitlements that arise from new work contracts.***

Or. en

Justification

It is necessary to clarify that the Directive does not apply to supplementary pension rights of the same person acquired before and after the implementation date of this Directive but applies only to entitlements that arise from work contracts after the implementation date.

Amendment by Philip Bushill-Matthews

Amendment 74

Article 2

This Directive applies to supplementary pension schemes apart from the schemes

This Directive applies to supplementary pensions apart from schemes covered by

covered by Regulation (EEC) No 1408/71.

Regulation (EEC) N°1408/71 **but only to the entitlements that arise from new work contracts.**

Or. en

Justification

As currently drafted, amendment 9 could be interpreted as meaning that the supplementary pension entitlements of a worker acquired before entry into force of the directive would not be affected but that the entitlements of the same worker after that date would be subject to the rules of the directive. This would not meet the concern to limit the scope to new affiliations only and would considerably increase the cost of administering supplementary pensions since rights generated before and after the directive would have to be administered separately. Higher administration costs would mean less money available for pensions.

Amendment by Anne E. Jensen

Amendment 75
Article 2

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

This Directive applies to supplementary pension schemes apart from the schemes covered by regulation (ECC) 1408/71 **insofar as the supplementary pension entitlements arise from employment contracts after the entry into force of this Directive.**

Or. en

Justification

The purpose of this amendment is to ensure that the provisions of this directive only apply to future commitments to avoid retrospective legislation which has not been foreseen when the employer set up the scheme. In addition, this would ensure that the cost implications emerge gradually over time for existing schemes, thereby minimizing the risk of employers moving away from pension provision.

Amendment by Karin Jöns

Amendment 76
Article 2

This Directive applies to supplementary

This Directive applies to supplementary

pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71.

pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71, **and only to new commitments entered into after 1 July 2008.**

Or. de

Justification

Since occupational pension schemes regularly cover biometric risks, there is a long-term relationship between contributions and benefits which is calculated on a collective basis. In the case of pre-existing commitments the transferability of pension rights is not included in the calculation. A retroactive obligation would therefore jeopardise the security of the system and the interests of the occupational pensioners and scheme members remaining in the system.

Amendment by Thomas Mann

Amendment 77
Article 2

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

This Directive applies to ***the portability, between Member States of the European Union, of rights under both voluntary and compulsory*** supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71.

Or. de

Amendment by Astrid Lulling

Amendment 78
Article 2

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

This Directive applies to ***all*** supplementary pension schemes ***for paid employees. This Directive shall not apply to the self-employed, since they are*** covered by Regulation (EEC) No 1408/71.

Or. fr

Amendment by Agnes Schierhuber

Amendment 79

Article 2

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

This Directive applies to **rights under both voluntary and compulsory** supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71.

Or. de

Justification

First, this makes it clear that the directive does not entail any obligation to establish an occupational supplementary pension scheme. Secondly, it ensures a clearer demarcation between the second and third pillars.

Amendment by Maria Matsouka

Amendment 80

Article 2

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

This Directive applies to supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71 **and Regulation (EC) No 883/2004, as amended.**

Or. el

Justification

Reference to Regulation 883/2004 which will replace Regulation 1408/71 until 2007.

Amendment by Marie Panayotopoulos-Cassiotou

Amendment 81

Article 2

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

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

Or. el

Justification

This amendment seeks to exempt retirement benefits in respect of the supplementary insurance cover of ensured persons and beneficiaries in respect of old age, disability and death operating under funded schemes. It is preferable that the material scope of the proposal for a directive should be the same as for Directive 2003/41/EC on the activities and supervision of institutions for occupational retirement provision. (This view has also been voiced in the Council Social Affairs Group).

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 82

Article 2, paragraph 1 a (new)

The Directive applies only to new commitments relating to workers who are accepted into a supplementary pension scheme after the Directive has been implemented in national law in the Member States.

Or. de

Justification

It is essential to restrict the scope of the directive to cover new commitments only. Including pre-existing pension commitments would sharply increase companies' financial occupational pension commitments. Applying the directive to pre-existing commitments, as well, would lead to massive increases in costs to employers.

Amendment by Harald Ettl

Amendment 83

Article 2, paragraph 1 a (new)

A supplementary pension scheme offered by a firm must be open to the entire workforce.

Or. de

Justification

On the grounds of equal treatment any employer must make the supplementary pension scheme offered open to the entire workforce.

Amendment by Marie Panayotopoulos-Cassiotou

Amendment 84
Article 3, point b)

(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;

(b) “supplementary pension scheme” means any occupational scheme ***by an undertaking*** or any collective or other comparable arrangement intended to provide a supplementary pension for employed or self-employed persons;

Or. el

Justification

The scope of the directive should include both categories of insured member (employed and self-employed) in occupational pension schemes, firstly, to be consistent with Directive 98/49/EC, and, secondly because occupational insurance funds established in one country and falling within the scope of the proposal for a directive in question cover both employed and self-employed persons. (This position has already been voiced in the Council's Social Affairs Working Party).

Amendment by Astrid Lulling

Amendment 85
Article 3, point b)

(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

(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;

reserves, or any collective or other comparable arrangement intended to provide a supplementary pension for employed persons;

Or. fr

Amendment by Carlo Fatuzzo

Amendment 86
Article 3, point b)

(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;

(b) “supplementary pension scheme” means any occupational *or individual* 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 *citizens and* employed or self-employed persons;

Or. it

Justification

It would be useful to include in the directive pension funds intended for individual citizens. National budgets always benefit when individuals make any kind of arrangement for their own pension.

Amendment by Maria Matsouka

Amendment 87
Article 3, point b)

(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

“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;

comparable arrangement intended to provide a supplementary pension for employed persons;

Or. el

Justification

The issue of the pensions of self-employed persons is determined by Regulation (EEC) 1408/71 and Regulation (EC) 883/200 replacing it.

Amendment by Astrid Lulling

Amendment 88
Article 3, point c)

(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;

(c) “*active* scheme members” means those persons whose occupation entitles them or is likely to entitle them (*once they have fulfilled the acquisition requirements*) to a supplementary pension in accordance with the provisions of *their* supplementary pension scheme;

Or. fr

Amendment by Carlo Fatuzzo

Amendment 89
Article 3, point c)

(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;

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

Or. it

Justification

It is preferable to make it clear that scheme members includes those yet to find their first job but who are paying into a private pension scheme and will be workers in the future.

Amendment by Jiří Maštálka

Amendment 90
Article 3, point c)

(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;

(c) “scheme members” means those persons ***who are entitled or are likely to be entitled*** to a supplementary pension in accordance with the provisions of a supplementary pension scheme;

Or. en

Justification

The reference to ‘occupation’ is not necessary for the definition of a scheme member.

Amendment by Jean Lambert

Amendment 91
Article 3, point c)

(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;

(c) “scheme members” means those persons ***who are entitled*** to a supplementary pension in accordance with the provisions of a supplementary pension scheme;

Or. en

Justification

A limitation to occupation complicates this Directive in an unnecessary way. The aim also in the framework of better legislation should be a Directive with a clear scope and target - targeting the field of supplementary pensions and all persons affected and/or entitled.

