DRAFT OPINION

of the Committee on Women's Rights and Gender Equality

for the Committee on Employment and Social Affairs


Draftswoman: Astrid Lulling
SHORT JUSTIFICATION

The proposal for a directive on improving the portability of supplementary pension rights deals with the main issues related to the obstacles to the free movement of workers within or between Member States in the context of the pensions concerned.

This directive has been put forward following a sustained effort by the Commission to encourage voluntary agreement between the parties affected.

In view of the multiplicity of different systems existing in the Member States, your draftswoman wishes to stress the importance of the choice of legislative instrument (i.e. a directive), as well as the need to respect the principles of subsidiarity and proportionality.

The proposal would entail some measures to harmonise national law in the field, but they would not go beyond what is needed to enable workers to keep or transfer their rights in a context of mobility.

Nonetheless, a number of modifications are desirable, with a view to avoiding watering down some of the reforms by postponement, adopting a more gender-neutral language, and preventing the preservation of obstacles on technical grounds in some Member States.

Finally, it is important to ensure that employed persons who interrupt or cease a professional activity, for instance for family reasons, are enabled to keep their pension rights or carry on paying their contributions.

AMENDMENTS

The Committee on Women's Rights and Gender Equality calls on the Committee on Employment and Social Affairs, as the committee responsible, to incorporate the following amendments in its report:

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(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

¹ Not yet published in OJ.
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.

Amendment 2
Recital 6 a (new)

(6a) Directive 1976/207/CEE, as amended by Directive 2002/73/CE, Directive 1986/378/CEE, as amended by Directive 1996/97/CE, Directive 1992/85/CEE and Directive 1996/34/CE govern equality of treatment of women and men, notably in the area of working conditions and social security. It is thus essential that the Member States and the social partners implement the provisions of the present directive on the basis of respect for the above-mentioned directives, especially with regard to women returning to the labour market after an interruption related to the need to reconcile work with family life.

Amendment 3
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.

Amendment 4
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 provision, 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.

Amendment 5
Recital 15

(15) In view of the need to take account of the effects of this Directive, in particular on the financial sustainability of supplementary pension schemes, the Member States may be granted more time in which gradually to implement those provisions which are likely to have effects of this kind.

Amendment 6
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.

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Amendment 7
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 supplementary pension scheme and, where applicable, under national legislation;

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

Amendment 8
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 employed person worker 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;

Amendment 9
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 employed persons of acquiring and retaining pension rights when exercising their right to freedom of movement or occupational mobility;

Amendment 10
Article 3, point (h)
(h) “deferred beneficiary” means any former scheme member whose pension rights remain dormant under the supplementary pension scheme until the eligibility requirements for receipt of a supplementary pension have been met;

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

Amendment 11
Article 4, point (a)
(a) where pension rights have not yet been acquired when employment is terminated, all

(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;

the contributions paid by, or on behalf of, the outgoing *employed person* are reimbursed or transferred;

Amendment 12
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;

Amendment 13
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) *an employed person* may join a supplementary pension scheme after a maximum period of employment of one year or, where necessary, no later than once he or she has reached the required minimum age;

Amendment 14
Article 4, point (d)

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

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

Amendment 15
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.

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threshold applied;

(b) to enable an outgoing employed person 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.

Amendment 16
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.

Amendment 17
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:

Amendment 18
Article 7, paragraph 3

(Does not affect English version)

Amendment 19
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 and in a form comprehensible to the person concerned.
Amendment 20
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.

Amendment 21
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.