



ILO Office submission to the EESC on the European Commission Communication on The External Dimension of EU Social Security Coordination (COM(2012) 153, 30.3.2012)

September 2012

1. The ILO Office welcomes the European Commission (EC) Communication and EESC Preliminary Draft Opinion on the External Dimension of EU Social Security Coordination, and the EU's continued commitment to the furtherance of the rights of workers and their families, and to ILO standards and principles.
2. The ILO Office is well aware of the obstacles faced by migrant workers in realizing their rights to social security. In the context of an increasingly globalised world and the recent economic crisis¹ which has shaken the world economy, the ILO would like to reaffirm its commitment to extend social security to all in need of such protection in the framework of the Decent Work Agenda and the ILO Recommendation N° 202 (2012) on Social Protection Floors.² The ILO Office thus welcomes the efforts taken by the EU to address and reduce the lack of protection of migrant workers and their families within and outside of the EU.
3. Recognising our mutual objectives, the ILO Office commends the incorporation of key principles ensuring the social security rights of migrant workers in the development of a common EU approach to social security coordination with third countries. These key principles are laid down in the respective ILO Conventions and Recommendations which make provision for the social security rights of migrant workers and their families and form the basis of the current EU social security coordination rules. These principles are as follows:
 - Equal Treatment and Non-Discrimination including Equal Treatment in the Field of Social Security between Nationals and Non-Nationals;
 - The Maintenance of Acquired Rights;
 - The Maintenance of Rights in the Course of Acquisition; and
 - Payment of Benefits to Beneficiaries Residing Abroad.
4. As a starting point, the ILO Office would also like to draw the EU's attention to the *Maintenance of Social Security Rights Recommendation, 1983 (No. 167)* which complements both Conventions No. 118 and No. 157, as it aims to promote the conclusion of bilateral or multilateral social security instruments between ILO Members, as well as the coordination of these instruments. It includes two model

¹ In June 2009, the ILC at its 98th Session recognized the crucial role of social protection policies in crisis response (Global Jobs Pact).

² See the ILO Declaration on Social Justice for a Fair Globalization adopted by the ILC at its 97th Session in 2008.

frameworks for the conclusion and coordination of bilateral or multilateral social security instruments³.

5. The ILO Office invites the EU to analyse the impact of the Treaty on the Functioning of the EU on the ratification by EU Member states of the up to date ILO Conventions 118 and 157 as well as on the migrant workers conventions 97 and 143 and to consider initiatives for removing the possible obstacles to ratification as the Conventions probably affect EU exclusive competences in the field of mobility and social security coordination. This could require an authorisation to ratify in line with the approach taken for the ILO 2006 MLC, the domestic workers convention N° 189 or the use of chemical products convention N° 170.

ILO Comments on the EESC Preliminary Draft Opinion and EC Communication

6. The principle of equal treatment is widely extended to third-country nationals who legally reside in the EU. The new Regulation (EU) No 1231/2010⁴ extends the scope of personal coverage to third-country nationals who are in a cross-border situation. The Single Permit Directive⁵ and the Blue Card Directive⁶ guarantee, in principle, the equal treatment of third-country migrant workers with EU nationals with respect to social security. In this respect, the principle of equal treatment is reinforced. The ILO welcomes these developments which are in accordance with ILO standards and principles as laid out in the *Equality of Treatment (Social Security) Convention, 1962 (No. 118)* and the *Maintenance of Social Security Rights Convention, 1982 (No. 157)*. The EU thus remains an example of good practice to be followed.
7. Outside the EU, the external dimension of social security has been improved. However there is a need to highlight the gaps in the current arrangements and to improve the protection of migrant workers, be they EU citizens or third-country nationals, who either migrate to a third country or return from the EU to their country of origin. The need to ensure non-discrimination in the provision of social security benefits is of primary importance.
8. In this regard, the agreed international frameworks on the coordination of social security protection provided in ILO Conventions and Recommendations could serve as an effective basis for EU coordination action. The ILO takes note that a number of EU Member States have ratified relevant ILO Conventions (Conventions No. 97, No.