Amendment by Carlo Fatuzzo

Amendment 92
Article 3, point d)

(d) “pension rights” means any benefits to which scheme members and others holding entitlement are entitled under the rules of a

(d) “pension rights” means any benefits to which scheme members and others holding entitlement are entitled ***or may be entitled***

supplementary pension scheme and, where applicable, under national legislation;

under the rules of a supplementary pension scheme and, where applicable, under national legislation;

Or. it

Justification

The change means that the right will also extend to someone who, for example, has contributed for nineteen years to a pension fund and will be entitled to draw a pension after a further period of, say, one year, bringing the total to twenty years.

Amendment by Agnes Schierhuber

Amendment 93
Article 3, point (e)

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

(e) “termination of employment” means **the termination of** an employment relationship **for reasons other than retirement, as well as those which result in the loss of rights pursuant to national law;**

Or. de

Justification

One of the purposes served by voluntary supplementary pension schemes is to bind workers to firms and to reward them for such loyalty with a supplementary pension. Depending on national law, certain culpable acts on the part of a worker may entitle the employer to dismiss him/her. In such cases the worker should not be rewarded by being allowed to transfer rights from the occupational supplementary pension scheme.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 94
Article 3, point e)

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

(e) “termination of employment” means **the moment when an employment relationship effectively ends as a result of a decision to terminate it;**

Or. it

Justification

The aim is to clarify the concept of 'termination of employment' by defining it as the moment when the employment actually ends rather than the moment when the desire to terminate it is expressed.

Amendment by Anne Van Lancker

Amendment 95
Article 3, point e)

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

(e) “termination of employment” means **the moment at which the** employment relationship **actually ceases**;

Or. fr

Justification

The definition of ‘termination of employment’ gives rise to confusion and needs to be clarified. Termination of employment means the moment at which employment actually ceases.

Amendment by Harald Ettl

Amendment 96
Article 3, point (f)

(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;

(f) “outgoing worker” means a worker **whose** employment relationship, through which he has acquired pension rights or could have acquired such rights by remaining in that employment relationship, **ends before he becomes eligible for a pension, irrespective of the reason therefor**;

Or. de

Justification

The original Commission wording covers only workers leaving of their own volition, and not other types of termination, such as being given notice by employers.

Amendment by Astrid Lulling

Amendment 97
Article 3, point f)

(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**;

(f) “outgoing worker” means an **active scheme member whose employment relationship comes to an end** before **he becomes** eligible for a pension **and who** has acquired pension rights;

Or. fr

Amendment by Jean Lambert

Amendment 98
Article 3, point f)

(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;

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

Or. en

Justification

A limitation just to occupation should be avoided, therefore targeting the field of supplementary pensions and all persons affected and/or entitled.

Amendment by Carlo Fatuzzo

Amendment 99
Article 3, point 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;

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

Justification

The phrase deleted is redundant.

Amendment by Maria Matsouka

Amendment 100
Article 3, point f)

(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;

(f) “outgoing worker” means a worker who, before becoming eligible for a pension, leaves an employment relationship, ***sometimes without wishing to do so***, through which he has acquired pension rights or could have acquired such rights by remaining in that employment relationship;

Or. el

Justification

Reference to cases in which workers are unemployed.

Amendment by Jan Andersson

Amendment 101
Article 3, point g)

(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;

(g) "portability" means the ***protection of acquired supplementary*** pension rights ***for workers*** when exercising their right to freedom of movement or occupational mobility;

Or. en

Amendment by Eva-Britt Svensson

Amendment 102
Article 3, point g)

(g) “portability” means the ***option open to***

(g) "portability" means the ***protection of***

workers of acquiring and retaining pension rights when exercising their right to freedom of movement or occupational mobility;

acquired supplementary pension rights *for workers* when exercising their right to freedom of movement or occupational mobility;

Or. en

Amendment by Jean Lambert

Amendment 103
Article 3, point g)

(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;

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

Or. en

Justification

The Directive on improving the portability of supplementary pension rights should follow the same logic as the Social Security Regulations 1408/71 and 883/2004, which address "persons" instead of "workers", thereby assuring that the scope encloses anybody who might be entitled to supplementary pensions.

Amendment by Eva-Britt Svensson

Amendment 104
Article 3, point j)

(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.*

deleted

Or. en

Justification

Since transfer of pension capital is not the most appropriate way of ensuring pension rights, this should not be pointed out as the way of promoting mobility, and therefore no definition of this word is required in the directive. In consequence with proposing safeguarding dormant rights instead of transferability this should be deleted.

Amendment by Jean Lambert

Amendment 105
Article 3, point j)

(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.

(j) 'transfer' means the payment *of all those pension rights acquired under the scheme, which can be capitalised, with this sum being transferred* to a new supplementary pension scheme or, *in the event that this is not available, to* another financial institution, which provides pension rights

Or. en

Justification

1) It should be avoided to split pension rights as this might lead to small or partial entitlements.

2) A change from a supplementary pension scheme (under the 2nd pillar of pensions) to a financial institution, which provides pension rights (under the 3rd pillar of pensions) should be limited to avoid the weakening of the 2nd pillar. However, a transfer to the 3rd pillar should still be possible in cases where the person does not have access to supplementary schemes due to the fact that he does not enter regular employment, i.e. by becoming an independent

3) Concerning the "object" of the transfer, the focus should be on those pension rights which can be transferred, rather than a "capital sum representing".

Amendment by Kathy Sinnott

Amendment 106
Article 3, point j)

(j) "transfer" means the payment by a supplementary pension scheme of *a capital*

(j) 'transfer' means the payment by a supplementary pension scheme of

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.

capitalised entitlements representing all or part of the pension rights acquired under the scheme, with the **sum being transferred** to a new supplementary pension scheme or another financial institution which provides pension rights **and does not involve the transfer of capitalised entitlements**.

Or. en

Justification

The definition should be amended to retain the option to transfer to a financial institution that provides pension rights in cases where the person cannot transfer to another supplementary pension scheme. The definition should also take account of the transfer of pension rights from one pension scheme to another which would cater for countries like Ireland where the Public Service transfer network does not involve the transfer of a capital sum.

Amendment by Astrid Lulling

Amendment 107 Article 3, point j)

(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.

(j) “transfer” means the payment by a supplementary pension scheme of a capital sum representing the pension rights acquired under the scheme to a new supplementary pension scheme or another financial institution which provides pension rights.

Or. fr

Amendment by Jan Andersson and Ole Christensen

Amendment 108 Article 3, point j)

(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

(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.

financial institution which provides pension rights, **and which covers an outgoing worker that exercises the right to freedom of movement in connection with the commencement of a new employment relationship.**

Or. en

Justification

In this way, it is specified that a transfer to another pension scheme can only take place when it is established as part of an employment relationship.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 109
Article 3, point j)

(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.

(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.

Such transfers are possible only where a new employment relationship is established.

Or. it

Justification

The aim is to highlight the link between supplementary and occupational pension schemes and the employment relationship, under which they can be consolidated and develop.

Amendment by Anne E. Jensen

Amendment 110
Article 3, point j)

(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.

