EUROPEAN
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2005/0214 (COD)

**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

**pursuant to Article 294(6) of the Treaty on the Functioning of the European Union**

**concerning the**

**position of the Council at first reading
with a view to the adoption of a Directive of the European Parliament and of the Council
on minimum requirements for enhancing worker mobility by improving the acquisition
and preservation of supplementary pension rights
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## 1. BACKGROUND

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| Date of transmission of the proposal to the European Parliament and to the Council (document COM(2005) 507 final – 2005/0214 COD): | 20/10/2005. |
| Date of the opinion of the European Economic and Social Committee: (CESE 589/2006 fin) | 20/04/2006. |
| Date of the position of the European Parliament, first reading: (Report, OOMEN-RUIJTEN – 52007AP0269) | 20/06/2007. |
| Date of transmission of the amended proposal (document COM(2007) 603 final – COD unchanged): | 09/10/2007. |
| Date of adoption of the position of the Council: | 17/02/2014. |

## 2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

In view of demographic ageing and the need to preserve the sustainability of public finances, it is expected that occupational pension schemes will have to play a greater role in securing adequate incomes in retirement.

It is therefore essential to ensure that the rules governing the operation of these schemes do not hamper the freedom of movement of workers across Member States or mobility within any Member State, therefore reducing the opportunities for mobile workers to build up and preserve sufficient pension rights by the end of their careers. Failure to achieve this will also reduce the flexibility and effectiveness of the labour market. Even if there are many factors which can determine the choice of any individual to be more mobile, the possibility of losing supplementary pension rights may impact on individual decisions when changing jobs.

## 3. COMMENTS ON THE POSITION OF THE COUNCIL

The Council's position differs from the Commission proposal in two main aspects. One concerns the scope of the directive which the Council wishes to be reduced to cross-border

mobility. The Commission had proposed that all workers changing jobs should benefit from the provisions of the directive, whether they change jobs within a country or across borders. This was mainly for practical reasons, as it was not clear how, in practice, schemes could apply different rules to people changing jobs across borders and those remaining within the same country. The Council argued that article 46 TFEU could not be used as a legal base for protecting people moving to a different job within the same country and developed a way in which cross-border mobility could be differentiated from internal mobility, the latter remaining a responsibility of the Member States. The Commission can accept this position, but invites Member States to apply the standards of the directive also to workers changing jobs within a country. Most Member States have already stated their intention of applying the directive uniformly to all job changers.

The second major change relative to the Commission's proposal concerns the conditions for the acquisition of occupational pension rights. The Commission had proposed that the acquisition of occupational pension rights cannot be subject to a waiting period (before a worker is admitted into the pension scheme) of more than one year, and vesting periods (duration of scheme membership after which the rights cannot be forfeited due to an early termination of the employment relation) also must not be longer than one year. The Council took the position that the combined waiting and vesting periods must not be longer than three years. At the same time, the Council opted for a more favourable rule on maximum allowed minimum age for acquiring a vested pension right. Instead of 25 years, the minimum age should not exceed 21 years. While the Council's position falls short of the Commission's proposal regarding the total length of waiting and vesting periods, it represents an improvement regarding the minimum age. Therefore the Commission can accept the position of the Council.

## 4. CONCLUSION

The Commission therefore considers that it can endorse the Council position so that the European Parliament can adopt the final text in second reading before the end of the current legislature.