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Subject : **Proposal for a Directive of the European Parliament and of the Council on  
improving the portability of supplementary pension rights**

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**I. INTRODUCTION**

At its meeting on 7 March 2007, the Working Party on Social Questions continued its examination of the above proposal on the basis of a set of drafting suggestions prepared by the Presidency.<sup>1</sup>

The Chair informed delegations of contacts that had taken place between the Presidency and the European Parliament with a view to exploring the possibility of reaching an early agreement on this file.

Regarding Article 5, a large majority of delegations broadly welcomed the Presidency's approach to clarifying the concept of "fair treatment" as a basis for further discussion.

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<sup>1</sup> Doc. DS 160/07.

All delegations maintain a general scrutiny reservation. **DELETED** maintains a general reservation on the whole proposal. DK, MT and UK have entered parliamentary scrutiny reservations.

More detailed comments and reservations are set out in footnotes in the Annex. Changes in relation to the previous version (doc. 15222/06) are indicated as follows: new text is in **bold** and deletions are marked "[...]".

Delegations with abiding concerns were invited to submit drafting suggestions.

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Proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
on minimum requirements for improving the vesting and the preservation of supplementary  
pension rights<sup>2</sup>**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 42 and 94 thereof,

Having regard to the proposal from the Commission<sup>3</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>4</sup>,

Having regard to the opinion of the Committee of the Regions<sup>5</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>6</sup>,

Whereas:

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<sup>2</sup> Cion: reservation on the deletion of the word "portability" from the title on the grounds that reference should be made to the reduction of obstacles to workers' mobility.

**DELETED** and **DELETED** also considered that the title should refer to improving the mobility of workers.

<sup>3</sup> OJ C [...], [...], p. [...].

<sup>4</sup> OJ C [...], [...], p. [...].

<sup>5</sup> Will not submit an opinion on this file.

<sup>6</sup> OJ C [...], [...], p. [...].

- (1) The free movement of persons is one of the fundamental freedoms of the European Community; in Article 42, the Treaty stipulates that the Council, acting in accordance with the procedure referred to in Article 251, shall adopt such measures in the field of social security as are necessary to provide freedom of movement for workers.
- (2) The social protection of workers with regard to pensions is guaranteed by statutory social security schemes, together with supplementary pension schemes linked to the employment contract. Such supplementary pension schemes are becoming increasingly common in the Member States.
- (3) The Council and the Parliament have 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<sup>7</sup> and Council Regulation (EEC) No 574/72 of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71<sup>8</sup> 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.
- (4) Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community<sup>9</sup> represents an initial specific measure designed to improve the exercise of the right of workers to freedom of movement as regards supplementary pension schemes.

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<sup>7</sup> OJ L 149 of 5.7.1971, p. 1. Regulation as last amended by Regulation (EC) No 631/2004 (OJ L 100 of 6.4.2004, p. 1).

<sup>8</sup> OJ L 74 of 27.3.1972, p. 1. Regulation as last amended by Regulation (EC) No 77/2005 (OJ L 16 of 20.1.2005, p. 3).

<sup>9</sup> OJ L 209 of 25.7.1998, p. 46.

(5) Recourse should also be had to Article 94 of the Treaty, given that the disparities between the national legislations 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 rights of workers moving within the Community and within the same Member State, it is necessary to ensure some minimum requirements for the vesting and preservation of an outgoing worker's vested pension rights in supplementary pension schemes linked to an employment relationship.<sup>10</sup>

(5a) It is equally necessary to take account of the nature and specific characteristics of supplementary pension schemes and of their diverse nature within and between the Member States. The establishment of new schemes, the viability of existing schemes and the expectations and rights of present pension scheme members should be sufficiently protected. In particular, the role played by the social partners in the design and implementation of supplementary pension schemes should be respected by this Directive.<sup>11</sup>

(5b) This Directive does not oblige Member States without supplementary pension schemes to introduce legislation providing for the setting up of such schemes.<sup>12</sup>

(5c) This Directive applies only to supplementary retirement pensions that are based on reaching retirement age or on fulfilling other requirements, as laid down by the scheme or by national legislation. This Directive does not apply to individual pension arrangements where there is no employer involvement, nor to invalidity and survivors' benefits.<sup>13</sup>

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<sup>10</sup> **DELETED**: reservation on this recital (related to its reservation on the deletion of transferability from the Directive).