³ In its Annex, the *Maintenance of Social Security Rights Recommendation, 1983 (No. 167)* sets out two reference documents: i) Model Provisions for the Conclusion of Bilateral or Multilateral Social Security Instruments, and ii) Model Agreement for the Coordination of Bilateral or Multilateral Social Security Instruments. These model frameworks address, among other things, the provision of benefits abroad. A Recommendation does not require ratification.

⁴ Regulation (EU) No 1231/2010 (which came into force on 1 January 2011) extends the personal scope of Regulation (EC) No. 883/2004 to lawfully resident non-EU nationals, thereby extending social security protection of all legal migrant workers (and family members) who work in more than one EU Member State. This also means that when an EU Member State provides for the export of benefits to its nationals in a third country, a national from a third country should also be entitled to the same conditions as nationals. This Regulation does not apply equally to the social security systems of Denmark and the United Kingdom.

⁵ Directive 2011/98/EU, in Article 12(4), provides for equality of treatment between EU nationals and third-country nationals in respect of the export of pensions to a third country (without the need to first adopt bilateral agreements).

⁶ Directive 2009/50/EC, in Article 14(1)(f), also includes explicitly the right to equal treatment as regards payment of pensions outside of the EU.

102,⁷ No. 118,⁸ and No. 157 – see Annex). The ILO would also like to draw the EESC's and EC's attention to the *Maintenance of Social Security Rights Recommendation, 1983 (No. 167)* which complements both Conventions No. 118 and No. 157, as it aims to promote the conclusion of bilateral or multilateral social security instruments between ILO Members, as well as the coordination of these instruments.⁹

Equal Treatment and Non-Discrimination

9. Recognising the EU's strong commitment to the principle of equal treatment and non-discrimination which was reaffirmed in the *Gottardo* judgment of the Court of Justice of the European Union,¹⁰ the ILO would like to point out that while Regulation (EU) No 1231/2010 provides that the EU rules on the coordination of social security systems apply to non-EU nationals who are legally residing in the EU and who are working in a cross-border situation, the EU Member States which have ratified C118 also assume the obligation to apply the principle of equality of treatment also as regards situations where no cross-border situation within the EU is involved. EU nationals benefit from the principle of equal treatment within the EU regardless if they have worked in only one Member State, third country nationals who have only worked in one Member State would not benefit from the principle of equal treatment and non-discrimination in so far as their rights would be limited to the EU Member State in which they worked. This is not fully in accordance with ILO standards and principles.
10. Bearing in mind that seven EU Member States¹¹ have ratified Convention No. 118, the ILO would like to highlight the important role that the EU can play to maintain and equalize the highest level of social security protection, in accordance with Convention No. 118. This can be done through the adoption of a common framework which provides for the extension of these higher standards in all EU Member States and those third countries with which they have agreements.

Maintenance of Social Security Rights

11. The EU's existing legislative framework already recognizes the principle of the maintenance of rights in the course of acquisition by Regulation No. 883/2004 and some of the EU's Association Agreements concluded with third countries.¹² In

⁷ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom. It has also been ratified by the five EU candidate countries; Croatia, Iceland, Montenegro, the Former Yugoslav Republic of Macedonia and Turkey.

⁸ Denmark, Finland, France, Germany, Ireland, Italy and Sweden. It has also been ratified by two EU candidate countries: Montenegro and Turkey. The Netherlands ratified Convention No. 118 in 1964 but denounced it on 20 December 2004.

⁹ In its Annex, the *Maintenance of Social Security Rights Recommendation, 1983 (No. 167)* sets out two reference documents: i) Model Provisions for the Conclusion of Bilateral or Multilateral Social Security Instruments, and ii) Model Agreement for the Coordination of Bilateral or Multilateral Social Security Instruments. These model frameworks address, among other things, the provision of benefits abroad.

