



**COUNCIL OF
THE EUROPEAN UNION**

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From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

Subject: Proposal for a Directive of the European Parliament and of the Council on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights **(first reading)**

- Adoption
- a) of the Council's position at first reading
- b) of the statement of the Council's reasons

= Statements

Statement by Germany

Germany agrees to the Directive. However, the new rule that has been included in Article 5(3) in the framework of the trilogue requiring the employees' agreement without exception to the provision of occupational pension rights is inappropriate. In the case of very small-scale occupational pension rights, this rule leads to a disproportionately high bureaucratic burden that is not justified from either the employer's or the employee's perspective.

Statement by Malta

Malta fully recognises and supports the objective of the Directive of the European Parliament and of the Council on minimum requirements for enhancing worker mobility by improving the vesting and preservation of supplementary pension rights. It also welcomes the fact that the scope of the compromise text reflects the remit of Article 46 TFEU and thus provides that the Directive shall apply to outgoing workers who move between Member States and will not apply to workers moving within a single Member State.

Malta, however, regrets the fact that the final amendments made to the definition of ‘outgoing worker’ introduced a high degree of legal uncertainty which may lead to practical difficulties in implementing the restricted scope of the Directive without having to extend the same rules applicable pursuant to the Directive to scheme members who change employment within a single Member State. Were this to happen, Malta considers that this would be tantamount to the Directive having indirectly harmonising effects which go beyond the intentions of the legislator and the legal remit of the agreed legal base. Hence, Malta does not consider itself bound to reproduce this effect.

Malta considers it very important that in legislating it is ensured that the scope of a Directive is practically implementable. In particular, in the sensitive field of pensions policy, it is very important that EU legislation is legally clear and certain and that no attempts are made to reach harmonising effects without the necessary legal base to that effect.

Malta therefore abstains in the vote taken on this Directive.