4. **A description of the measures envisaged to eliminate, reduce or compensate adverse effects on the environment**

5. **The description of the relationship between the proposed project and existing environmental and land-use plans and standards for the areas likely to be affected**

6. **An explanation of the reasons for the choice of the site and design of the proposed project in preference to the other reasonable alternatives,** having regard, in particular, to the technical and economic characteristics of the main and associated project and to the characteristics of the environment likely to be affected

7. **A non-technical summary of abovementioned headings**

Proposal for a Council Regulation amending, for the benefit of unemployed workers, Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community

(Submitted by the Commission to the Council on 18 June 1980)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 2, 7 and 51 thereof,

Having regard to Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community (1) as last amended by Regulation (EEC) No 1517/79 (2),

Having regard to the proposal from the Commission made after consultation with the Administrative Commission on Social Security for Migrant Workers,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas certain shortcomings in the Community rules concerned have emerged during implementation of Regulation (EEC) No 1408/71; whereas there are therefore grounds for improving the rights of migrant workers;

Whereas the provisions of Regulation (EEC) No 1408/71 on the granting of unemployment benefits were adopted at a time when there was full employment; whereas these provisions are no longer suited to current labour market conditions in the Community;

Whereas, in particular, account should be taken of the various measures taken in the Member States to induce elderly workers to make way for younger workers or to refrain from requesting the employment services to help them in finding work, by providing them with a specific guaranteed income level until they reach retirement age;

Whereas the granting of these benefits, in accordance with their objective and unlike normal unemployment benefits, is not subject to the condition that the beneficiary remain available to the employment services; whereas the condition of residence that may be linked to the payments of these benefits should therefore be abolished for the beneficiaries; whereas

(1) OJ No L 149, 5. 7. 1971, p. 2.
(2) OJ No L 185, 21. 7. 1979, p. 1.

for this purpose the export of benefits should be guaranteed for workers already receiving such benefits in the territory of the competent State who transfer their place of residence to the territory of another Member State; whereas there are grounds for extending the payments of these benefits also to wholly unemployed frontier workers and other wholly unemployed persons who reside in the territory of a Member State other than the competent State;

Whereas account should be taken of the fact that the opportunities for finding a new job within a reasonable period of time have diminished substantially; whereas therefore, workers who have become unemployed in a Member State should be given the opportunity of transferring their place of residence to a Member State with which they have closer ties without forfeiting their entitlement to unemployment benefits;

Whereas the persons concerned would thus be available on the labour market of the Member State to which they have transferred their place of residence under the supervision of the employment services of the said Member State; whereas in these cases provision should be made for the payment of the unemployment benefits provided for by the legislation of the said Member State as if they had been subject thereto during their last employment; whereas there are nevertheless good grounds for expecting the Member State in which these workers have been insured to cover the cost of these benefits for a certain period;

Whereas sickness insurance benefits and family benefits should be paid to beneficiaries of a pre-retirement benefit and to unemployed persons who have transferred their place of residence under the conditions set out above;

Whereas, moreover, the experience gained in the implementation of the provisions currently in force has shown up the need for certain improvements and amendments of a more technical nature; whereas, consequently, there are also grounds for amending Annex V to Regulation (EEC) No 1408/71;

Whereas account should be taken in this Annex of a new provision in Danish legislation introducing an early retirement benefit which is granted on condition that the person concerned remains available on the national labour market,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation No 1408/71 is hereby amended as follows:

1. In Article 1

(a) the last subparagraph of (j) shall be replaced by the following:

'The provisions of the preceding subparagraph shall not have the effect of exempting from the application of this Regulation

— the schemes to which Regulation No 3 applied;

— agreements relating to "pre-retirement benefits".'

(b) The following subparagraph shall be added after (v):

'(w) "pre-retirement benefit" means any cash benefit other than an early retirement benefit provided to wholly unemployed workers from a specified age until the age at which they qualify for an old-age pension or an unreduced early retirement pension, the receipt of which is not conditional upon the person concerned being available to the employment services of the competent State.'

2. In Article 25

(a) the title shall be replaced by the following:

'Unemployed persons, pre-retirement pensioners and members of their families'

(b) in paragraph 1, the words 'the second sentence of' shall be deleted between 'Article 69 (1) and' and 'of Article 71 (1) (b) (ii)'

(c) The following paragraph shall be added after paragraph 4:

'(5) (a) The provisions of paragraph 1 shall apply *mutatis mutandis* to workers referred to in Article 71a (1).

However, the length of the period during which benefits in kind are provided shall be governed by the legislation of the competent State.

(b) The provisions of paragraph 2 shall apply *mutatis mutandis* to the workers referred to in Article 69a (1) and Article 71a (2) (a).