<sup>11</sup> **DELETED** considered that the role of the social partners was important enough to merit a separate recital.

<sup>12</sup> **DELETED**: reservation on this recital; this delegation considered that the text should be redrafted, and that the issue should also be included in an Article, preferably in Article 9.

<sup>13</sup> **DELETED** supported by **DELETED** suggested adding "Schemes in the public sector for members of disciplined forces providing public security." Also see Article 2(2).

- (5c1) The Directive concerns any supplementary pension scheme for employed persons, established in conformity with national legislation and practice and intended to provide a supplementary pension 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. Self-employed persons are not covered by this Directive.
- (5d) Where a decision has already been made to close a scheme before the entry into force of the Directive, and it is therefore no longer accepting any new scheme members, the introduction of new requirements could represent an unjustified burden on the scheme. The Directive should consequently not apply to such schemes.
- (5e) This Directive does not seek to harmonise, nor is intended to affect, national legislation concerning reorganisation measures and winding-up proceeding, whether or not such proceedings are founded on insolvency and whether they are voluntary or compulsory. It also does not concern national legislation on re-organisation measures, such as those covered by Directive 2001/17/EC. However, measures that fall under Article 16(2) of Directive 2003/41/EC are not to be understood as such reorganisation measures.
- (5f) This Directive should not concern insolvency guarantee schemes or compensation schemes that are not supplementary pension schemes linked to an employment relationship, the aim of which is to protect the pension rights of the employee in the case of employer or scheme insolvency. Similarly, this Directive should not address national reserve funds.

[...]

- (6) [...]
- (6a) When the scheme or the employer bears the investment risk (in particular in defined benefit schemes), the scheme should always refund the contributions of the outgoing worker regardless of what is the value of the investments derived from those contributions. When the outgoing worker bears the investment risk (in particular in defined contributions schemes), the scheme should refund the value of the investments derived from those contributions. The value may be more or less than the contributions paid by the outgoing worker. If the value is negative there is nothing to refund.<sup>14</sup>
- (6b) The outgoing worker should [...] be able to leave his/her vested pension rights as dormant rights in the supplementary pension scheme in which the rights have vested.
- (7) In accordance with national law and practice, steps should be taken to ensure fair treatment<sup>15</sup> **of the value of such dormant rights. [...] The value of the rights at the time when the worker leaves the scheme should be established in accordance with recognised actuarial principles. In calculating the value, account should be taken of the particular nature of the scheme, the interests of the outgoing worker and the interests of the remaining pension scheme members.**

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<sup>14</sup> **DELETED**: reservation on the last sentence of the recital. **DELETED** saw a need to check the coherence between this Recital and Article 4(c).

<sup>15</sup> **DELETED**: reservation on the words "fair treatment".

- (8) When the value of the vested pension rights of an outgoing worker does not exceed a threshold established by the Member State concerned, and in order to avoid excessive administrative costs resulting from the management of a large number of low-value dormant rights, pension schemes may be given the option not to preserve these vested rights but to use a capital payment representing the vested rights. The value of capital payment should always be established in accordance with recognised actuarial principles<sup>16</sup> and should represent the present value of the vested pension rights at the time of payment.<sup>17</sup>
- (9) [...]
- (9b) This Directive does not aim at limiting transfers of vested pension rights offered to outgoing workers. With the aim of improving the freedom of movement for workers, Member States should endeavour to progressively promote, when possible, transfers of vested pension rights, in particular when new supplementary pension schemes are established.<sup>18</sup>
- (10) [...]
- (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, particularly regarding how a termination of their employment would affect their supplementary pension rights.

