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THE EUROPEAN UNION**

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**DRAFT MINUTES**

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Subject : **2837th** meeting of the Council of the European Union (**EMPLOYMENT, SOCIAL POLICY, HEALTH and CONSUMER AFFAIRS**), held in Brussels on 5 and 6 December 2007

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1. **Adoption of the agenda**

15757/07 OJ CONS 64 SOC 499 SAN 235 CONSOM 143  
+ REV 1 (fr, it, hu)

The Council adopted the above agenda.

2. **Approval of the list of "A" items**

15936/07 PTS A 55

The Council approved the list of "A" items contained in 15936/07 PTS A 55.

3. **Amended proposal for a Directive of the European Parliament and of the Council amending Directive 93/104/EC on the Organisation of Working Time**

- Political agreement  
(Public deliberation, pursuant to Article 8(1)(b) CRP)  
9554/05 SOC 244 SAN 94 TRANS 108 MAR 84 CODEC 441  
15670/1/07 SOC 495 SAN 232 TRANS 388 MAR 110 CODEC 1335 REV 1  
+ REV 1 COR 1  
16061/07 SOC 521 SAN 250 TRANS 402 MAR 120 SOC 1395

The Council endeavoured to reach political agreement on the amended proposal on the basis of an overall Presidency compromise proposal which aimed also to strike a parallel agreement on the Draft Temporary Workers Directive. However, in spite of significant progress in the negotiations, the Council was not in a position to reach any such agreement at this stage.

In view of the importance of the issues at stake, the Council invited the forthcoming Presidencies and the Commission to make all efforts to achieve a positive outcome on the two Directives on the basis of the solid progress already made.

4. **Amended proposal for a Directive of the European Parliament and of the Council on Working Conditions for Temporary Workers**

- Political agreement  
(Public deliberation, pursuant to Article 8(1)(b) CRP)  
15098/02 SOC 576 CODEC 1588  
15686/07 SOC 496 CODEC 1336  
+ COR 1  
+ ADD 1

The Council endeavoured to reach political agreement on the amended proposal in parallel with that on Working Time, but at the end of a substantial discussion the President concluded that, despite certain progress in the negotiations, an agreement could not be found.

5. **Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Towards Common Principles of Flexicurity**

- Endorsement of joint Employment Committee / Social Protection Committee opinion
- Adoption of Council conclusions  
10255/07 SOC 241 ECOFIN 312  
+ ADD 2  
15320/07 SOC 461 ECOFIN 471  
+ COR 1 (es)  
15497/07 SOC 476 ECOFIN 483  
+ COR 1 (es)  
+ COR 2 (sk)  
+ COR 3 (pt)

The Council endorsed the joint Opinion of the Employment Committee and the Social Protection Committee as set out in 15320/07 + COR 1 (es).

The Council adopted the draft Conclusions as set out in 15497/07 + COR 1 (es) + COR 2 (sk) + COR 3 (pt) and the common principles contained therein; it also decided to forward the Council Conclusions to the European Council of 14 December 2007.

6. **Future prospects for the European Employment Strategy in the context of the new cycle of the Lisbon Strategy**

- Endorsement of Employment Committee opinion
- Information from the Chair of the Social Protection Committee on the report of the Working Party on mutual interaction between the common social objectives of greater economic growth and more and better jobs
- Adoption of Council conclusions
  - 15207/07 SOC 456 ECOFIN 456
  - + COR 1 (es)
  - 15813/07 SOC 506 ECOFIN 498
  - + REV 1 (pt)

The Council endorsed the Opinion of the Employment Committee as set out in 15207/07 + COR 1 (es).

The Council adopted the draft Conclusions as set out in 15813/07 + REV 1 (pt).

The Council also took note of the information provided by the Chair of the Social Protection Committee, Ms Elise Willame.

7. **Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions accompanying the Communication on "A single market for 21st century Europe" – Services of general interest, including social services of general interest: a new European commitment**

- Policy debate
  - 15650/07 COMPET 407 MI 310 SOC 492 CONSOM 140
  - 15668/07 SOC 494 COMPET 409 MI 312 CONSOM 142

The Council held a wide-ranging policy debate on the basis of a Presidency note.

8. **Proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems**

- **Title III – Special provisions concerning the various categories of benefits:**
  - (a) **Chapter V – Unemployment benefits (Articles 54 to 56)**
  - (b) **Chapter VI – Family benefits (Articles 57 to 60)**
- **Title IV – Financial Provisions**
  - Chapter II – Reimbursement of unemployment benefits pursuant to article 65 of the Basic Regulation (Article 69)**

(Legal basis proposed by the Commission: Articles 42 and 308 of the Treaty)

- Partial general approach  
(Public deliberation, pursuant to Article 8(1)(c) CRP)
  - 5896/06 SOC 44 CODEC 93
  - 15512/07 SOC 478 CODEC 1315
    - + COR 1
    - + COR 2 (da)
    - + REV 1 (pt)
    - + ADD 1

The Council:

- agreed on a partial general approach on the text of Title III, Chapters V (unemployment benefits) and VI (family benefits) as well as on the text of Title IV, Chapter II (Article 69) as set out in 15512/07;
- decided to enter in its Minutes the statements set out in Annex III and in ADD 1 to that document (see Annex to these minutes).

