

European Communities

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EUROPEAN PARLIAMENT

# Working Documents

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10 November 1980

DOCUMENT 1-552/80

## Report

drawn up on behalf of the Committee on Social Affairs and Employment

**on the proposal from the Commission of the European Communities to the Council (Doc. 1-310/80) for a 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**

**Rapporteur: Mr A. GHERGO**



By letter of 7 July 1980 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a regulation amending, for the benefit of unemployed workers, Council Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons and their families moving within the Community.

The President of the European Parliament referred this proposal to the Committee on Social Affairs and Employment on 10 July 1980.

On 16 July 1980 the Committee on Social Affairs and Employment appointed Mr GHERGO rapporteur.

It considered this proposal at its meetings of 29 September 1980 and 28 October 1980 and at the latter meeting unanimously adopted the motion for a resolution and the explanatory statement with three absentions.

Present: Mr Van der Gun, chairman; Mr Peters and Mr Frischman, vice-chairmen; Mr Ghergo, rapporteur; Mrs Baduel Glorioso, Mr Barbagli, Mr Ceravolo, Mrs Dekker, Mr Estgen, Mr Henckens (deputizing for Mr Nordlohne) Mr Van Minnen, Mrs Tove Nielsen, Mr Oehler, Mr Prag, Mrs Salisch, Mr J.D. Taylor, Mr Verhaegen and Mr Vernimmen (deputizing for Mr Dido).

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The Committee on Social Affairs and Employment hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

PROPOSAL FOR A RESOLUTION

on the opinion of the European Parliament on the proposal from the Commission of the European Communities to the Council for a 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

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council<sup>1</sup>,
  - having been consulted by the Council (Doc. 1-310/80),
  - having regard to the report of the Committee on Social Affairs and Employment (Doc.1-552/80),
1. Views with great concern the present economic depression, which has brought about considerable stagnation on the labour market resulting in a large increase in the rate of unemployment in the Community;
  2. Approves the Commission's intention to adjust to the new social and economic situation the provisions of Regulation (EEC) No. 1408/71 concerning the special position of unemployed persons who transfer their place of residence;
  3. Considers this measure conducive to worker mobility and, consequently, to a better distribution of the workforce with positive results for production in overall terms;
  4. Emphasises the need for generally bringing up to date the rules on social security schemes for employed persons and their families moving within the Community, in the light of the continually changing concept of social security, and with a view to implementing in evermore concrete fashion the principle of free movement of workers confirmed by the EEC Treaty;

<sup>1</sup> OJ No. C 169, 9.7.1980, p.22

5. Wishes to see, again with reference to the changing concept of social security, the extension of the rules of Regulation (EEC) No. 1408/71 to self-employed workers and their families, as requested in the recent debate<sup>1</sup> on the standardization of the system for the payment of family benefits to workers whose families live in a different Member State from the country in which the worker is employed<sup>2</sup>;
6. Approves, with these recommendations and pending a general review of the area in question, the Commission's proposals and requests the Council meanwhile to adopt in full and with all speed the measures outlined in these proposals.

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<sup>1</sup> Plenary sitting of 17 June 1980

<sup>2</sup> Doc. 1-140/80 and OJ No. C 175, 14.7.1980, p.27

EXPLANATORY MEMORANDUMI. Introduction

1. Regulation (EEC) No. 1408/71<sup>1</sup> lays down a number of rules governing the application and coordination of social security schemes for employed persons and their families moving within the Community.

The Rules contained in this regulation reflect of course the social and economic circumstances obtaining at the time they were drawn up, as also the stage of development of social security principles as already codified or commonly accepted at doctrinal level.

Developments in the social and economic situation and the process of European integration require that those rules, which are still in force, be revised, as they are no longer in line, in their present form, with the new circumstances.

In anticipation of a general overhaul of legislation on the subject, the motion for a resolution examines in detail the position of unemployed workers.

II. Summary of the Commission's proposals

2. To recapitulate briefly, the Commission proposes to the Council
  - a) that the right to unemployment benefits be retained where a worker, in certain circumstances, transfers his place of residence to a country other than that in which he was last employed;
  - b) that again in certain circumstances the exportation of 'pre-retirement pensions' be allowed for workers who transfer their residence after having become entitled to such benefits, as also the payment of these benefits to frontier workers;
  - c) that certain improvements of a technical nature be made with a view to rationalizing the present rules and making it possible, inter alia, for application of Art.71(b)(ii) to be extended to seamen, as also to persons employed by the diplomatic and consular services and to auxiliary staff of the European Communities.
3. The legal considerations enunciated by the Commission on the nature of the benefits and on the applicability of the rules of coordination can be subscribed to unreservedly.