¹⁰ Case C-55/00, *Gottardo*, judgment of 15 January 2002.

¹¹ See note 7 above.

¹² Algeria, Israel, Morocco, The former Yugoslav Republic of Macedonia, and Tunisia.

addition, the *Klein v. Austria* judgment of the European Court of Human Rights¹³ considers contributions to social security as “property,” meaning that such acquired rights should be guaranteed regardless of a beneficiary’s country of residence. The export of benefits is thus an important aspect to guarantee the maintenance of social security rights, and allowing EU and third-country nationals to have access to their benefits.

12. The ILO office notes that the EC Communication and the EESC Preliminary Draft Opinion Draft Opinion does not mention this principle, which is enunciated in Articles 6 and 7 of the *Maintenance of Social Security Rights Convention, 1982 (No. 157)*, and which calls for the maintenance of rights in the course of acquisition by providing for the totalisation of qualifying periods completed in different countries. Moreover, a certain number of EU Member States are already party to Convention No. 118, which encourages ratifying countries to participate in schemes for the maintenance of rights in the course of acquisition; therefore, the inclusion of this dimension in the EU’s framework would also be fully in line with existing ILO standards.
13. As such, the ILO Office would welcome a commitment to include a provision to ensure the totalisation of qualifying periods for acquisition, maintenance or recovery of rights, and the calculation of benefits. This totalisation should be applied equally in respect of EU and third-country nationals regardless of residence, provided that the third countries concerned are parties to an agreement with the EU. In exceptional cases when this is not feasible, as a fair option, persons should receive a reimbursement for all their contributions. This principle is laid out in paragraph 34 of the *Migrant Workers Recommendation, 1975 (No. 151)*.

Coordination and Assistance between Countries

14. Recognising that the principal objective of the EC Communication and EESC Preliminary Draft Opinion is to develop a common EU approach to social security coordination, the ILO would like to recall the importance of coordination and mutual assistance between all parties and their respective authorities, institutions and jurisdictions free of charge so as to prevent gaps in the provision of social security and to enhance the efficacy of social security frameworks. This principle is outlined in Article 12 of the *Maintenance of Social Security Rights Convention, 1982 (No. 157)*. The ILO recommends that this overarching principle be included in all EU social security coordination initiatives.
15. Such cooperation should include, at a minimum, the sharing of expertise, best practices and common experiences. This will help in the determination of applicable legislation, the prevention of double contributions,¹⁴ as well as in the extension of social security as outlined also in the new ILO *Social Protection Floors Recommendation, 2012 (No. 202)* (paragraph 24(1)).

¹³ *Klein v. Austria*, Application No. 57028/00, Eur. Ct H.R., judgment of 3 March 2011.

¹⁴ Article 5 of the *Maintenance of Social Security Rights Convention, 1982 (No. 157)* establishes that States should determine by mutual agreement an avoidance of a conflict of laws and the plurality of contributions, liabilities and benefits.

Effective Administrative Services and Appeal Process

16. Like ILO Convention No. 118, the EC Communication and EESC draft Opinion call for the export of old age, survivors', invalidity, and employment injury benefits through the framework of Association Agreements and other EU instruments. In implementing this objective, several principles laid down in ILO standards should be taken into consideration.
17. First, Article 12 of the *Maintenance of Social Security Rights Convention, 1982 (No. 157)* requires that States which have ratified the Convention should offer each other administrative assistance free of charge with a view to facilitating the application of the Convention and the implementation of their respective social security legislation. Accordingly, provisions could be made in the EU legal framework to ensure that access to administrative services from the country providing the benefit, remain accessible to the beneficiary in their place of residence.
18. A second principle stems from Article 13 of the *Maintenance of Social Security Rights Convention, 1982 (No. 157)*, which requires that Members guarantee the right of appeal in a beneficiary's place of residence in the event that access to a benefit is denied. Giving effect to this principle would require that the EU legal framework governing social security coordination issues with third countries could seek to ensure an accessible and effective appeal mechanism in the beneficiary's place of residence.