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<sup>16</sup> **DELETED** preferred a reference to national standards instead of "recognised actuarial principles".

<sup>17</sup> **DELETED**: reservation on this recital, related to its reservation on Article 5(1).

<sup>18</sup> **DELETED**: reservation on this recital (related to the deletion of transferability).

**DELETED** noted that the language of this recital was quite imperative, yet there were no corresponding provisions in the relevant Article.

Note from the Council Secretariat: the second sentence of the recital could be reworded as follows: "With the aim of improving the freedom of movement for workers, steps taken by Member States to progressively promote transfers of vested pension rights would be welcome, in particular when new supplementary pension schemes are established."



- (12) In view of the diverse nature of supplementary social security schemes, the Community must confine itself to establishing the objectives to be achieved in general terms, which means that the directive is the appropriate legal instrument.
- (13) Given that the objectives of the measures envisaged, namely to reduce the obstacles to the exercise of the right of workers to freedom of movement and to the operation of the internal market, cannot be achieved satisfactorily by the Member States and may therefore, because of the scope of the measures, be achieved more effectively at Community level, the Community may take action in accordance with the subsidiary principle set out in Article 5 of the Treaty. In accordance with the principle of proportionality referred to in that Article, this Directive, based on an impact assessment conducted with the help of the committee in the area of supplementary pensions (so-called "Pension Forum" of the European Commission), will not go beyond what is necessary to achieve its objectives.
- (14) This Directive establishes minimum requirements, thus enabling the Member States to adopt or maintain more favourable provisions. The implementation of this Directive cannot be used to justify a regression vis-à-vis the existing situation in each Member State.
- (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. The minimum requirements of this Directive can create a situation where the viability and financial stability of schemes with longer vesting periods or, in particular, loyalty schemes could be endangered.<sup>19</sup> To allow the schemes sufficient time to adapt their rules and to meet funding requirements, a transitional period of 120 months<sup>20</sup> can be granted.

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<sup>19</sup> **DELETED** considered that this sentence on schemes with long vesting periods should be deleted.

Cion also expressed concern about this sentence. (The Finnish Presidency stressed that this sentence justified the long transitional period of 120 months.)

<sup>20</sup> Cion: scrutiny reservation. See footnotes to Article 9(2).

(16) In accordance with the national law and practice governing the organisation of supplementary pension schemes, the Member States should be able to grant the social partners, at their joint request, responsibility for implementing this Directive as regards the arrangements relating to collective agreements, provided that they take all the necessary steps to ensure that they are at all times able to guarantee the outcomes prescribed in this Directive,

HAVE ADOPTED THIS DIRECTIVE:

*Article 1*  
**Objective**

The aim of this Directive is to facilitate the exercise of the right of workers to freedom of movement and to facilitate workers' occupational mobility [...], by reducing the obstacles created by certain rules concerning supplementary pension schemes.<sup>21</sup>

*Article 2<sup>22</sup>*  
**Scope**

1. This Directive shall apply to supplementary pension schemes apart from the schemes covered by Regulation (EEC) No 1408/71 on the coordination of social security schemes.

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<sup>21</sup> **DELETED** maintained a scrutiny reservation on Article 1 on the grounds that the provisions pose serious difficulties to certain **DELETED** supplementary pension schemes that make the payment of benefits conditional upon an employee's actual presence in the enterprise at the time of retirement, and do not involve the accrual of rights over a career.

<sup>22</sup> **DELETED**: reservation on the whole of Article 2 as currently drafted. This delegation would prefer the same scope as in Directive 98/49 (i.e. no Article 2(2)), especially as transferability is no longer included in the text. Also see Article 2(3).

**DELETED**, **DELETED** and Cion: Article 2(2) should be reconsidered as transfers have been deleted from the text. Cion questioned exempting schemes because they did not meet the objective of the Directive, especially since the Presidency text already envisaged a long transitional period.