(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 **or institutions which administer supplementary pension rights.**

Or. en

Justification

The purpose of this amendment is to take into account existing transfer possibilities in different Member States, in particular as to the nature of the "receiving schemes" of transferred pension rights, hereby increasing the opportunities for transferring members. For example, transferring members could use their transfer value to purchase a contract with an insurance company.

Amendment by Anne Van Lancker

Amendment 111
Article 3, point j)

(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.

(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. **Such a transfer is possible only in connection with a new employment relationship.**

Or. fr

Justification

This clarifies the definition of 'transfer' in order to ensure that when the transfer is made, the capital transferred is not used for anything other than to finance a supplementary occupational pension, and hence to prevent abuse of any kind.

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 112
Article 3, point j a (new)

(ja) "employer's contributions" means contributions, not funded by the worker, paid by an employer into a supplementary scheme on the basis of company practice, a company agreement or rules under a collective agreement;

Or. de

Justification

What is needed is a proper distinction between occupational pension provision funded by employers and that funded by workers. Contributions by employers are paid on the basis of an obligation arising from a collective agreement, company practice or individual law.

Amendment by Astrid Lulling

Amendment 113
Article 3, point k) (new)

(k) 'deferred beneficiary' means any person who has acquired pension rights under a supplementary pension scheme, who is no longer an active scheme member and who does not yet meet the eligibility requirements for receiving a pension.

Or. fr

Amendment by Eva-Britt Svensson

Amendment 114
Article 4

The Member States shall take all necessary steps to ensure that:

Where conditions for the acquisition of pension rights are stipulated, such as minimum age, waiting periods and/or vesting periods, such conditions should be fair and justified on objective and non-discriminatory grounds.

(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;

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

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age;

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

Or. en

Justification

Regulation in details threatens to infringe the freedom of the social partners to negotiate and conclude collective agreements. Instead it should be pointed out that conditions in a pension scheme should be fair and justified on objective grounds.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 115
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 pension rights have not yet been acquired when employment is terminated, all the contributions paid by, or on behalf of, the outgoing worker, ***including those by the employer in accordance with legal provisions or collective agreements or contracts***, are reimbursed or transferred; ***the amount of the contributions may be reassessed in cases where interest or revaluation coefficients pertaining to them have matured, after deduction of any administrative expenses due***;

Or. it

Justification

The amendment rules out the possibility of repayment or transfer only for voluntary contributions by employers, that is those whose payment is not required by legal provisions or collective contracts. In addition, these contributions should be eligible for revaluation to take account of accrued interest, once administrative expenses or charges have been deducted.

Amendment by Jiří Maštálka

Amendment 116
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 pension rights have not yet been acquired when employment is terminated, all the contributions paid by, or on behalf of, the outgoing worker are transferred;

The right to consolidate acquired pension rights, in accordance with the way in which statutory pension entitlements are dealt with under Regulation 1408/71, should be guaranteed.

Or. en

Justification

Given the growing importance of supplementary pension schemes for maintaining living standards at old age, it might be practical to use the same principles for combining different supplementary systems as for different public pension systems.

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 117
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 pension rights have not yet been acquired when employment is terminated, all the contributions paid by, **and** on behalf of, the outgoing worker are reimbursed or transferred; ***contributions the cost of which is borne solely by the employer lapse;***

Or. de

Justification

If no pension rights have accrued by the time that employment is terminated, this means that no vested rights yet exist. The contributions made by the employer – which can still lapse – must be excluded from the worker's right to transfer them or have them reimbursed.

Amendment by Philip Bushill-Matthews

Amendment 118
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 pension rights have not yet been acquired when employment is terminated, all the contributions paid by, or on behalf of, the outgoing worker, are **preserved as dormant rights**, reimbursed or transferred.

Or. en

Justification

The reimbursement or transfer of all contributions made in cases where pension rights have not been acquired when the worker terminates employment does not take adequate account of the nature and functioning of an occupational pension scheme. Many insurance companies have reported that the contributions paid can only be entirely reimbursed or transferred if the current value of the pension contract exceeds the sum of contributions paid.

Amendment by Ria Oomen-Ruijten

Amendment 119
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 pension rights have not yet been acquired when employment is terminated, all the **rights acquired by and** on behalf of the outgoing worker are reimbursed or transferred;

Or. nl

Amendment by Astrid Lulling

Amendment 120
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 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, ***except for the contributions made by the employer***;

Or. fr

Amendment by Ria Oomen-Ruijten

Amendment 121
Article 4, point aa) (new)

(a a) Supplementary voluntary contributions paid solely by the employer during the period referred to in Article 4(d), where the employment relationship ends before the expiry of that period.

Or. nl

Amendment by Alexander Radwan

Amendment 122
Article 4, point (b)

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

Or. de

Justification

Different minimum ages for acquiring rights in the Member States do not stand in the way of basic transferability of supplementary pension rights. A minimum age laid down in Community law therefore does not come within the remit of regulation at European level, either.

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 123
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) *the Member States may lay down age limits whereby workers may be excluded from the acquisition of pension rights until they reach that age;*

Or. de

Justification

A reduction to 21 years would entail higher costs for occupational pension schemes, because the number of those entitled to vested rights would increase. A further consequence would be an increase in minimum pension rights with high administrative costs, since fluctuation among the under-30s is markedly higher than in other age groups. It should be left to the Member States, in accordance with the subsidiarity principle, to determine age limits.

Amendment by Jean Lambert

Amendment 124
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 conditions for the acquisition of pension rights are stipulated, such as minimum age, waiting periods and/or vesting periods, such conditions should be fair and justified on objective and non-discriminatory grounds;*

Or. en

Justification

self-explanatory

Amendment by Elisabeth Schroedter

Amendment 125
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 a minimum age is stipulated for the acquisition of pension rights, this can not be more than the legal age for entering into full-time employment;*

Or. en

Justification

Also young workers should be allowed to enter the schemes as soon as possible.

Amendment by Jamila Madeira

Amendment 126
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 a minimum age is stipulated for the acquisition of pension rights, this **must correspond to the minimum age for entering the employment market**;

Or. pt

Justification

The minimum age for acquiring pension rights must be equivalent to the minimum age for entering the employment market, which may vary from one Member State to another.

Amendment by Carlo Fatuzzo

Amendment 127
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) **no** minimum age **shall be** stipulated for the acquisition of pension rights;

Or. it

Justification

Refusing to allow pension contributions for citizens below a minimum age is damaging to the worker and employer. It also represents discrimination on grounds of age.

Amendment by Thomas Mann

Amendment 128
Article 4, point (b)

(b) where a minimum age is stipulated for the acquisition of pension rights, this is not

(b) where a minimum age is stipulated for the acquisition of pension rights, this is not

more than **21** years;

more than **30** years;

Or. de

Amendment by Maria Matsouka

Amendment 129
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 a minimum age is stipulated for the acquisition of pension rights, this is not more than **18** years;

Or. el

Justification

An age limit of 18 years is considered preferable for the establishment of pension rights.

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 130
Article 4, point (c)

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age;

deleted

Or. de

Justification

This point is not drafted clearly and leaves it uncertain whether the period in question is a qualifying period or a preliminary period. It could even be taken to mean that every worker should have the right to be accepted even into voluntary, employer-financed occupational pension schemes.

