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trESS training and reporting on European Social Security

trESS e-newsletter April 2007

Dear **trESS** Friends,

It is with pleasure that we present our first **trESS**-newsletter of 2007.

2007 once again promises to be an important year for our **trESS** network. All over Europe national seminars are organised on developments in European social security law. In this newsletter, you will find an overview of the dates of the national seminars in each of the countries. This year a national seminar is also organised in Romania and Bulgaria, as they have joined our network.

We are looking forward to meeting you at one of these seminars.

Once again, we would like to draw your attention to our new remodelled website. The website has become even more user-friendly and guides you to all important information on the Coordination Regulation. In particular we also want to refer to the e-learning which we have started to develop. Under e-learning you can already find a description in easily-understandable language of the important concepts and terms used in European social security law, as well as a detailed explanation of the concepts of "posting" and "cross-border medical care" through Questions & Answers which explain to you how the Regulation works. More concepts are currently being developed and will be put on line in the course of this year. On our website you can also find the European report 2006, giving you an overview of the problems encountered in the different Member States in the application of the Regulation.

This newsletter highlights some important recent caselaw and also gives you an overview of the results of the Finnish EU presidency in the field of coordination. In the next issues, we will keep you up to date on legal and political developments.

Kind regards

Yves Jorens
Project Director

> Content of this newsletter

> www.tress-network.org : latest entry in our News section

COMMISSION REGULATION (EC) No 311/2007 of 19 March 2007 amending Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community.
Official Journal of EU L 82 Volume 50 23 March 2007 p.6
This amendment deals in particular with designating the authorities which are responsible for ensuring that social security legislation is implemented in accordance with Community Law.

> I. Case Law **Table of contents**

Case C-50/05 Nikula

The reference for a preliminary ruling concerned the calculation of sickness insurance contributions. The national court asked whether Article 33(1) of Regulation No 1408/71 precludes the inclusion of pensions paid by the institutions of another Member State, when the basis for calculating sickness insurance contributions is determined by the Member State of residence, provided that the sickness insurance contributions do not exceed the amount of pensions awarded by the State of residence.

The Court observed that pursuant to Article 27 of Regulation No 1408/71, a pensioner who is entitled to draw pensions under the legislation of two or more Member States, including that of the Member State in whose territory he resides, is entitled to benefits in kind under the legislation of the Member State in whose territory he resides, as though he were a pensioner whose pension was payable solely under the legislation of the latter State. The Member State of residence is authorised, by virtue of Article 33 (1) of the regulation, to make deductions of contributions in accordance with the rules laid down in its legislation. The Court observed that objective of Regulation No 1408/71 is to ensure free movement of employed and self-employed persons within the European Community, while respecting the special characteristics of national social security legislation. The system put in place by Regulation No 1408/71 is merely a system of coordination. In the absence of harmonisation at Community level it is for the

legislation of the Member State concerned to determine the income to be taken into account when calculating social security contributions (See Case C-18/95 *Terhoeve* [1999] ECR I-345, paragraph 51).

However, when the Member State concerned exercises that power, it must comply with Community law (see, in particular, Terhoeve, paragraph 34, and Case C-227/03 *Van Pommeren-Bourgondi□n* [2005] ECR I-6101, paragraph 39). In a case in which an institution of the Member State of residence pays a pension and an institution of the same Member State is responsible for payment of sickness insurance expenses, there is no provision of Regulation No 1408/71 which prohibits that State from calculating the amount of the social contributions of a resident on the basis of his total income, whether it comes from pensions paid by the Member State of residence or from pensions paid by another Member State. However, whatever the calculation method adopted, the amount of the contributions may not exceed that of the pensions paid by the institutions of the Member State of residence since, as by application of Article 33(1) of Regulation No 1408/71, the sickness insurance contributions may be deducted only from the pensions paid by the Member State of residence (see, Rundgren, paragraph 49).

Furthermore, it would be an obstacle to the free movement of persons for the Member State of residence to implement a system which did not take into account the sickness insurance contributions already paid by pensioners during their working years in a Member State other than the Member State of residence. Article 39 EC precludes the amount of pensions received from institutions of another Member State from being taken into account if contributions have already been paid in that other State out of income from work received in that State. The Member State responsible for benefits must deduct from the basis of calculation the amount of pensions for which contributions have already been paid by the pensioners in other States. This deduction must be made both when the contributions were paid by the persons concerned out of their income from work, or directly deducted from that income. It is for the persons concerned to prove that the earlier contributions were in fact paid.