2. However, this Directive shall not apply to the following schemes:<sup>23</sup>
- (a) supplementary pension schemes which have ceased accepting any new active scheme members at the moment this Directive enters into force and which remain closed to new members;
  - (b) supplementary pension schemes that are subject to measures involving the intervention of administrative bodies established by national legislation or judicial authorities, which are intended to preserve or restore their financial situation, including winding-up proceedings;<sup>24</sup>
  - (c) insolvency guarantee schemes, compensation schemes and national reserve funds.<sup>25</sup>
3. **This Directive shall not apply to periods prior to its entry into force.**<sup>26</sup>

### *Article 3*

#### **Definitions**

For the purposes of this Directive, the following definitions shall apply:

- (a) “supplementary pension” means a retirement pension as provided for by the rules of a supplementary pension scheme established in conformity with national legislation and practice;

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<sup>23</sup> **DELETED**: reservations. These delegations considered that pension schemes included in a company's budget (so-called internal schemes) should be excluded from the scope.

<sup>24</sup> Cf. the definitions of Directive 2001/17/EC.

<sup>25</sup> **DELETED** considered that Article 2(2)(b) should be reworded along the lines of Recital 5e. **DELETED** entered a reservation on Article 2. **DELETED** supported by **DELETED** suggested adding a new point 2(2)(d): "Schemes in the public sector for members of disciplined forces providing public security." (Also see Recital 5.) This idea was supported by **DELETED**, **DELETED** and Cion: positive scrutiny reservations. **DELETED** entered a reservation on excluding a whole sector from the scope.

<sup>26</sup> Cion and **DELETED** entered a reservation. **DELETED** considered that reference should be made to the date of national transposition rather than the date of entry into force of the Directive. **DELETED** shared this concern. **DELETED**, **DELETED** and **DELETED** also saw a need for clarification; also see Article 9(2). The Presidency reminded delegations that a transitional period was also foreseen.

- (b)<sup>27</sup> “supplementary pension scheme” means any pension scheme linked to an employment relationship, established in conformity with national legislation and practice and intended to provide a supplementary pension for employed persons;
- (c) “active scheme member” means a worker whose current employment relationship entitles him/her or, after fulfilment of the vesting requirements, will entitle him/her to a supplementary pension in accordance with the provisions of a supplementary pension scheme;<sup>28</sup>
- (d) “vested pension rights” means any entitlement to a supplementary pension obtained after the fulfilment of vesting requirements, if any, in accordance with the rules of a supplementary pension scheme and, where applicable, national legislation;<sup>29</sup>
- (da) “vesting period” means a period of active scheme membership required either by national legislation or by the rules of a supplementary pension scheme for entitlement to a supplementary pension;<sup>30</sup>
- (e) [...]
- (f) “outgoing worker” means an active scheme member whose current employment relationship terminates before he or she becomes eligible for a supplementary pension;
- (g) [...]
- (h) “deferred beneficiary” means any person who has vested pension rights in a supplementary pension scheme, but is no longer an active member of that scheme and is not yet in receipt of a supplementary pension from the scheme;

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<sup>27</sup> **DELETED**: scrutiny reservation on point (b) with reference to the proposed Directive's link with insurance Directives and individual insurance contracts paid by the employer. Cion confirmed that individual insurance contracts paid by the employer were included in the scope.

<sup>28</sup> Active scheme member is (1) a scheme member who has not yet fulfilled vesting requirements and (2) a scheme member who has already fulfilled vesting requirements.

<sup>29</sup> **DELETED** and **DELETED** wished this definition to be explained in more detail in a recital.

<sup>30</sup> **DELETED** and **DELETED** wished this definition to be explained in more detail in a recital.