Amendment by Carlo Fatuzzo

Amendment 131
Article 4, point c)

(c) a worker may join a supplementary pension scheme *after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age;*

(c) a worker may join a supplementary pension scheme *from the first day of his employment;*

Or. it

Justification

There is no justification for discrimination between workers in their first year of employment and those who have worked longer than a year.

Amendment by Jamila Madeira

Amendment 132
Article 4, point c)

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year *or, where necessary, no later than once he has reached the required minimum age;*

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year *if that employment constitutes his first job;*

Or. pt

Justification

When a worker enters the employment market he must be able to join a supplementary pension scheme without being subject to any time limits or to a minimum age.

Amendment by Thomas Mann

Amendment 133
Article 4, point (c)

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age;

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age; *this right shall not apply to supplementary pension schemes which are financed solely by the employer;*

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 134
Article 4, point c)

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age;

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age, ***save where otherwise provided in collective agreements or contracts***;

Or. it

Justification

The amendment provides an exemption for the provisions of any agreements or contracts between the social partners.

Amendment by Astrid Lulling

Amendment 135
Article 4, point c)

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age;

(c) a worker may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he has reached the required minimum age ***stipulated under the supplementary scheme in question***;

Or. fr

Amendment by Jean Lambert

Amendment 136
Article 4, point c)

(c) ***a worker*** may join a supplementary pension scheme after a maximum period of employment of one year or, where

(c) ***a person*** may join a supplementary pension scheme after a maximum period of employment of one year or, where

necessary, no later than once he has reached the required minimum age;

necessary, no later than once he has reached the required minimum age;

Or. en

Justification

The Directive on improving the portability of supplementary pension rights should follow the same logic as the Social Security Regulations 1408/71 and 883/2004, which address "persons" instead of "workers", thereby assuring that the scope encloses anybody who might be entitled to supplementary pensions.

Amendment by Alexander Radwan

Amendment 137
Article 4, point (d)

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

Or. de

Justification

Differing periods for vesting in the Member States do not stand in the way of basic transferability of supplementary pension rights. Minimum vesting periods laid down in Community law therefore do not come within the remit of regulation at European level, either.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 138
Article 4, point d)

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

(d) a worker acquires pension rights after a maximum membership period of **five years**, except where otherwise provided by collective agreements. For the purposes of attaining the five years, contributions transferred in accordance with point (a) may be added together.

Or. it

Justification

The amendment ensures that, when rights are transferred from one fund to another, the contribution periods may be added together for the purpose of reaching the minimum threshold laid down for acquiring pension rights.

Amendment by Thomas Mann

Amendment 139
Article 4, point (d)

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

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

Or. de

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 140
Article 4, point (d)

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

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

Or. de

Justification

A massive reduction in vesting periods would result in substantial increases in costs (5-20%). This would also lead to a marked increase in the number of minimum pensions. Administering this kind of minimum rights is disproportionately expensive, and this would remove one substantial reason for employers to run voluntary occupational pension schemes. This will put the entire occupational pension system in Germany, which is relied on by workers, at risk.

Amendment by Jamila Madeira

Amendment 141
Article 4, point d)

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

(d) a worker acquires pension rights after **the minimum period required in any of the EU Member States in which he works or has worked – a period which may never exceed**

two years.

Or. pt

Justification

The maximum period of two years is arbitrary and the legitimate expectations of anyone who has paid contributions must be satisfied.

Amendment by Jean Lambert

Amendment 142
Article 4, point d)

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

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

Or. en

Justification

The Directive on improving the portability of supplementary pension rights should follow the same logic as the Social Security Regulations 1408/71 and 883/2004, which address "persons" instead of "workers", thereby assuring that the scope encloses anybody who might be entitled to supplementary pensions.

Amendment by Jan Andersson and Ole Christensen

Amendment 143
Article 4, paragraph 1 a (new)

Member States may entrust management and labour at the appropriate level, including at undertaking or establishment level, with defining freely and at any time through negotiated agreement conditions that deviate from Article 4(1) as long as such conditions are fair and justified on objective and non-discriminatory grounds.

Or. en

Amendment by Eva-Britt Svensson

Amendment 144
Article 4, paragraph 1 a (new)

Member States may entrust management and labour at the appropriate level, including at undertaking or establishment level, with defining freely and at any time through negotiated agreement conditions that deviate from Article 4(1) as long as such conditions are fair and justified on objective and non-discriminatory grounds.

Or. en

Amendment by Thomas Mann and Philip Bushill-Matthews

Amendment 145
Article 5, paragraph 1

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. ***deleted***

Or. de

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 146
Article 5, paragraph 1

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. ***deleted***

Or. de

Justification

An obligation to adjust dormant rights arises from this provision of the proposal for a

directive, in conjunction with Article 5(1). Activating the vested rights of outgoing workers would increase the costs of occupational pension provision by around 20-30%. In the medium term this will result in lower pension benefits for colleagues and will even put the entire occupational pension system in Germany, which is relied on by workers, at risk.

Amendment by Eva-Britt Svensson

Amendment 147
Article 5, paragraph 1

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. Acquired supplementary pension rights must be neither compromised nor reduced.

Or. en

Justification

Instead of introducing transferability of pension capital, the directive should focus on regulations that ensure that all acquired pension rights are preserved and that these pension rights are treated equally irrespective of whether the worker is still covered by the pension scheme or has left the scheme due to termination of employment. Number 1 means that the employer who has promised some kind of pension rights during the time the worker has been employed, will have to stand for this promise even if the employment is terminated. Number 2 means that dormant pension rights shall be treated equally compared to pension rights of those who are still working under the scheme and actively acquiring new supplementary pension rights. This aims at a rule of equal treatment between those who stay with the same employer and those who change jobs.

Amendment by Jan Andersson and Ole Christensen

Amendment 148
Article 5, paragraph 1

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 in order to ensure **that acquired supplementary pension rights are neither compromised nor reduced and that all supplementary pension rights shall be treated equally irrespective of whether the individual concerned is still covered by the pension scheme or has left the scheme due to the termination of his or her**

employment.

Or. en

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 149
Article 5, paragraph 1

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 necessary in order to ensure fair *treatment* of dormant pension rights so as to avoid *discrimination between members with dormant rights and active members, thus penalising* outgoing workers.

Or. it

Justification

The aim is to prevent discrimination against outgoing workers, by requiring dormant pension rights to be treated in the same way as active members' rights.

Amendment by Harald Ettl

Amendment 150
Article 5, paragraph 1

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 *take* the measures they deem necessary in order to ensure *that scheme members with* dormant pension rights *and retired scheme members receive equal treatment; if that is not possible, a possibility of binding adjustment, based on other reference measures, such as an adjustment in line with changes in wage levels or with the rate of inflation, must be created*.

Or. de

Justification

There are schemes in which there are, as yet, no retired scheme members, especially recently established schemes.