The Court stated that its earlier ruling in the Case C389/99 *Rundgren* was not transposable to the proceedings in the Nikula case. In Rundgren the country of residence was not paying a pension. The Member State paying pensions assumed responsibility for payment of the benefits in kind. Therefore the country of residence could not, under Article 33(1) of Regulation 1408/71, "make ... deductions...from the pension or annuity payable by [it]" . A pensioner cannot be required, because he resides in the territory of a Member State, to pay compulsory insurance contributions to cover benefits payable by an institution of another Member State (see Case C-140/88 *Noij* [1991] ECR I-387, paragraph 14). Thus the Member State of residence which did not pay any pensions could not claim payment from Mr Rundgren of contributions, since he was entitled to benefits for which the Member State competent in respect of pensions assumed responsibility.

The referring national court, Korkein hallintooikeus, decided the case on 27 December 2006 (KHO:2006:99). It observed first that according to the Judgement of the Court of Justice Article 33 (1) of Regulation 1408/71 does not preclude calculating the amount of the contributions of a resident on the basis of his total income and to include in the basis of calculation both the pensions paid by the Member State of residence and pensions paid by another Member State. Secondly the national court observed that Article 39 EC precludes the amount of pensions received from another Member State from being taken into account if contributions have already been paid in that other State out of income from work received in that State. However, it is for the persons concerned to prove that the earlier contributions were in fact paid. The national court ruled that the applicant had not proven that he had paid contributions or that contributions were already deducted from the foreign pensions. Therefore pensions received from another Member State could be included in the basis of calculation of the contributions in the country of residence.

Case C-205/05 Nemec

In this preliminary ruling the question was whether the decision refusing to take account of the pay earned in another Member State constituted an infringement of Regulation 883/2004.

The Court answered this question by observing that the Regulation 883/2004 is to enter into force 20 day after its publication but it is to apply only from the date of entry into force of the Implementing Regulation. Since the implementing regulation has not yet been adopted, the Court stated that the provisions of Regulation 1408/71 remain applicable.

The Court held that article 58 of Regulation 1408/71, like all provisions of the regulation, must be interpreted in the light of Article 42 EC. That provision entails, that migrant workers must not lose their right to social security benefits or have the amount of those benefits reduced because they have exercised the right of freedom of movement. However, this does not mean that article 58 (1), by not allowing the pay earned in another Member State to be taken into account for the calculation of cash benefit, must be regarded as contrary to the objective of Article 42 EC. It means that the benefits must be the same for the migrant worker as they would have been if the had not availed of the right to free movement. The Court established that although account is to be taken only of the pay earned in the competent Member State, the amount of that pay must be updated and revalorised so as to correspond to the pay the applicant might reasonably have been able to earn if he had continued to work in the competent Member State.

Case C-265/05 □ Naranjo

The reference for a preliminary ruling concerned the interpretation of Article 4 (2a) of Regulation 1408/71. This article introduced a special coordination regime for the so-called "Special non-contributory benefits". According to Article 10a of the Regulation, these special non-contributory cash benefits are not exportable and shall be exclusively granted in the territory of the Member State in which the person concerned resides, in accordance with the legislation of that state and provided that such benefits are listed in Annex IIa.

Mr Naranjo is a Spanish national who has in the past worked in France and afterwards returned to Spain. He receives a French old-age pension and subsequently asked for a supplementary allowance from the national solidarity fund. This benefit was refused, as according to the French administration, this benefit is a special non-contributory benefit which is not exportable. The question is whether this allowance has a special character on the one hand and whether it is non-contributory on the other.

The Court confirmed its case law (see eg. Skalka, Case C-160/02 and Kersbergen-Lap, Case C-145/05) that a special benefit is defined by its purpose. It must either replace or supplement a social security benefit and be in the nature of social assistance

justified on economic and social grounds and fixed by legislation, setting objective criteria. For the Court this supplementary allowance has a mixed character and must therefore be regarded as a special benefit. The above-mentioned case law also made clear that, as regards whether or not the supplementary allowance is contributory, the determining criterion is how the benefit concerned is actually financed. The Court must consider whether that financing comes directly or indirectly from social contributions or from public resources.