III. Unemployment benefits

4. The present rules provide - on the basis of the principle that claims founded in the legislation of the relevant country giving entitlement to the aforementioned benefits shall be valid in all Member States - that an unemployed worker, wishing to seek employment in another Member State, should retain for up to a period of 3 months his entitlement to the same unemployment benefits he had in the state where he was last employed and, at all events, for no longer

<sup>1</sup> See codified version of this Regulation in OJ No. C 138, 9.6.1980

than the maximum period of compensation provided for by the rules of that country.

5. This rule, which originated at a time of great economic buoyancy and low unemployment, seems excessively harsh and punitive in the present social and economic situation, which is completely different. In this respect the figures published by the European Communities Statistical Institute are significant: the total number of unemployed in the Community went from 5,646,500 units in May 1979 to 6,081,400 units in May 1980 and in subsequent months an even higher figure was recorded (6.7 million in July).

6. Unfortunately, unemployment has been steadily rising since 1974 and, in some countries like France, Italy and Belgium, the rise has been more or less constant, while in other countries it has fluctuated to a greater or lesser extent. It is a fact, however, that in the last seven years the absolute numbers of unemployed have doubled (+96%), with the most marked increases, in terms of percentages, in France, Belgium and Luxembourg, where a reversal of the trend has occurred only in the last year.

7. In the situation referred to above, the proposed amendments to Regulation 1408/71 can prove of value - even though it is obvious that other forms of action are also required to combat unemployment - in removing the stalemate situation in which workers now find themselves should they lose their employment.

With reference to the existing rules, it is clear that the maximum period of three months, which is these days an extremely short time in which to find a new job, in practice discourages mobility, as the unemployed worker finds it less of a risk to stay in the country where he was last employed and is entitled to unemployment benefits than to chance losing them by seeking employment in another country.

8. The proposed provision, which frees the country where unemployment occurs from many of its responsibilities, results not only in a more rational distribution of the workforce, but also in a substantial increase in the worker's sphere of independence; it can therefore be given unqualified support.

#### IV. Exportation of pre-retirement pensions

9. According to the Commission's proposal, wholly unemployed workers who reside in a Member State and receive a pre-retirement pension within the meaning of the laws of that State may retain their right to this benefit even in cases where they decide to transfer their place of residence to another Member State.

10. These benefits, at present provided in Belgium, Denmark, France, Luxembourg, the Netherlands and the UK, are based on laws or collective



agreements and are paid out until normal retirement age or until the age required for the right to an early, undiminished old-age pension - to workers who have reached a certain age and are unemployed as the result of having been dismissed or having voluntarily given up work.

11. Within the context of an official scheme forming part of the Community's provisions for unemployment insurance or assistance in the case of unemployment, these monetary benefits can be awarded in virtue of an overall agreement covering all employed persons or only to specific occupational categories.

12. The basic features characterizing such systems, whether or not financed by public funds, are as follows:

- the condition that the worker has attained a certain age;
- voluntary or involuntary termination of occupational activity in accordance with conditions laid down by legislation or in accordance with the terms of agreements concluded between the organizations of employers and labour instituting such schemes;
- exemption from the obligation to remain available to the employment services of the Member State in which these benefits are granted.

13. This proposal has been prompted by the need to encourage employment by increasing the availability of jobs through the offer of 'pre-retirement' pensions clearly having a welfare character, both supplementary and alternative, and with the advantage of being exportable to other countries.

14. The proposal, which appears to accord with the guidelines drawn up at the meetings of the Permanent Committee on Employment (29.5.1980) and of the Council (9.6.1980)<sup>1</sup> most definitely deserves support, not least in view of the fact that, according to reliable estimates (which take account of the birth rate for all classes that will be coming on to the labour market in the next few years), for every job vacated by an old person in the 1980s there will be not less than three people hoping to fill it, while in the 1990s there will be a balance between vacancies and jobseekers.

15. Clearly adoption of the Commission's proposals will necessitate relevant technical amendments to the implementing rules laid down in Regulation 574/72.

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<sup>1</sup> Communication No. 79-80/32: Doc. PE 65.901