(c) The provisions of paragraph 3 shall apply *mutatis mutandis* to the members of the family of the workers referred to in Article 69a and Article 71a'.

3. Article 44 (3) shall be replaced by the following:

'(3) This Chapter shall apply

(a) neither to pre-retirement benefits

(b) nor to increases or supplements to pensions in respect of children or orphans' pensions granted pursuant to Chapter 8'.

4. The title of Chapter 6 of Title III shall be replaced by **'UNEMPLOYMENT AND PRE-RETIREMENT'.**

5. In the first line of Article 67 (3), the words 'Article 69a and' shall be inserted between 'referred to in' and 'Article 71 (1) (a) (ii)'.

6. Article 68 (1) shall be replaced by the following:

'(1) The competent institution of a Member State whose legislation provides that the calculation of benefits should be based on the amount of the previous wage or salary shall take into account exclusively the wage or salary received by the person concerned in respect of his last employment immediately prior to the materialization of the risk under the legislation it administers. The institution providing the benefits in accordance with Article 71 (1) (a) (ii) and (b)(ii) shall take into account the salary received by the person concerned, on the same conditions, under the legislation of the competent State. However, if the person concerned had been in his last employment under that legislation for less than four weeks, the benefits shall be calculated on the basis of the normal wage or salary corresponding, in the place where the unemployed person is residing or staying, to employment equivalent or similar to his last employment under the legislation of an other Member State.'

7. In Article 69

(a) The title shall be replaced by the following:

'Rules applying to unemployed persons going temporarily to a Member State other than the competent State — Conditions and limits for the retention of the rights to benefits'

(b) Paragraph 2 shall be replaced by the following:

'(2) The unemployed person shall continue to be entitled to benefits under the legislation of the competent State provided that he returns to the territory of that State

(a) either before the expiry of the period during which he is entitled to benefits under paragraph 1 (c). In exceptional cases, this time limit may be extended by the competent services or institutions;

(b) or, subject to the provisions of Annex V, after the expiry of this period but before the expiry of the period during which, under the legislation of that Member State, the worker may leave the territory of the said State without thereby forfeiting his right to benefits.'

(c) Paragraph 4 shall be replaced by the following:

'(4) For the purpose of applying this Article to a worker who has become entitled to benefits under the legislation of the Member State in whose territory he resides, in accordance with Article 71 (1)(ii) or (b)(ii), that Member State, its employment services and its competent institution shall be regarded as the competent State, the competent services and the competent institution, respectively.'

8. The following Article shall be inserted after Article 69:

'Article 69a

Rules applying to workers transferring their residence to a Member State other than the one where they pursued their last employment — Conditions and limits for entitlement to benefits

(1) Fully unemployed workers who during their last employment resided in the territory of the competent State and who transfer their place of residence to the territory of another Member State and place themselves at the disposal of the employment services of the other Member State:

(i) where he or his spouse resided for a period of not less than 15 years or

(ii) where his spouse pursued an occupation or resided for a period of not less than six months or

(iii) where, if he is unmarried, his direct ascendants resided for a period of not less than 1 year

shall receive benefits as if he had been subject to the legislation of the latter Member State during his last employment.

(2) For as long as he is receiving benefits under Article 69, the person concerned may not claim benefits under paragraph 1.'

9. In Article 70

(a) the following paragraph shall be inserted after paragraph 1:

'(2) In the cases referred to in Article 69a, benefits shall be provided by the institution of a Member State to whose territory the unemployed person has transferred his residence, in accordance with the provisions of the legislation it administers. When the person concerned has, for the same case of unemployment, become entitled to the benefits provided for by the legislation of the competent State, the institution of the Member State to whose territory he has transferred his place of residence shall take this period of benefit payment into account as if such benefits were granted under the legislation which it administers.

The institution of the competent State to whose legislation the person concerned was subject before transferring his place of residence shall be obliged to reimburse the benefits provided in accordance with the preceding subparagraph during the period in which he would have been entitled to benefits if he had remained in the territory of that State. The duration of such reimbursement, however, shall be limited to six months from the day on which the person concerned left the territory of the competent State.'

(b) Paragraph 2 shall be renumbered paragraph 3.

(c) The following subparagraph shall be added to the new paragraph 3:

'The reimbursements referred to in paragraph 2 shall be made in accordance with the procedure laid down by the implementing regulation referred to in Article 97 to the amount provided for by the legislation of the competent Member State up to a maximum of 85 % of the actual amount of the benefits.'

(d) The original paragraph 3 shall be renumbered paragraph 4.