9. **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of Annex XI**

- **Parts of the proposal determining the content of Annex XI which relate to Title III, Chapters V and VI, of the Proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems**

(Legal basis proposed by the Commission: Articles 42 and 308 of the Treaty)

- Partial general approach  
(Public deliberation, pursuant to Article 8(1)(c) CRP)  
5672/06 SOC 28 CODEC 66  
15514/07 SOC 479 CODEC 1316  
+ REV 1 (pt)

The Council:

- agreed on a partial general approach on the text of parts of the draft Regulation, as set out in 15514/07;
- decided to enter in its Minutes the statement set out in Annex II to that document (see Annex to these minutes).

10. **Amended proposal for 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**

- Political agreement  
(Public deliberation, pursuant to Article 8(1)(b) CRP)  
13857/07 SOC 368 CODEC 1062  
+ COR 1  
+ REV 1 (en)  
+ REV 1 COR 1 (en)  
15515/07 SOC 480 CODEC 1317 ECOFIN 499  
+ ADD 1  
+ ADD 1 REV 1 (pt)  
+ ADD 2 REV 1  
+ ADD 3

The Council endeavoured to reach a political agreement on a common position, but was unable to reach the required unanimity, due to the divergence of views in regard to the conditions governing vesting criteria as set out in Article 4 of the compromise text that appears in 15515/07 ADD 1 + ADD 3. The compromise text foresaw a maximum vesting period of 2 years and a minimum age of 23 years.

The German delegation called for a maximum vesting period of 5 years and a minimum age of 25 years.

The Luxembourg delegation also called for a maximum vesting period of 5 years, while the Cypriot delegation called for a period of 3 years.

The Austrian delegation, while declaring its willingness to compromise, expressed a preference for a period longer than 2 years. This delegation also considered that the implementation date envisaged (1 July 2013) was too early.

The Netherlands delegation maintained a general reservation. This delegation would have been able to accept the compromise text, but reiterated its call for a maximum vesting period of 1 year, as unanimity could not be reached.

The Greek, Spanish, Italian and the United Kingdom delegations as well as the Commission supported the compromise text, the Greek, Spanish and Italian delegations, however, also expressing the view that more ambitious provisions would have been preferable.

The Presidency concluded that further discussion was needed to resolve the limited number of outstanding issues.

The Council agreed that the statement by the Commission set out in 15515/07 ADD 2 REV 1 would be entered in its Minutes when the Directive was finally adopted (see Annex to these minutes).

11. **Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Modernising social protection for greater social justice and economic cohesion: taking forward the active inclusion of people furthest from the labour market**

- Adoption of Council conclusions  
14101/07 SOC 381 ECOFIN 402  
15191/07 SOC 454 ECOFIN 455  
+ REV 1 (lv)  
+ REV 2 (hu)

The Council adopted the conclusions as set out in 15191/07.

12. **Review of the implementation by the Member States and the EU institutions of the Beijing Platform for action – Indicators in respect of Women and Poverty**

- Adoption of Council conclusions  
13947/07 SOC 377  
+ COR 1 (de)  
+ REV 1 (fi)  
+ REV 2 (pt)  
+ ADD 1  
+ ADD 1 COR 1

The Council adopted the conclusions set out in 13947/07 + COR 1 (de) + REV 1 (fi)

+ REV 2 (pt), and took note of the Presidency report presenting indicators for the follow-up of the Beijing Platform for Action in the critical area of "Women and Poverty", as contained in 13947/07 ADD 1 + ADD 1 COR 1.

13. **Follow-up of the European Year of Equal Opportunities for All (2007)**

- Adoption of Council Resolution  
15383/07 SOC 468  
+ REV 1 (lv)  
15437/07 SOC 474

The Council adopted the Resolution set out in 15383/07 + REV 1 (lv). The Council decided, moreover, to publish the Resolution in the Official Journal of the European Union.

**14. Balanced roles of women and men for jobs, growth and social cohesion**

- Adoption of Council conclusions

14136/07 SOC 385

+ COR 1

+ REV 1 (fi)

+ REV 3 (pt)

The Council adopted the conclusions set out in 14136/07 + COR 1 + REV 1 (fi) + REV 3 (pt).