The supplementary allowance paid by the Health Insurance Fund is however reimbursed by the *Fonds de solidarit de vieillesse* (FSV), so that the burden of that allowance falls on the latter. The FSV is essentially deriving its income from the General Social Contribution and the Social Solidarity Contribution levied on companies. Therefore, in order to know whether we are dealing with a non-contributory benefit, it is appropriate to determine whether a contribution such as a General Social Contribution must be regarded as a social security contribution or as public resources, which do not have the characteristics of such contribution. According to the Court, a General Social Contribution shares certain similarities with general social security contributions, in particular as regards its basis of assessment and the procedure for its collection. However, the allocation of the General Social Contribution to the financing of social security is not sufficient to show that the supplementary allowance is as such a contributory benefit. Therefore, we have to see whether there is an identifiable link between the supplementary allowance on the one hand and the General Social Contribution on earned income on the other.

In the Court s opinion, the relationship between the supplementary allowance and the General Social Contribution does not appear to fulfil that condition. The FSV obtains its revenue also from other contributions and levies, whose qualification as fiscal in nature were not challenged. The General Social Contribution not only serves to finance the FSV, but also other social schemes. The FSV has the task of assuming responsibility for non-contributory old-age benefits, covered by national solidarity of which the supplementary allowance is only a limited part. In the light of these observations, the Court ruled that the French supplementary old-age allowance, as listed in Annex IIa of Regulation 1408/71, does not constitute a special non-contributory benefit. The Court added, however, that it is for the national courts to confirm the accuracy of the factors it took into account, in order to determine conclusively whether the benefit is contributory or non-contributory.

Case C-332/05 Celozzi

The reference for preliminary ruling concerns the calculation of the daily sick pay of a migrant worker. Mr Celozzi is an Italian who works and resides in Germany, while his wife further continues to reside in Italy with their children. Mr Celozzi was paid a daily sick pay, which was based on the remuneration most recently received by him. These net wages are determined by the tax class which the worker concerned was in. According to the German legislation and as a matter of administrative practice, a migrant worker whose spouse continues to reside in the Member State of origin, is automatically placed in the (less favourable) tax class applicable to workers who are married, but permanently separated from their spouses, instead of, like national workers, being allocated the (more favourable) tax class which is applicable to married workers living with spouses who are not in paid employment.

A correction of the tax class is possible, but depends on an express application by the migrant worker and a certificate from the tax authorities. However, a correction of the tax class has no effect on the daily sick pay granted to the person concerned, as in most of the cases a retroactive amendment of the amount of that pay is not foreseen. The Court makes clear that the application of such a scheme places a migrant worker in a position which is clearly less favourable than that in which a national worker, in the same circumstances, would find himself. So there is clearly a discriminatory treatment of the migrant worker, contrary to Article 3 of Regulation 1408/71. The Court held that it is not necessary to examine to what extent the objectives invoked (administrative simplification, complexity of calculations) may constitute legitimate aims, and confined itself to stating that the measures in question go beyond that which is necessary to obtain those aims. Such aims do not preclude subsequent correction of the amount of sick pay, for instance by the introduction of a mechanism where the amount of that pay is retroactively adjusted to take account of the actual position of the migrant worker.

C-444/05 Stamatelaki

In our previous newsletter, we discussed the ruling in Watts (C-372/04), the long-awaited case on the application of the free movement of services to the National Health Service (NHS). Notwithstanding the abundant case law on cross-border medical treatment, some burning issues still remain. One of the pending questions was whether it is possible under the Treaty-based procedure on cross-border medical care to limit the range of health care providers whom insured persons can turn to, to public or contracted providers. While the procedure under Regulation 1408/71 is limited to providers who are operating in the context of a social security scheme, Article 49 EC in principle allows no restriction as to the choice of the foreign health care provider. This issue was further clarified in the very recent Stamatelaki-case of the Court of Justice.

Article 49 EC precludes legislation of a Member State, such as that at issue in the main proceedings, which excludes all reimbursement by a national social security institution of the costs occasioned by treatment of persons insured with it in private hospitals in another Member State, except those relating to treatment provided to children under 14 years of age .

This is the main statement made by the Court in the latest case on to the interpretation of Article 49 EC,.The person concerned was affiliated to the Greek system and asked for reimbursement of the costs incurred upon admission to a private hospital in the United Kingdom. His claim for reimbursement of the costs associated with treatment in the UK was dismissed by the Greek competent institution on the grounds that the relevant Greek rules do not provide for reimbursement of the cost of treatment in private hospitals abroad except in the case of children under 14 years of age.