- (i) “dormant pension rights” means vested pension rights retained under the scheme under which they have been accrued by a deferred beneficiary;
- (j) [...]
- (ja) "value of the dormant rights" means the capital value of the pension rights calculated in accordance with national law and practice and, where applicable,<sup>31</sup> according to recognised actuarial principles.<sup>32</sup>**

#### *Article 4*

#### **Conditions governing vesting criteria<sup>33</sup>**

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

- (a) where the supplementary pension scheme stipulates a vesting period, this shall not exceed five years;
- (b) where the supplementary pension scheme stipulates a minimum age for the accrual by an active scheme member of vested rights, this age shall not exceed 25 years;
- (c) where employment is terminated before an outgoing worker has accrued vested pension rights, a supplementary pension scheme shall refund the contributions paid by the outgoing worker or, where the outgoing worker bears the investment risk, the value of investments derived from those contributions;

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<sup>31</sup> Cion pointed out that "where applicable" would also need to be added in Recital 8.

<sup>32</sup> **DELETED** entered a scrutiny reservation; this delegation emphasised that *nationally recognised* actuarial principles should be applied.

<sup>33</sup> Note from the Council Secretariat: indents (a) to (d) have been renumbered. **DELETED**: scrutiny reservation on Article 4, linked to that delegation's comments outlined in the footnote to Article 1.

**DELETED** and **DELETED**: reservation on this article, especially related to the long vesting period in Article 4(a) and the high age limit in Article 4(b).

**DELETED**: reservation.

Cion regretted the decreased level of ambition in Articles 4(a) and (b).

- (d) [...] Member States shall have the option of allowing the social partners to lay down by collective agreement non-discriminatory provisions which differ from those of **subparagraphs (a) and (b)**,<sup>34</sup> to the extent that these provisions provide at least equivalent protection to the persons concerned.<sup>35</sup>

*Article 5*

**Preservation of dormant pension rights**<sup>36</sup>

0. Subject to paragraph 2, Member States shall adopt the measures they deem necessary in order to ensure that outgoing workers can retain their vested pension rights in the supplementary pension scheme in which they have vested.

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<sup>34</sup> **DELETED** considered that "c)" should be added here.

<sup>35</sup> Article 4(d) has been aligned with the text in Article 5(3). Cion entered a reservation on the grounds that the words "if objectively justified" had been deleted from the text. (Also see Article 5(3).) **DELETED** and **DELETED** have a reservation on Article 4(d); these delegations considered the wording to be too flexible. **DELETED** and Cion considered that the words "equivalent protection" might be unclear and lead to legal uncertainty. Cion: scrutiny reservation on Article 4(d).

<sup>36</sup> **DELETED** considered that it would be impossible to mention all possible ways of ensuring fair treatment and that a negative definition was therefore preferable to a positive one. **DELETED** considered that the current text may not provide legal certainty. Cion expressed doubts about moving elements of the recitals to this Article. **DELETED** considered that practical examples were needed to elucidate the provisions. **DELETED**: reservation on this Article. This delegation considered that certain types of pension schemes could not fulfil the provisions in Article 5(0), but were presently using transfers (which were no longer included in the text). **DELETED** suggested making it clear that the list of cases in this Article was not exhaustive but indicative. **DELETED**: scrutiny reservation.

1. <sup>37</sup> Member States shall adopt the measures they deem necessary to ensure fair treatment of **the value of dormant pension rights** [...], having regard to the nature<sup>38</sup> of the pension scheme. **Treatment shall<sup>39</sup> be deemed<sup>40</sup> fair in particular when:**

**1.1 the value<sup>41</sup> of the dormant rights continues to develop largely in line with the value of the rights of active scheme members; or**

**1.2 the pension rights<sup>42</sup> are set as a nominal sum;<sup>43</sup> or**

**1.3 the outgoing worker<sup>44</sup> continues to benefit from a rate<sup>45</sup> of interest built into the pension scheme; or**

**1.4 the outgoing worker<sup>46</sup> has a guarantee of benefiting from any subsequent adjustments to pension benefits;<sup>47</sup> or**

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<sup>37</sup> **DELETED** wished to add the following in this Article: "The outgoing worker shall not receive unjustified advantage from leaving the supplementary pension scheme. Any indexation of dormant rights may be subject to a limit set by the national legislation."