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**MEETING OF JUSTICE AND HOME AFFAIRS MINISTERS WITH  
EMPLOYMENT AND SOCIAL POLICY MINISTERS**

- **Migration, Employment and the Lisbon Strategy**

= Policy debate

15597/07 MIGR 131 SOC 488

The Council held a wide-ranging policy debate on the basis of the Presidency's note contained in 15597/07.

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**15. Health and Migration in the EU**

- Policy debate
- Adoption of Council conclusions  
(Public debate, pursuant to Article 8(3) CRP (proposed by the Presidency))
  - 15608/07 SAN 223 MIGR 132 SOC 489 DEVGEN 266
  - 15609/07 SAN 224 MIGR 133 SOC 490 DEVGEN 267
  - 16166/07 SAN 255 MIGR 135 SOC 522 DEVGEN 276
  - + ADD 1

The Council held a policy debate based on the questions provided by the Presidency and set out in 15608/07. Ministers reported on their experiences and actions undertaken at national level to address migrants' health. They stressed that migrants should have access to health care in accordance with applicable Community, international and national instruments. The sharing of knowledge, relevant experience and good practice was identified as the cornerstone of future cooperation.

The Council adopted the Conclusions set out in 15609/07.

**16. EU Health Strategy**

- Policy debate
- Adoption of Council conclusions  
(Public debate, pursuant to Article 8(3) CRP (proposed by the Presidency))
  - 14689/07 SAN 193
  - 15610/07 SAN 225
  - 15611/07 SAN 226
  - 16042/07 SAN 249
  - 16136/07 SAN 253
  - + ADD 1
  - + ADD 2
  - + ADD 3
  - + ADD 4
  - + ADD 5

The Council held a policy debate based on the questions set out in 15610/07. Ministers underlined the complementary nature of national and EU Health policies. They stressed that transparency should be ensured in implementing the EU Health strategy and duplications of work and additional burdens for national administrations should be avoided.

The Council adopted the Conclusions set out in 15611/07.

**17. Communication from the Commission on organ donation and transplantation**

- Adoption of Council conclusions  
(Public debate, pursuant to Article 8(3) CRP (proposed by the Presidency))  
9834/07 SAN 108  
15332/07 SAN 209

The Council adopted the Conclusions set out in 15332/07.

The Commission announced that it would submit a legislative proposal on a possible Community framework for organ donation and transplantation during the second half of 2008.

**18. Commission White Paper on a strategy for Europe on nutrition, overweight and obesity-related issues**

- Exchange of views
- Adoption of Council conclusions  
(Public debate, pursuant to Article 8(3) CRP (proposed by the Presidency))  
9838/07 SAN 110 DENLEG 44  
+ ADD 2  
15612/07 SAN 227 DENLEG 118

The Council held an exchange of views on the positive contribution of healthy nutrition and physical activity to health. The Commission's White Paper was welcomed and the following issues were particularly highlighted by the Council: reformulation of foods to reduce the levels of salt and saturated fats, importance of clear and understandable nutrition labelling as a channel of communication to consumers, need to specifically address children in promoting healthy diets and increased physical activity.

The Council adopted the Conclusions set out in 15612/07.

**19. Combating HIV/AIDS within the EU and in the neighbouring countries "Translating principles into action"**

- Progress report  
(Public debate, pursuant to Article 8(3) CRP (proposed by the Presidency))  
15338/1/07 SAN 211 REV 1  
15925/05 SAN 218

The Council took note of the progress report set out in 15338/1/07, which was presented as a follow up to initiatives taken under the preceding German Presidency.

**20. Any Other Business**

**(a) Events organised during the Portuguese Presidency**

- (i) Conference of Experts on "Employability and Entrepreneurship – Gender Stereotypes" (3 and 4 October 2007)  
15971/07 SOC 512
  - (ii) Conference on "Trafficking in Human Beings and Gender" (8 and 9 October 2007)  
15972/07 SOC 513
  - (iii) 6th European Round Table on Poverty and Social Exclusion. Minimum Social Standards: a Strategy for Protection and Empowerment (16 and 17 October 2007)  
15973/07 SOC 514
  - (iv) ILO Forum on Decent Work for a Fair Globalisation (31 October, 1 and 2 November 2007)  
15976/07 SOC 515
  - (v) Conference "The Paths of Sustainability and the Reform of Pension Systems" (13 and 14 November 2007)  
15978/07 SOC 516
  - (vi) Closing Conference of the European Year of Equal Opportunities for All – 2007 (19 and 20 November 2007)  
16012/07 SOC 517
- Information from the Presidency

The Council took note of the information provided by the Presidency.

**(b) Draft Council Resolution on New skills for new jobs (Education, Culture and Youth Council)**

- Information from the Presidency

The Council took note of the information provided by the Presidency.