An action challenging that decision was brought before the Athens Administrative Court of First Instance, which decided to stay proceedings and refer to the Court of Justice for a preliminary ruling. The Court was asked whether the Greek provisions constitute a restriction of of the fundamental freedom to provide services within the Community, enshrined in Article 49 et seq. of the EC Treaty.

The Court found that it followed from the Greek legislation that if a patient insured in Greece with a social body receives treatment in a public establishment, or in a private establishment which is located in that Member State and with which an agreement has

been entered into, he does not have to pay out any sum. The situation is different, the Court noted, where that patient is admitted to a private hospital in another Member State; in that case, he must pay the costs of treatment himself and does not have the possibility of being reimbursed. The sole exception concerns children under 14 years of age.

The Court further observed that, while the existence of an emergency constitutes an exception to the rule of no reimbursement where a patient is admitted to a private hospital in Greece with which no agreement has been entered into, it does not constitute an exception in any case upon admission to a private hospital in another Member State.

For the Court, □ *such legislation deters, or even prevents, persons with social security cover from seeking treatment from providers of hospital services who are established in Member States other than the Member State where they are insured and constitutes, both for them and for those providers, a restriction on the freedom to provide services*□ (point 28).

The Court of Justice has recognised that certain overriding reasons in the general interest may justify a barrier to the freedom to provide hospital services, such as the risk of seriously undermining the social security system□ s financial balance, the objective of maintaining a high quality balanced medical and hospital service open to all or the maintenance of treatment capacity or medical competence on national territory. In particular, it has acknowledged that the number of hospitals, their geographical distribution, the way in which they are organised and the facilities with which they are provided, and the nature of the medical services which they are able to offer are all matters for which planning must be possible. This planning meets a variety of concerns, including those of ensuring that there is sufficient and permanent access to a range of high-quality hospital treatment, and of controlling costs and preventing any wastage of scarce resources. The Court has added that, if patients were at liberty to use the services of any kind of hospital, including hospitals with which their health insurance fund had no agreement, this planning effort would be jeopardised In the present case, the Court considered that the Greek rules at issue were not capable of being justified by the abovementioned legitimate aims, as the rules were disproportionate. In the Court□ s words; □ the absolute terms, with the exception of the case of children under 14 years of age, of the prohibition laid down by the Greek legislation are not appropriate to the objective pursued, since measures which are less restrictive and more in keeping with the freedom to provide services could be adopted, such as a prior authorisation scheme which complies with the requirements imposed by Community law and, if appropriate, the determination of scales for reimbursement of the costs of treatment□ (point 35).

The Court also rejected the *Greek Government□ s argument relating to the fact that Greek social security institutions do not check the quality of treatment provided in private hospitals in another Member State and to the lack of verification as to whether hospitals with which an agreement has been entered into are able to provide appropriate □ identical or equivalent □ medical treatment. □ The fact remains□ , the Court said, □ that private hospitals located in other Member States are also subject, in those Member States, to quality controls and that doctors established in those States who operate in those establishments provide professional guarantees equivalent to those of doctors established in Greece, in particular since the adoption and implementation of Council Directive 93/16/EEC of 5 April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications*□ (points 36 &37).

This new case shows that it will be very difficult for the competent institution to find a valid justification for restricting the freedom to provide health services in private hospitals in other Community countries, over and above the restrictions already deemed justified in previous case law.

> II.The Finnish Presidency in Council during the second half year 2006 in the field of social security of migrant workers

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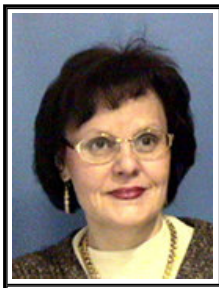
By Carin Lindqvist-Virtanen, Deputy Director-General, Insurance Department, Ministry of Social Affairs and Health, Finland



The Finnish Presidency was responsible for the work on social security of migrant workers in the Council and in the Administrative Commission during the second half of year 2006. This is teamwork, or, to use a sporting metaphor, to run in a relay, where you take over the baton for a few months only to leave it to the following presidency. This is particularly true for the new implementing Regulation where the negotiations will run over several years. The autumn period is much shorter than the spring term, largely due to the summer holidays and the Christmas season. This was a fact that had to be taken into account when planning the work during the Finnish presidency.

