



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.6.2009
SEC(2009) 813 final

COMMISSION STAFF WORKING DOCUMENT

Annex to the

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE
COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE
COMMITTEE OF THE REGIONS**

**on the implementation by Bulgaria and Romania of 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**

{COM(2009) 283}

COMMISSION STAFF WORKING DOCUMENT

Annex to the

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

on the implementation by Bulgaria and Romania of 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

Implementation of Directive 98/49/EC

Table 1: Material Scope

Country	Non-exhaustive list of supplementary pension schemes covered by Directive 98/49/EC - Brief description -	Non-exhaustive list of supplementary pension scheme covered by Regulation 1408/71/EEC
Bulgaria	<p>The reply to the questionnaire sent by the Commission to Bulgaria indicates that the compulsory supplementary pension's schemes in Bulgaria are covered exclusively by Regulation 1408/71, as they have a legislative character.</p> <p>The supplementary schemes established under the transposition of the Directive cover only voluntary pension schemes.</p>	
Romania	Under the transposition of the Directive are covered voluntary supplementary pension schemes for employed and self-employed persons under the 'professional' criterion.	Professional soldiers, police officers, solicitors.

Table 2: Equal preservation

Country	Adopted measures to ensure equal preservation	Reference in the national provision
Bulgaria	Specific legislation was adopted.	§§ 1, 2 of Article 248a of the Social Insurance Code.

	Persons insured under an occupational pension scheme whose contributions have been suspended as a result of moving from Bulgaria to another Member State shall preserve their rights to the same degree as insured persons no longer making pension contributions but remaining in Bulgaria.	
Romania	<p>Specific legislation was adopted.</p> <p>Members of voluntary pension funds have the same rights and obligations and shall be treated in a non-discriminatory way if they decide to move to work or live in another Member State. They can choose to continue paying into a voluntary pension fund in Romania or into a different one.</p>	Article 51 of the Law No 204 of 22 May 2006 on voluntary pensions.

Table 3: Cross-border payments

Country	Adopted measures to guarantee cross border payments	Reference in the national provision
Bulgaria	<p>Specific legislation was adopted.</p> <p>Payments to persons insured under occupational schemes, as well as other persons with rights under such a scheme, may be made in other Member States after deducting taxes and transaction charges.</p> <p>Payment is made net taxes and transaction charges, and no other deductions are allowed.</p>	Article 248b with reference to, Articles 256 and 257 of the Social Insurance code.
Romania	<p>Specific legislation was adopted.</p> <p>In the event that they move to work or live in another Member State of the European Union or country within the EEA, members and beneficiaries shall retain all voluntary pension rights they have acquired under voluntary pension schemes in Romania and their pensions shall be paid out in the other state to the value that remains after all taxes and expenses related to the payment have been deducted.</p>	Article 77 (5) of Law No 2004/2006.

Table 4: Cross-border membership of posted workers

Country	Adopted measures to permit contributions by and behalf of posted workers, Article 6 (1) Exemption from contributions, Article 6 (2)	Reference in the national provisions
Bulgaria	<p>Specific legislation was adopted.</p> <p>Contributions to occupational pension schemes operating in Bulgaria are made by or on behalf of the posted scheme members when they are posted to another Member State.</p> <p>Specific legislation was adopted.</p> <p>When contributions under a occupational scheme are continued in another Member State, the posted worker paying the contributions, and where applicable the insuring company, are absolved from any duty to pay contributions under the occupational scheme in Bulgaria.</p>	<p>Article 230 (8) of the Social Insurance Code.</p> <p>Article 230 (9) of the Social Insurance Code.</p>

Romania	<p>Specific legislation was adopted.</p> <p>Any member of a voluntary pension fund who has been posted to another country shall be entitled to continue paying contributions for the duration of the posting.</p> <p>Specific legislation was adopted.</p> <p>Workers posted from another Member State to Romania are not obliged to contribute to a voluntary pension scheme in Romania.</p>	<p>Article 77 (2) of the Law No 204 of 22 May 2006 on voluntary pensions.</p>
---------	---	---

Table 5: Information provided to scheme members

Country	Adopted measures to ensure adequate information	Reference in the national provision
Bulgaria	<p>Specific legislation was adopted.</p> <p>The statutes and rules of the supplementary pension fund of the particular supplementary pension provider stipulate that the provider should provide detailed information to the pension holder.</p>	<p>Article 123h (2) of the Social Insurance Code.</p>
Romania	<p>Specific legislation was adopted.</p> <p>The administrators of private pension funds have the responsibility to provide the scheme members with the adequate information.</p>	<p>Article 103 of the Law No 204 of 22 May 2006 on voluntary pensions.</p>

ANNEX 2: LIST OF NATIONAL PROVISIONS

Country	National provisions communicated by the Member States concerning Directive 98/49/EC
Bulgaria	Law of 11 July 2006, amending and complementing the Social Insurance Code.
Romania	Law No 204, of 22 May 2006 on voluntary pensions.