Amendment by Kathy Sinnott

Amendment 151
Article 5, paragraph 1

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 in order to ***guarantee equal treatment between dormant scheme members and retired scheme members and take account of the different nature of Defined Benefit and Defined Contribution schemes.***

Or. en

Justification

Defined Benefit and Defined Contribution schemes are the two main supplementary pension schemes in Ireland. Under Irish legislation dormant rights under DB scheme are re-valued each year by the less of 4% or the average rate of inflation. DC schemes, on the other hand, increase in line with investment growth. Difficulties would arise for members of such schemes if this differentiation no longer continued.

Amendment by Marie Panayotopoulos-Cassiotou

Amendment 152
Article 5, paragraph 1

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 in order to ensure ***equality of treatment between insured persons whose pension rights remain dormant in the scheme and active insured persons in the pension scheme who continue their insurance with the scheme in a regular manner.***

Or. el

Justification

It is important to specify the groups of insured persons to which equal treatment must apply. (This is also inferred in the rapporteur's Amendment 4 in respect of Recital 7).

Amendment by Anne E. Jensen

Amendment 153
Article 5, paragraph 1

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 penalized**.

1. Member States shall adopt the measures they deem necessary in order to ensure a fair **treatment** of dormant pension rights **of** outgoing workers, **having regard to the nature of the pension scheme**.

Or. en

Justification

The purpose of the amendment is to make clear the distinction between contribution-based and benefit-based schemes. In the first case, the pension rights may be adjusted in accordance with yield from investment if necessary, in the second case according to the method chosen by the Member State. The wording fair "treatment" makes clear that dormant rights should be treated in a fair way, according to the law of the Member States without outgoing members having an unfair advantage as compared to employees staying behind.

Amendment by Jean Lambert

Amendment 154
Article 5, paragraph 1

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 to ensure a fair adjustment of dormant pension rights so as to avoid that outgoing workers are penalised..

Or. en

Justification

self explanatory

Amendment by Astrid Lulling

Amendment 155
Article 5, paragraph 1

1. Member States shall adopt the measures

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**.

they deem necessary in order to ensure a fair **treatment** of dormant pension rights.

Or. fr

Amendment by Eva-Britt Svensson

Amendment 156
Article 5, paragraph 2

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. Acquired supplementary pension rights shall be treated equally irrespective of whether the individual concerned is still covered by the pension scheme or has left the scheme due to the termination of his or her employment.

Or. en

Justification

Instead of introducing transferability of pension capital, the directive should focus on regulations that ensure that all acquired pension rights are preserved and that these pension rights are treated equally irrespective of whether the worker is still covered by the pension scheme or has left the scheme due to termination of employment. Number 1 means that the employer who has promised some kind of pension rights during the time the worker has been employed, will have to stand for this promise even if the employment is terminated. Number 2 means that dormant pension rights shall be treated equally compared to pension rights of those who are still working under the scheme and actively acquiring new supplementary pension rights. This aims at a rule of equal treatment between those who stay with the same employer and those who change jobs.

Amendment by Kathy Sinnott

Amendment 157
Article 5, paragraph 2

2. The Member States may allow supplementary pension schemes *not to preserve acquired rights but to use a*

2. The Member States *or social partners* may allow supplementary pension schemes *the right to use a transfer payment when*

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.

they do not exceed a certain threshold in cases where the preservation of a small amount of dormant pension rights would be unduly costly to the supplementary pension scheme. The Member State shall inform the Commission of the threshold applied.

Or. en

Justification

Article 5 should provide for an "equal treatment" of dormant pension rights to ensure that the outgoing workers are treated fairly. However, this should not give them an unfair advantage over remaining members of the scheme.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 158
Article 5, paragraph 2

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 to preserve acquired rights, *using* 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 *or by the social partners and in any case after consulting the latter*. The Member State shall inform the Commission of the threshold applied.

Or. it

Justification

The amendment is designed to safeguard the role and responsibilities of the social partners in this field.

Amendment by Carlo Fatuzzo

Amendment 159
Article 5, paragraph 2

2. The Member States may allow supplementary pension schemes not to

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.

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, ***if the outgoing worker gives explicit consent.***

Or. it

Justification

The advantage to the pension scheme should be allowed only where the worker concerned also benefits.

Amendment by Jean Lambert

Amendment 160
Article 5, paragraph 2

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:

(a) not to preserve acquired rights but to use a transfer 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; ***and***

(b) to enable an outgoing scheme member to carry on paying contributions to the same supplementary pension scheme after ceasing to be employed. The Member States shall inform the Commission of the implementing arrangements for this provision.

Or. en

Justification

Given the growing importance of supplementary pension schemes for maintaining living standards in old age, it becomes even more important to accumulate supplementary pensions.

Amendment by Astrid Lulling

Amendment 161
Article 5, paragraph 2

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 acquired *pension* 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.

Or. fr

Amendment by Harald Ettl

Amendment 162
Article 5, paragraph 2 a (new)

2a. The Member States or the social partners may lay down a threshold value in the case of the transfer of rights as a capital sum. The Member States shall notify the Commission of the relevant threshold value.

Or. de

Amendment by Eva-Britt Svensson

Amendment 163
Article 6

1. Unless a capital payment is made in accordance with Article 5(2), the Member

States may entrust management and labour at the appropriate level,

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.

including at undertaking or establishment level, with defining freely and at any time through negotiated agreement that a transferability of accrued pension rights need not be established, provided that they adopt provisions on the preservation of acquired pension rights, which ensure that supplementary pension rights are neither compromised nor reduced.

Or. en

Justification

Transfers of capital sums do not meet the purpose of promoting job mobility in an appropriate way. Transferability itself does not ensure that acquired pension rights are preserved. Instead the aim of the directive should be to guarantee fair treatment of supplementary pension right, no matter if the worker stays with the same employer or changes jobs. Transfer of capital sums is not the best way for the employees to get best possible pension .

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 164
Article 6, paragraph 1

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.

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 **12** months *of* the termination of his employment the transfer within the same Member State or to another Member State of all his acquired pension rights. ***The Member States or the social partners may lay down ceilings for transferable rights, up to which the right of portability may be exercised.***

The transfer of the capital shall result in the liability of the pension scheme from which it comes and of the former employer being redeemed in full.

Or. de

Justification

A 12-month deadline is sufficient for a worker who is changing employment. This deadline gives the employer planning certainty for his occupational pension scheme. Workers' transferable rights should be limited to small and medium-sized transfer values, to ensure that portability rights do not jeopardise occupational pension schemes and to enable the latter to pursue a future long-term capital investment strategy, too.

Amendment by Jean Lambert

Amendment 165
Article 6, paragraph 1

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.

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 ***scheme member*** is not covered by the same supplementary pension scheme in his new job, he may ***apply***, within ***twelve*** months *after taking up the new* employment, ***for*** the transfer within the same Member State or to another Member State of all his acquired pension rights. ***Any transfer of acquired pension rights must be completed within 18 months***

of taking up the new employment relationship.

A transfer of the capital sum shall entail the full release of liability for the pension scheme making such payment and for the previous employer.

Or. en

Justification

In several European countries the trial period lasts up to 6 month. The worker should be offered time exceeding the trial period to decide for a transfer.

Amendment by Thomas Mann

Amendment 166
Article 6, paragraph 1

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.