The Austrian Presidency had finalised the two first Titles of the implementing Regulation, i.e. the Titles on General provisions and Applicable legislation as well as the related parts of Annex XI. However, taking into account the time available, we decided to work on Chapter IV of Title III , i.e. the pensions chapter (articles 43-53). Technically we decided to use the same method as Austria and work in parallel on the articles and the related parts of Annex XI. Intense work in the Working Party was again needed, but the chapter was completed and given to the December Council for approval.

The pension chapter is in many respects based on the same principles as present practise. The general agreement to move from paper forms to electronic data exchange in the future, however, had to be kept in mind. Article 44, which defines the periods of child-raising and how they are to be taken into account when calculating pension benefits, is completely new. Finding the proper solutions required thorough discussions in the Working Party. The new provisions aim at speeding up the procedures for handling the applications and to improve exchange of information between institutions.

Another priority of the Finnish Presidency was work on the process preparing for electronic data exchange. To this end a working plan on electronic data exchange was adopted in the Administrative Commission. To steer the project a separate Task Force was set up by the Administrative Commission to plan and coordinate the work. Several Ad Hoc groups will be set up with specified tasks, some mainly concentrating on legal matters and others on more technical matters. Two joint working party meetings were held between the Administrative Commission and the Technical Commission. Finding a common language is not always the easiest task, but a common understanding of the urgency helps. The key questions to be tackled at this first stage,

are identification of persons and institutions, identifying minimum common data for all branches and the decision on a common European Architecture (on data exchange). The need for transitional periods will also be looked at.

Besides this 'new' task the Administrative Commission worked on its usual tasks: new proposals for entries in the annexes of Regulation 1408/71, discussions related to new court cases and special questions brought forward by the Members States. The Audit Board presented for the first time a work plan for approval. The plan covers the period 2007-2009. The reports on claims situations of 31.12.2005 and on outstanding claims of the 1980' s were presented. A case for concern is the fact that settlement of claims sometimes requires several years. This is a question that will also be looked at in the Council Working Party next year when the relevant articles of the new Implementing Regulation will be discussed.

During the Finnish Presidency a conference entitled *The EU' s Evolving Social Policy and National Models* was held. Very interesting reports and comments were presented. The conference succeeded in deepening debate on the European social model, indicating the importance of exchanging ideas in particularly when the future is uncertain. European integration does not merely serve the interests of the Member States. It is also a matter of ideas and values. The contributions will be published before June 2007. All in all, work is under way in many aspects related to social security in general and social security of migrant workers. This means that the presidency is kept busy. With an enlarged Europe with increasing mobility and common challenges such as globalisation and demographic change, the importance of social security development and coordination will continue to increase. It is with confidence that I hand over the baton of coordination to the German Presidency.

Proposals for the Implementing Regulation and Annex XI of the Regulation EC No 883/2004

Proposal for the Implementing Regulation (EC) No 883/2004 and proposal for amending Regulation (EC) No 883/2004 and determining the content of its Annex XI were discussed at the December Council meeting. The Council agreed on the parts concerning invalidity benefits and old-age and survivors' pensions of the proposal for implementing Regulation replacing Regulation (EEC) No 574/72. A general agreement on amending Regulation (EC) No 883/2004 and determining the content of its Annex XI was also reached. Provisions regarding specific aspects of individual Member States' legislation will form the content of Annex XI to Regulation (EC) No 883/2004. The proposals will be examined under the incoming Presidencies. (Employment, Social Policy, Health and Consumer Affairs Council Meeting, 30 November-1 December 2006.)

Watts Judgement at the Administrative Commission on Social Security for Migrant Workers

The Administrative Commission on Social Security for Migrant Workers has also been discussing cross boarder health care as a follow-up to the Watts judgment. One of the central questions is whether it would be possible and reasonable to solve all the outstanding issues within the existing provisions of the Regulation 1408/71 or alternatively, would it be possible to make some amendments needed to implement the free movement of patients and of health care services. The current situation with two different approaches to the reimbursement of the costs of medical treatment is no longer satisfactory.