**DELETED** supported the first sentence of the addition.

<sup>38</sup> **DELETED** suggested replacing "nature" with "viability." **DELETED** and **DELETED** suggested "nature and viability," or "nature and sustainability."

<sup>39</sup> **DELETED** suggested replacing "shall" with "may."

<sup>40</sup> **DELETED** suggested replacing "deemed" with "considered to be."

<sup>41</sup> **DELETED** questioned the need to repeat the term "value," which already appears in the chapeau.

<sup>42</sup> **DELETED** and Cion suggested adding "in the scheme."

<sup>43</sup> **DELETED** entered a scrutiny reservation; this delegation would have preferred the following wording: "the pension rights of the outgoing worker are determined as nominal values." This delegation also recalled that the term "value of dormant pension rights" was defined in Article 3(ja). **DELETED** expressed doubts as to whether the current formulation provided legal certainty. All delegations have scrutiny reservations.

<sup>44</sup> Cion, **DELETED** and **DELETED** suggested replacing "outgoing worker" with "deferred beneficiary."

<sup>45</sup> **DELETED** suggested that this term be clarified.

<sup>46</sup> **DELETED** suggested replacing "outgoing worker" with "deferred beneficiary."

<sup>47</sup> Cion considered that this indent should be deleted, explaining that the adjustment of pension benefits does not guarantee that dormant rights are fairly treated, as there is no link between the two. **DELETED** and **DELETED** also called for clarification of this indent.



**1.5 the value of dormant rights is adjusted by reference to inflation, wage levels, pension benefits which are currently being paid, or the rate of return on assets under the supplementary pension scheme.**<sup>48</sup>

2. When the value of the vested pension rights does not exceed a threshold established by the Member State concerned, the Member State may allow supplementary pension schemes not to preserve vested rights but to use<sup>49</sup> a payment of a capital sum,<sup>50</sup> representing the value of the vested pension rights, to the outgoing worker. The Member State shall inform the Commission of the threshold applied.
3. **Member States shall have the option of allowing the social partners to lay down different provisions by collective agreement, to the extent that those provisions provide at least equivalent protection to the persons concerned.**<sup>51</sup>

#### *Article 6*

#### **Transferability**<sup>52</sup>

[...]

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<sup>48</sup> **DELETED** entered a scrutiny reservation; this delegation considered that the Member States should be allowed to set a limit to the total adjustment. Also see Articles 3(ja) and 5(1). **DELETED** suggested adding "while justified administrative costs can be taken into account. " Agreeing with **DELETED**, **DELETED** suggested that the term "net rate of return" be used.

<sup>49</sup> **DELETED**, supported by a large majority of delegations and Cion, suggested: "When the value of the vested pension rights of an outgoing worker does not exceed a threshold established by the Member States concern, the Member State may allow supplementary pension schemes not to preserve vested rights but to use such measures, as are provided for in national legislation and practice, to discharge the value of those vested pension rights. The Member State shall inform the Commission of the threshold applied." **DELETED** entered a scrutiny reservation. This delegation underlined, in particular, the need to provide for *different* thresholds set by the social partners and for individual schemes.

<sup>50</sup> **DELETED**: it should be made clear that the outgoing worker does not have to accept the payment of a capital sum.

<sup>51</sup> **DELETED**, **DELETED** and Cion expressed concern and called for clarification of this provision, which they consider too open-ended. Also see Articles 4(d) and 9.

<sup>52</sup> **DELETED**: regretted the deletion of transferability from the Directive.