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 **12** months *of* the termination of his employment the transfer within the same Member State or to another Member State of all his acquired pension rights. ***The Member States or the social partners may lay down ceilings for transferable rights, up to which the right of portability may be exercised. The right of transfer shall be excluded where this would result in an unreasonable capital outflow. The transfer of the capital shall result in the liability of the pension scheme from which it comes and of the former employer being redeemed in full.***

Or. de

Amendment by Gabriele Stauner

Amendment 167
Article 6, paragraph 1

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.

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 **12** months *of* the termination of his employment the transfer within the same Member State or to another Member State of all his acquired pension rights. ***The transfer of the capital shall result in the liability of the pension scheme from which it comes and of the former employer being redeemed in full.***

Or. de

Justification

For reasons of legal certainty, a preclusive period of 12 months is deemed appropriate and sufficient for both sides. The final sentence (addition) is simply for clarification.

Amendment by Anne E. Jensen

Amendment 168
Article 6, paragraph 1

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.***

1. Unless a capital **sum** is **paid** 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, ***or cannot move his vested pension rights to his new scheme directly,*** he may obtain on request and within 18 months after the termination of his employment **a** transfer value. ***The worker may use a transfer value only to fund a transfer to a supplementary pension scheme or financial institution that is able, under national legislation, and willing, in practice, to accept the transfer.***

Justification

The addition of a new final sentence to Article 6.1 is necessary to protect the financial integrity of workplace pension schemes. If the amendment is not adopted, there is a risk that receiving schemes may be forced to accept more liabilities than they have assets to match (e.g. due to "longevity-risk"). Faced with such an unplanned increase in risk, employers, who often offer such pensions on an entirely voluntary basis, are likely to reduce pension benefits for all scheme members or close the scheme entirely. The CEA amendment ensures that employees can always transfer their pension, but avoids forcing all schemes to accept transfers in.

In addition, the original text is amended so as to ensure that transfers between unfunded schemes, such as those often used in the UK public sector, are possible. In such cases no capital sum changes hands, but the final employer pays the total benefits with previous employers merely confirming their reckonable service.

Amendment by Marie Panayotopoulos-Cassiotou

Amendment 169 Article 6, paragraph 1

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.

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 submit a request within six months of obtaining this new job for*** the transfer of all his pension rights within the same Member State or to another Member State. ***Any transfer of acquired pension rights must be completed within 18 months beginning from the date of receipt of the application for the transfer of rights to another scheme. Transfer of the capital payment shall entail full release from liability for the pension scheme making such payment and for the previous employer.***

Justification

Since the submission of the request within the six (6) months of obtaining the new job is an indispensable precondition for transfer, the designated deadline of eighteen (18) months for the completion of the relevant procedures for the transfer of acquired pension rights begins from the date of receipt of the request for transfer of the rights to another scheme and not from the receipt of the new job.

Amendment by Astrid Lulling

Amendment 170 Article 6, paragraph 1

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.

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 ***to a supplementary scheme or to a financial institution which accepts the transfer.***

Or. fr

Amendment by Agnes Schierhuber

Amendment 171 Article 6, paragraph 1

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.

1. ***Subject to Article 5***, 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 *of* the termination of his employment the transfer within the same Member State or to another Member State of all his acquired pension rights.

Justification

It must be left to the worker to decide whether he wishes to leave the rights referred to in Article 5(1) dormant in the old scheme or to transfer them, as provided for in Article 6(1). Legally, a reference to the whole of Article 5, and not just to paragraph 2, is needed.

Amendment by Thomas Mann

Amendment 172
Article 6, paragraph 2

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.

2. The supplementary pension scheme from which the transfer is made must calculate the actuarial cash value of the acquired rights in accordance with its current rules.

Amendment by Philip Bushill-Matthews

Amendment 173
Article 6, paragraph 2

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.

2. Member States, in accordance with their national practice, shall ensure that the value of the acquired rights has been calculated in a way that is a fair value in actuarial terms and that, if the supplementary pension vehicle has the form of insurance, the transfer value is defined as the current value of insurance.

Justification

This amendment aims to ensure that the value transfer is fair to the employee who is leaving the scheme and to those who remain in the scheme. In Defined Benefit pensions, calculating acquired rights is a complex calculation, depending on for example life expectancy, future earnings, and interest rates. In Defined Contribution pensions, the value to be transferred will vary according to the value of the underlying assets. In light of this complexity, the

Commission's proposed text, which refers to the amount not penalising the outgoing worker, should be replaced with a requirement that the transfer value be "a fair value in actuarial terms" and that, if it is a form of insurance, it be "the current value of the insurance".

Amendment by Karin Jöns

Amendment 174
Article 6, paragraph 2

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.*

2. Member States, in accordance with their national practice, shall ensure that ***the value of the acquired rights has been calculated in a way that is a fair value in actuarial terms and that, if the supplementary pension vehicle has the form of insurance, the transfer value is defined as the current value of insurance.***

Or. en

Justification

This clarification is necessary in order to ensure that the value transfer is fair both to the scheme member who is leaving the scheme and to the member who remains in the scheme.

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 175
Article 6, paragraph 2

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.

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 ***in connection with the establishment of a new employment relationship***, these shall not penalise the outgoing worker, ***nor harm the interests and rights of active members.***

Or. it

Amendment by Astrid Lulling

Amendment 176
Article 6, paragraph 2

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.

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 **pension** rights to be transferred, these shall **be fair to** the outgoing worker **and remaining scheme members**.

Or. fr

Amendment by Kathy Sinnott

Amendment 177
Article 6, paragraph 2

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.

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 **supplementary pension** rights to be transferred, these shall not penalise the outgoing worker. **Member States may allow transfer values to be actuarial reduced in cases of under-funded schemes so as not to affect adversely the remaining members of the supplementary pension scheme.**

Or. en

Justification

Emphasis on the use of actuarial estimates to determine the value of acquired supplementary pension rights to be transferred must account for both the outgoing and the remaining worker to ensure equal treatment.

Amendment by Anne Van Lancker

Amendment 178
Article 6, paragraph 2 a (new)

2 a. In the case of supplementary schemes introduced on the basis of negotiations between the social partners or of collective agreements, the Member States should take action to ensure that the transfer criteria and conditions are defined in the negotiations.

Or. fr

Justification

Many supplementary schemes are established on the basis of negotiations between the social partners or of collective agreements.

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 179
Article 6, paragraph 3

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)***.

3. The supplementary pension scheme ***receiving the transfer shall calculate*** the rights ***resulting from the transferred cash value in accordance with its current rules***. ***The supplementary pension scheme to which the rights are transferred shall treat the vested pension rights in the same way as the pension rights of the other members of that scheme***.

Or. de

Justification

Where the transfer is concerned, only the rules of the supplementary pension scheme receiving the transfer should apply, because it is hardly ever possible for an employer or an external pension provider, to which a capital sum from an occupational pension scheme is transferred, to reproduce the conditions applied by the employer from whom the transfer comes. The amendment fulfils the requirements of the doctrine of equal treatment for workers. The yardstick for the transfer must be the transfer value, i.e. the underlying capital, and not the extent of the pension rights awarded.