Open Consultation regarding Community action on health services

The Commission has published a Consultation paper on health services, with questions closely linked to the Regulation 1408/71. Responses to this consultation, focused around nine specific questions, were invited by 31 January 2007. The background of this consultation is the Commission's proposal for a directive on services in the internal market which included provisions codifying the rulings of the Court of Justice in applying free movement principles to health services. This approach was not accepted by Parliament and Council. The Commission considers that discussions on using internal market rules to access healthcare provided in other Member state only really began in 1998 after judgements of the European Court of Justice, beginning with the Case C-158/96 *Kohll* ([1998] ECR I-1931 and Case C-120/95) *Decker* ([1998] ECR I-1831) Until then, the Community mechanism enabling patients to receive treatment abroad (other than patients paying for such treatment themselves) was considered to be only Regulations (EC) 1408/71 and 574/72 on coordination of social security schemes. Although, the Court's rulings have developed clear principles, latest clarified by the Case C-372/04 *Watts* (judgement of 16 May 2006), the Commission considers that it is necessary to improve clarity to ensure a more general and effective application of freedoms to receive and provide health services. The Commission considers that Community action should be founded on two pillars, legal certainty and support for Member States in areas where European action can add value to their national action on health services. (Communication from the Commission, Brussels, 26 September 2006.)

Results of the open consultation are to be found at the website of the European Commission. Concerning issues relating to cost reimbursement covered by the Regulation 1408/71 or in Regulation 883/2004, the Member States have differing opinions. Many governments refer to the fact that Regulation on the coordination of social security should be amended. However, not all elements of the ECJ's case law can be stipulated by the Regulation. In addition there is a question on legal basis (Article 42 EC, Article 49 EC, Article 95 EC). Therefore many Member States underline the need for a new directive or the importance to reflect whether there is a need to draft a new framework directive. There is no clear common view of the proposed contents of this new directive or its relation to the Regulation 1408/71 or 883/2004. All Member States were not convinced that codifying case law will always clarify the matters. Hence, it was proposed that Member States should as a first action incorporate ECJ case law into their national systems. After analysing the contributions, the Commission will provide a summary report.

Discussion Document for a Health Strategy

The European Commission intends to adopt an overarching Health Strategy in 2007. It has published a discussion document offering stakeholders the opportunity to comment on the Commission plans. Stakeholders were asked to respond by 12 February 2007.

Council Conclusions on Common values and principles in European Union Health Systems

Noting that the new directive on services in internal market does not cover healthcare services, the health ministers have adopted a statement on common values and principles that underpin Europe's health systems. The ministers consider it important in providing clarity for citizens and that developments in this area should result from political consensus and not solely

from case law of the European Court of Justice. Health systems are considered as a central part of social protection. The overarching values listed are universality, access to good quality care, equity and solidarity. The Council also names operating principles which include quality, safety, care that is based on evidence and ethics, patient involvement, redress and privacy and confidentiality. The ministers believe that there is particular value in any appropriate initiative on health services ensuring clarity for European citizens about their rights and entitlements when the move from one Member State to another and in enshrining the values and principles in a legal framework in order to ensure legal certainty. (Official Journal 22.6.2006, 2006/C 146/01.)

Portability of supplementary pension rights *

The Council held a policy debate on a draft Directive on improving the portability of supplementary pension rights in December. All delegations supported the draft Directive's overall aim of facilitating mobility of workers. The majority of the Council considered that the Directive should focus on vesting criteria as well as on the preservation of pension rights through a fair treatment of dormant rights. The Presidency concluded that a balance should be found between as broad as possible scope of the Directive and a sufficiently long transitional period to allow pension schemes to adjust their rules. Some delegations regretted the deletion of transferability of pension rights from the text. However, according to the conclusions, instead of including the transfers in the Directive, other means of improving transferability could be considered, like transfers on a voluntary basis.

In view of the increasing importance of supplementary pension schemes to cover the risk associated with old age in Member States, the Commission proposal aims to facilitate workers' freedom of movement both across Member States and within a Member State by eliminating restrictive provisions linked to supplementary pension schemes which may limit the opportunities for mobile workers to build up sufficient pension rights throughout their working lives. Furthermore, the proposal seeks to ensure that workers receive appropriate information on their supplementary pension rights in the event of occupational mobility.

As a legal basis Articles 42 and 94 of the Treaty were proposed. This means that unanimity is required for a Council decision and that the co-decision procedure with the European Parliament is applied. (Employment, Social Policy, Health and Consumer Affairs Council Meeting, 30 November-1 December 2006.)

EU PRESIDENCY 2007-2010

Germany January - June 2007
Portugal July - December 2007
Slovenia January - June 2008
France July - December 2008
Czech Republic January - June 2009
Sweden July - December 2009
Spain January - June 2010

* proposal from the Commission COM(2005) 507 final, http://ec.europa.eu/employment_social/news/2005/oct/dir_191005_en.pdf