*Article 7*  
**Information**

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 measures they deem necessary to ensure that active scheme members [...] <sup>53</sup> **can request** <sup>54</sup> information in accordance with paragraph 2 on how a termination of employment would affect their supplementary pension rights. <sup>55</sup>
  
2. Sufficient information shall be provided **in writing** within a reasonable period of time to active scheme members [...] <sup>56</sup> who request it, in particular in respect of the following: <sup>57</sup>
  - (a) [...] <sup>58</sup>
  
  - (b) the pension benefits envisaged when employment is terminated;
  
  - (c) the conditions governing the preservation of dormant pension rights.
  
  - (d) [...] <sup>59</sup>
  
3. [...] <sup>60</sup>

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<sup>53</sup> Cion considered that prospective active scheme members should also be provided with information.

<sup>54</sup> **DELETED** and **DELETED** considered this wording to be too weak. **DELETED** made the observation that provisions on information are already laid down in existing legislation, and that the current draft Directive deals only with portability.

<sup>55</sup> **DELETED** made the observation that it should be possible to charge a fee for information and to limit the number of times information can be requested to, for example, once a year.

<sup>56</sup> Cion considered that prospective active scheme members should also be provided with information. **DELETED** shared this view.

<sup>57</sup> **DELETED** and **DELETED** considered that the list of elements of information was now too short.

<sup>58</sup> Cion considered "the conditions governing acquisition" in general (both vesting and waiting conditions) should be included here. **DELETED** and **DELETED** took a similar view.

<sup>59</sup> Cion suggested retaining "the conditions governing the transfer of acquired rights" in the text.

<sup>60</sup> **DELETED** and Cion considered that deferred beneficiaries should be retained in the text.

4. [...]

*Article 8*

**Minimum requirements — non-regression**

1. The Member States may adopt or maintain provisions on the vesting and the preservation of an outgoing worker's supplementary pension rights, which are more favourable than those, set out in this Directive.
2. The implementation of this Directive may not under any circumstances be used as a reason for reducing the degree of vesting and preservation of an outgoing worker's supplementary pension rights, which exists in the Member States.

*Article 9*

**Implementation**

1. The Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than [...] <sup>61</sup>, 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 [...] <sup>62</sup>, the social partners have introduced the requisite measures by agreement; the Member States concerned shall 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. <sup>63</sup>

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<sup>61</sup> "24 months after the date of entry into force of the Directive".

<sup>62</sup> "24 months after the date of entry into force of the Directive".

<sup>63</sup> **DELETED**: reservation on Article 9(1), particularly in regard to 24 months.

2. The Member States may extend, where necessary, the implementation of this Directive for 120<sup>64</sup> months starting from [...]<sup>65</sup>. Any Member State using this extension shall inform the Commission accordingly, indicating the provisions and schemes concerned and the specific reasons for the extension.<sup>66</sup>
3. [...]
4. When the Member States adopt these measures, these shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.
5. [...]

*Article 10*

**Report**

1. Five<sup>67</sup> years after [...] <sup>68</sup>, 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.
2. [...]

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<sup>64</sup> Cion and a number of delegations (**DELETED**) called for a shorter transitional period. **DELETED** expressed regret at the suggested inclusion of a 120-month transition period on the grounds that it was no longer justified, particularly in the light of Article 2(3). **DELETED** and **DELETED** took a similar view. **DELETED** and **DELETED** preferred 60 months. **DELETED** considered that 46-72 months would be acceptable.

<sup>65</sup> "date after the date of entry into force of the Directive".

<sup>66</sup> **DELETED**: reservation on Article 9(2). This delegation was especially concerned that loyalty systems might not be able to continue under the Directive.

<sup>67</sup> **DELETED** and Cion considered that five years was too short a reporting period if the 120 months in Article 9(2) was maintained.

<sup>68</sup> Cion and **DELETED** considered that reporting should be periodical, rather than once only. "date of entry into force of this Directive".

*Article 11*

**Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 12*

**Addressees**

This Directive is addressed to the Member States.

Done at .....,

*For the European Parliament*

*The President*

*For the Council*

*The President*

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