**(c) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Opportunities, access and solidarity: towards a new social vision for 21st century Europe**

- Information from the Commission  
15694/07 SOC 497  
16052/07 SOC 519

The Council took note of the information provided by the Commission.

**(d) Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – Outcome of the Public consultation on the Commission's Green Paper "Modernising labour law to meet the challenges of the 21st century"**

- Information from the Commission  
16053/07 SOC 520

The Council took note of the information provided by the Commission.

**(e) Information on the Presidency's Conferences on Health**

- Information from the Presidency  
15781/07 SAN 236 MIGR 134 SOC 503 DEVGEN 270

The Council took note of the above information.

**(f) Environment and Health**

- Information from the Presidency  
15785/07 SAN 237 ENV 664

The Council took note of the above information.

**(g) Community framework on health services**

- Information from the Commission

The Council took note of the information on the state of play with regard to the above-mentioned future legislative proposal.

**(h) Strategy for Europe on mental health**

- Information from the Commission  
15788/07 SAN 239

The Council took note of the above information on the Commission's future initiatives on this topic.

**(i) Health Security related matters**

- Information from the Commission  
15789/07 SAN 240

The Council took note of the above information.

**(j) Commission's High Level Group on Health Services and Medical Care**

- Information from the Commission  
15790/07 SAN 241

The Council took note of the above information.

**(k) Framework Convention on Tobacco Control**

- Information from the Commission  
15752/07 SAN 234 UD 121  
15916/07 SAN 248 UD 123

The Council took note of the above information.

- (l) **Work programme of the incoming Presidency**  
– Information from the Slovenian delegation

The Council took note of the above information.

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**STATEMENTS**

**Re: Item 8**

**Proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems**

**Statement by the Council**

"The discussions on Chapter VI (Family Benefits) of the draft Regulation, on the basis of a proposal by the Danish delegation to add a new provision to Article 59, showed the need for a clear rule defining the calculation method of the differential supplement, according to Article 68(2) of the basic Regulation, in a single uniform way.

The discussions did not allow for reaching an agreement regarding this issue as all the possible implications of any such calculation method on the rights of families of migrant workers, as well as on other related aspects, could not be fully assessed.

This is a complex issue with political implications which requires careful examination. The Council therefore calls upon the subsequent Presidencies to continue the efforts to find a solution to the issue before the Regulation as a whole is finally approved."

### **Statement by the Commission**

"The Commission will continue to support efforts for the inclusion in the Regulation implementing Regulation No 883/2004 of a provision laying down a single uniform rule for calculating the differential supplement referred to in Article 68 of Regulation No 883/2004. However, the entry into force of those Regulations should not depend upon agreement on such a provision. In implementing the current Regulations, Member States have unanimously agreed on a common single method of calculation, as set out in Decision No 147 of the Administrative Commission on Social Security for Migrant Workers. The inclusion of that provision in the new Regulation is thus not essential for coordination to work.

The Commission also notes that the political difficulties raised by some Member States regarding the Presidency compromise proposal relate to the possibility that benefits payable to the families of migrant workers might in some cases be more favourable than those paid to the families of non-migrant workers. This involves an issue of reverse discrimination going beyond the legal bounds of coordination of national social security systems. The Regulations in question, based on Article 42 EC, are designed to eliminate obstacles to free movement and create suitable conditions for cross-border movement."

### **Re: Item 9**

**Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of Annex XI**

### **Statement by the Portuguese delegation**

#### **Article 1(8)**

"Portugal agrees with the changes to Article 62(3) of the basic Regulation, ensuring that the same calculation method of unemployment benefits applies to both frontier and non-frontier workers who during the last activity resided in a Member State other than the competent Member State, and recalls the statement included in the Minutes of the Council which approved that Regulation, according to which "the Council and the Commission acknowledge that the agreement of Portugal on Articles 11(3)(c) and 65(6) and (7) is without prejudice to Portugal's request for fair treatment in the sharing of costs between Portugal and other States which are not members of the European Union, in the context of the agreements to be negotiated following the adoption of this Regulation."

**Re: Item 10**

**Amended proposal for 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**

**Statement by the Commission**

"The Commission is of the opinion that individual pension arrangements are to be considered "supplementary pension schemes" for the purposes of this Directive in certain situations.

However, where there is no employer involvement within an individual pension arrangement, such arrangements cannot be considered as falling within the scope of the Directive. Pension contributions paid by the employer in the context of an individual pension arrangement could nevertheless fall within the scope of the Directive in certain circumstances, notably, where the employer is involved in the arrangement agreed between the individual and the insurance company.

The Commission considers, moreover, that Article 3(b) and Recital 5g adequately describe this understanding."

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