Amendment by Astrid Lulling

Amendment 180
Article 6, paragraph 3

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).***

3. Under the supplementary pension scheme to which the rights are transferred, the ***pension*** rights shall not be subject to conditions governing acquisition and shall be preserved ***in the same way as those of the other active scheme members.***

Or. fr

Amendment by Jan Andersson

Amendment 181
Article 6, paragraph 3

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).

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). ***This includes the elimination of possible effects of differing taxation principles in the Member States between which the transfer is undertaken.***

Or. en

Amendment by Anne E. Jensen

Amendment 182
Article 6, paragraph 4

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.

4. The cost of transfer shall reflect the actual costs incurred in the transfer process.

Or. en

Justification

The text proposed by the Commission is likely to result in over charging for those who stay longer with an employer. A better approach is simply to state that the transfer charge should

reflect the costs that actually arise.

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 183
Article 6, paragraph 4

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.

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 ***and shall ensure that existing tax provisions do not prevent a transfer.***

Or. de

Justification

Additional clarification is required to the effect that the implementation of the Directive in national law will also encompass changes to tax legislation. Without corresponding flanking tax measures, these provisions would remain an empty letter, or else would create an additional financial burden: in many cases, for instance, when a pension-related capital sum is transferred this gives rise to a taxable accrual, resulting in a corresponding cost to the worker.

Amendment by Jan Andersson and Ole Christensen

Amendment 184
Article 6, paragraph 4 a (new)

4a. Member States may entrust management and labour at the appropriate level, including at undertaking or establishment level, with defining freely and at any time through negotiated agreement that a transferability of accrued pension rights need not to be established provided that provisions on the preservation of acquired pension rights are stipulated that ensures that supplementary pension rights are neither compromised nor reduced.

Amendment by Philip Bushill-Matthews

Amendment 185
Article 6, paragraph 4 a (new)

4a. The requirements relating to transfers do not apply to a scheme in which a worker has already begun to receive payments under the scheme.

Justification

Without the proposed amendment, the Directive may inadvertently give scheme members a right to a transfer after pension payments have commenced (which would usually, but not always, occur after the scheme member has retired). Such a right would not help an employee accrue pension benefits. It would also make it impossible to provide a reasonable lifetime income (e.g. an annuity) as the resulting investment uncertainty and need to prevent “negative selection” would push up costs and reduce income for the worker.

Amendment by Thomas Mann

Amendment 186
Article 7, paragraph 1

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.

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 ***scheme members, when the employment relationship is terminated or when any other justified interest arises, receive information from*** the person responsible for managing the supplementary pension scheme ***about*** how a termination of employment will affect their supplementary pension rights.

Amendment by Astrid Lulling

Amendment 187
Article 7, paragraph 1

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.

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 **active or potential scheme members** are informed by the person responsible for managing the supplementary pension scheme of how a termination of employment will affect their supplementary pension rights.

Or. fr

Amendment by Jean Lambert

Amendment 188
Article 7, paragraph 1

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.

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 **schemes members** are informed by the person responsible for managing the supplementary pension scheme of how a termination of employment will affect their supplementary pension rights.

Or. en

Justification

A limitation to occupation complicates this Directive in an unnecessary way. The aim also in the framework of better legislation should be a Directive with a clear scope and target - targeting the field of supplementary pensions and all persons affected and/or entitled.

Amendment by Thomas Mann

Amendment 189
Article 7, paragraph 2

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*;

(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* .

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

(a) the *extent of the pension rights stemming from vested rights acquired to date when the age limit laid down in the pension regulations is reached*;

(b) the *transfer value in the event of a transfer of rights*.

Or. de

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 190
Article 7, paragraph 2

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*;

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

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

2. Sufficient information shall be provided within a reasonable period of time to workers who request it *when a justified interest arises*. It shall relate to the following:

(a) the *extent of the pension rights stemming from vested rights acquired to date when the age limit laid down in the pension regulations is reached*;

(b)) the *transfer value in the event of a transfer of rights*.

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

Or. de

Justification

The right to receive information proposed in this article will result in a substantial increase in companies' risk of liability. A requirement for firms or pension providers to provide information about the transfer value is sufficient. In particular, the right to receive information must be restricted to a worker's justified interest, so that no unnecessary administrative costs arise.

Amendment by Harald Ettl

Amendment 191

Article 7, paragraph 2, introduction

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:

2. Sufficient information shall be provided within a reasonable period of time to workers who request it ***either from the end of the employment contract or from the beginning of the new job.*** It shall relate, in particular to the following:

Or. en

Justification

The worker needs to have comprehensive information from the end of the employment contract or from the beginning of the new contract, so that he can reach decisions on a sound basis. This should happen automatically, and not just if explicitly requested.

Amendment by Gabriele Stauner

Amendment 192

Article 7, paragraph 2, introduction

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:

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

Or. de

Justification

The worker's right to receive information must not result in the employer facing substantially higher administrative costs.

Amendment by Jean Lambert

Amendment 193

Article 7, paragraph 2, introduction

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:

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

Or. en

Justification

A limitation to occupation complicates this Directive in an unnecessary way. The aim also in the framework of better legislation should be a Directive with a clear scope and target - targeting the field of supplementary pensions and all persons affected and/or entitled.

Amendment by Jean Lambert

Amendment 194

Article 7, paragraph 2, point c

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

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

Or. en

Justification

self-explanatory

Amendment by Eva-Britt Svensson

Amendment 195

Article 7, paragraph 2, point d)

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

Or. en

Justification

In consequence with proposing safeguarding dormant rights instead of transferability this should be deleted.

Amendment by Thomas Mann

Amendment 196
Article 7, paragraph 3

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.

3. The new employer or the pension provider must inform the worker, at his request, of the extent of pension entitlement arising from the transfer value, and whether there would be an invalidity or survivor's pension.

Or. de

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 197
Article 7, paragraph 3

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.

3. The new employer or the pension provider must inform the worker, at his request, of the extent of pension entitlement arising from the transfer value, and whether there would be an invalidity or survivor's pension.

Or. de

Justification

The right to receive information proposed in this article will result in a substantial increase in companies' risk of liability. A requirement for firms or pension providers to provide information about the transfer value is sufficient. In particular, the right to receive

information must be restricted to a worker's justified interest, so that no unnecessary administrative costs arise.

Amendment by Harald Ettl

Amendment 198
Article 7, paragraph 3

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.**

3. A deferred beneficiary who so requests shall receive from the person responsible for managing the supplementary pension scheme information on dormant pension rights. **Furthermore, he or she is informed systematically of any change to the rules governing the relevant supplementary pension scheme.**

Or. en

Justification

Information about changes should be provided automatically, and not just if explicitly requested, so that the beneficiary can make provision and take other measures in good time.

Amendment by Thomas Mann

Amendment 199
Article 7, paragraph 4

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

4. The information referred to in the present article shall be provided in writing.

Or. de

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 200
Article 7, paragraph 4

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

4. The information referred to in the present article shall be provided in writing.

Justification

The rule that information must be provided in writing is sufficient. The additional requirement that such information be provided 'in a comprehensible form' creates an additional risk of liability for the addressee, especially since the idea of 'comprehensible form' can be understood differently in individual cases.