10. In Article 71

(a) paragraph 1 shall be replaced by the following:

'(1) An unemployed person who, during his last employment, was residing in the territory of a Member State other than the competent State, shall receive benefits in accordance with the following provisions:

(a) (i) a frontier worker who is unemployed but who is not wholly unemployed in the undertaking which employs him shall receive benefits in accordance with the legislation of the competent State as if he were residing in the territory of that State; these benefits shall be provided by the competent institution;

(ii) a frontier worker who is wholly unemployed shall receive benefits in accordance with the legislation of the Member State in whose territory he resides as though he has been subject to that legislation while last employed; the institution of the place of residence shall provide such benefits at it own expense;

(b) (i) a worker, other than a frontier worker, who is unemployed but not wholly unemployed and who remains available to his employer or to the employment services in the territory of the competent State shall receive benefits in accordance with the legislation of that State as if he were residing in its territory; these benefits shall be provided by the competent institution.

(ii) a worker, other than a frontier worker, who is wholly unemployed and who makes himself available for work to the employment services in the territory of the Member State in which he resides, or who returns to that territory, shall receive benefits in accordance with the legislation of the said State as though he had been subject to that legislation during his last employment; the institution of the place of residence shall provide such benefits at its own expense.

Where, however, in respect of the same case of unemployment, such worker has become entitled to benefits at the expense of the competent institution of the Member State to whose legislation he was last subject, the institution of the place of residence shall take that period of benefit payments into account as if such benefits were granted under the legislation which it administers.'

(b) The following paragraph shall be added after paragraph 2:

'(3) For the purpose of applying the preceding paragraphs "wholly unemployed" refers to the position of a worker whose contract of employment has ended.'

11. After Section 3:

(a) the following section shall be inserted:

'Section 4

Pre-retirement'

(b) the following Article shall be inserted under the new Section 4:

'Article 71a

'Rules relating to the granting of pre-retirement benefits to unemployed persons transferring their

residence to a Member State other than the country in which they were last employed and to unemployed persons who, in the course of their last employment resided in a Member State other than the competent State.

(1) A wholly unemployed worker who resides in a Member State and receives a pre-retirement benefit under the legislation of that State shall retain the right to such benefit if he transfers his place of residence to the territory of another Member State.

(2) (a) Notwithstanding the provisions of Article 71(1)(a)(ii) and (b)(ii), a worker who during his last employment resided in the territory of a Member State other than the competent State shall qualify for the pre-retirement benefits provided for by the legislation of the latter State as though he resided there;

(b) The institution of the place of residence of such worker shall reimburse that benefit to the competent institution up to the amount of the unemployment benefits that it would have had to pay to the person concerned in accordance with Article 71(1)(a)(ii) or (1)(b)(ii) if he had made himself available for work to the employment services of the place of residence;

(c) The reimbursements referred to in (b) shall be determined and made by common assent between the Member States concerned or the competent authorities of these States. These States or their competent authorities may waive all reimbursements between the institutions coming under their jurisdiction;

(d) The obligation to make reimbursements shall lapse if the worker referred to in (a) transfers his place of residence to another Member State.

(3) At the request of the competent institution, the institution of the place of residence shall carry out or have carried out any checks necessary to ascertain whether the beneficiary of the pre-retirement benefit still satisfies the conditions governing the retention of the right to benefits provided for by the legislation of the competent State. The procedure for such checks shall be laid down by the regulation referred to in Article 97.'

12. The following paragraph shall be added to Article 74:

'(3) The provisions of the preceding paragraphs shall apply *mutatis mutandis* to persons receiving a pre-retirement benefit.'

13. In Annex V:

1. In point 'A. BELGIUM', the following paragraph shall be added

after paragraph 4:

'5. In the cases referred to in Article 69(2)(b), the unemployed person shall recover the right to unemployment benefits only after having worked for not less than three months after returning to Belgium.'

2. In point 'B. DENMARK', the following paragraph shall be added after paragraph 11:

'12. The early retirement pension provided for by Danish legislation, which is granted by way of derogation from the conditions governing age because of unemployment or a similar lack of opportunity to engage in employment to workers between 55 and 60 years of age, shall not be due where the person concerned does not reside in the territory of Denmark.'

3. In point 'C. GERMANY', the following paragraph shall be added after paragraph 10:

'11. In the case referred to in Article 69(2)(b), the unemployed person shall recover the right to unemployed benefits only after having worked for not less than three months after returning to Germany.'

Article 2

This Regulation shall enter into force on the first day of the third month following publication in the *Official Journal of the European Communities* of the Regulation amending Regulation (EEC) No 574/72 fixing the procedure for implementing this Regulation.

This Regulation shall be binding in its entirety and directly applicable in all Member States.