Amendment by Ole Christensen

Amendment 201
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 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.

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 obliged to take the necessary steps enabling them at all times to guarantee the results imposed by this Directive.*** They shall forthwith inform the Commission thereof.

Justification

By allowing for implementation through collective agreements, the proposal brings the directive in line with earlier directives.

Amendment by Thomas Mann

Amendment 202
Article 9, paragraph 1

1. The Member States shall adopt the laws,

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 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.

regulations and administrative provisions necessary to comply with this Directive no later than 1 July 2008; *in doing so they shall ensure that the changes to employment law resulting from the implementation of the Directive enter into force in parallel with the requisite tax changes; alternatively, the Member States* 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 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.

Or. de

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 203
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 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.

1. The Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than 1 July 2008; *in doing so they shall ensure that the changes to employment law resulting from the implementation of the Directive enter into force in parallel with the requisite tax changes; alternatively, the Member States* 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 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.

Or. de

Justification

Additional clarification is required to the effect that the implementation of the Directive in national law will also encompass changes to tax legislation. Without corresponding flanking tax measures, these provisions would remain an empty letter, or else would create an additional financial burden: in many cases, for instance, when a pension-related capital sum is transferred this gives rise to a taxable accrual, resulting in a corresponding cost to the worker.

Amendment by Eva-Britt Svensson

Amendment 204
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. *deleted*

Or. en

Justification

In consequence with proposing safeguarding dormant rights instead of transferability this should be deleted.

Amendment by Astrid Lulling

Amendment 205
Article 9, paragraph 2

2. Notwithstanding the first paragraph, the Member States may be granted, where *Deleted*

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.

Or. fr

Amendment by Thomas Mann

Amendment 206
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 **36** months *following the implementation of the Directive in their national law.*

Or. de

Amendment by Maria Matsouka

Amendment 207
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

Deletion

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.

Or. el

Justification

This paragraph is deleted on the grounds of equality of treatment between workers covered by funded and non-funded schemes.

Amendment by Eva-Britt Svensson

Amendment 208
Article 9, paragraph 3

3. Notwithstanding the first paragraph, and ~~deleted~~ 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.

Or. en

Justification

In consequence with proposing safeguarding dormant rights instead of transferability this should be deleted.

Amendment by Thomas Mann

Amendment 209
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.**

3. 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.

Or. de

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 210
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**

3. 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.

rights from the schemes concerned.

Or. de

Justification

Transfer rights harm the liquidity of firms which organise their occupational pension schemes using internal arrangements, since it is of the essence of internal financing that the capital used for the pension scheme is locked up in the firm, and thus is not available for transfer by an outgoing worker. A right of transfer would lead to many firms turning away from internal arrangements for providing occupational pensions. This will put the entire occupational pension system in Germany, on which workers rely, at risk.

The scrutiny proviso in the first sentence creates legal uncertainty for the schemes concerned. The conditions for internal arrangements must therefore be laid down at national level. The proposed provision would result in firms turning away from internal arrangements for providing occupational pensions, although these offer the best conditions for many company pension schemes in Germany. Consequently, a permanent derogation from the right of transfer for internal arrangements must be introduced.

Amendment by Gabriele Stauner

Amendment 211
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.***

3. 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.

Or. de

Justification

It is vital to exclude direct provision by employers, support relief funds and pay-as-you-go supplementary pension funds. There is no need to require specific reasons for such an exemption.

Amendment by Karin Jöns

Amendment 212
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.

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. ***Where Member States 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), they must simultaneously ensure that if a worker moves to an employer with such a scheme, he may not demand the disbursement by his previous employer of the capital sum corresponding to his acquired rights.***

Or. de

Justification

If the Member States make use of the derogation, it is essential for the directive to make it clear that this exception applies in both directions. A scheme from which no transfers are made should also not be able to accept any transfers.

Amendment by Philip Bushill-Matthews

Amendment 213
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.

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. ***If Member States exempt, from the application of Article 6(1), schemes operated on a pay-as-you-go basis and other schemes such as book-reserve schemes or benefit funds, the exempted schemes are also excluded as schemes taking in capital sums.***

Or. en

Justification

This amendment aims to ensure that the value transfer is fair to the employee who is leaving the scheme and to those who remain in the scheme. In Defined Benefit pensions, calculating acquired rights is a complex calculation, depending on for example life expectancy, future earnings, and interest rates. In Defined Contribution pensions, the value to be transferred will vary according to the value of the underlying assets. In light of this complexity, the Commission's proposed text, which refers to the amount not penalising the outgoing worker, should be replaced with a requirement that the transfer value be "a fair value in actuarial terms" and that, if it is a form of insurance, it be "the current value of the insurance".

Amendment by Luigi Cocilovo, Patrizia Toia and Pier Antonio Panzeri

Amendment 214
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.

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), ***only in respect of contributions paid and corresponding rights acquired before the entry into force of this Directive***. Any Member State wishing to make use of this possibility shall, ***after consulting the social partners***, 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.

Or. it

Justification

The aim is to cater for specific features and difficulties related to the particular nature of certain supplementary pension schemes, by limiting exemptions to contributions built up prior to the entry into force of this Directive, since these can be adjusted and are justifiable.

Amendment by Harald Ettl

Amendment 215
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

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.

book reserves with a view to paying pensions to their workers from the application of Article 6(1). ***Such exemption should not be permanent.*** Any member States 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.

Or. en

Justification

The ETUC gives particular importance to the addition of this point because a situation that would establish discriminatory treatment between workers should not become permanent: on one side would be those whose right to transfer is respected and there would be the others. Of course, the pension bodies should be given sufficient time to adapt (the proposed directive provides for this) and to find the appropriate solutions in consultation with the negotiating social partners and/or the management bodies of these schemes.

Amendment by Astrid Lulling

Amendment 216 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 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 ***as regards the application of this Directive by the Member States and/or the social partners. The report shall contain information concerning the number of businesses which have kept up or established a supplementary pension scheme in the period since this Directive came into force.***

Or. fr

Amendment by Thomas Mann

Amendment 217
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). *deleted*

Or. de

Amendment by Astrid Lulling

Amendment 218
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). *Deleted*

Or. fr

Amendment by Anja Weisgerber and Erna Hennicot-Schoepges

Amendment 219
Article 10, paragraph 2

**2. No later than 10 years after 1 July 2008, *deleted*
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).**

Or. de

Justification

Transfer rights harm the liquidity of firms which organise their occupational pension schemes using internal arrangements, since it is of the essence of internal financing that the capital used for the pension scheme is locked up in the firm, and thus is not available for transfer by an outgoing worker. A right of transfer would lead to many firms turning away from internal arrangements for providing occupational pensions. This will put the entire occupational pension system in Germany, on which workers rely, at risk.

The scrutiny proviso in the first sentence creates legal uncertainty for the schemes concerned. The conditions for internal arrangements must therefore be laid down at national level. The proposed provision would result in firms turning away from internal arrangements for providing occupational pensions, although these offer the best conditions for many company pension schemes in Germany. Consequently, a permanent derogation from the right of transfer for internal arrangements must be introduced.