The ILO Social Protection Floors Recommendation, 2012 (No. 202)

19. The ILO Office would also like to bring to the attention of the EESC Study Group the Social Protection Floors Recommendation, No. 202, adopted nearly unanimously by the International Labour Conference (constituted of Government, workers' and employers delegates of the ILO's 185 Member States) in June 2012 and strongly supported by EU Member States. This new Recommendation provides guidance to ILO Member States in building comprehensive social security systems and extending social security coverage by prioritizing the establishment of national floors of protection accessible to all in need. The Recommendation complements existing ILO Conventions and Recommendations. In particular, it assists Member States in providing social protection to the unprotected, the poor and the most vulnerable, including migrants and their families.
20. According to the Recommendation, Members should establish and maintain national social protection floors comprising basic social security guarantees to ensure that all members of society enjoy at least a basic level of social security throughout their lives. More particularly, the Social Protection Floor Recommendation calls for, at a minimum, access to essential health care and basic income security throughout the life cycle. To this end, national social protection floors should comprise at least the following guarantees, defined at national level: access to essential health care, including maternity care; basic income security for children, providing access to nutrition, education, care and any other necessary goods and services; basic income security for persons in active age who are unable to earn sufficient income, in particular in cases of sickness, unemployment, maternity and disability; and basic income security for older persons. Such guarantees should be provided to all residents and children, as defined in national laws and regulations and subject to existing

international obligations. As such, migrants and their families should have access to these basic social security guarantees in the State where they reside, as well as in their home country. Should there be bilateral or multilateral agreements in place providing for higher levels of protection, or should the countries concerned be parties to international or regional Conventions containing higher requirements with regard to migrants' social security rights (e.g. ILO Conventions No. 118 and No. 157), these would prevail.

21. Thus, national protection floors can be used as a means to palliate the lack of coordination arrangements between countries in respect of any branch of social security. This is often the case where short-term benefits are concerned, as well as for health care and non-contributory benefits. National social protection floors are thus a very useful tool to address gaps in the social security coverage of migrant workers and their families.
22. The Recommendation also makes provision for the design and implementation of social security extension strategies at national level. Through such strategies, States should seek to provide higher and wider levels of protection to as many people as possible. When designing and establishing social security schemes in that objective, States should ensure that migrants and their families are included in the personal scope of coverage so that they benefit from the same protection as nationals, in application of the principles of equal treatment and non-discrimination. Existing schemes should also give effect to this objective.
23. The Recommendation comprises a set of principles that should be applied in its implementation, under the overall and primary responsibility of the State. Of particular relevance for migrants' rights are the following: entitlement to benefits prescribed by national law; universality of protection based on social solidarity; protection of rights and dignity of beneficiaries; non-discrimination, gender equality and responsiveness to special needs; progressive realization; and tripartite participation and consultation with representatives of persons concerned, which could include migrants, insofar as their interests are affected. It is also worth noting that the Recommendation envisages the establishment of national social protection floor guarantees by law, in line with the rights-based approach to social security. In order to guarantee the effectiveness and enforceability of these rights, the Recommendation states that impartial, transparent, effective, simple, rapid, accessible and inexpensive complaint and appeal procedures should be specified and that access to complaint and appeal procedures should be free of charge to the applicant. The implementation of these provisions can have a significant impact on improving migrants' access to justice and the realization of their most basic rights.
24. The need for international cooperation is also laid down in Recommendation No. 202, which encourages countries to share and exchange information, experiences and expertise among themselves and with the ILO. This complements Convention No. 118 which requires ratifying Member States to afford each other administrative assistance. Such assistance allows for the necessary administrative arrangements to be put into place to ensure the effective implementation of coordination mechanisms, as well as capacity building through exchange of expertise and good practices. Sharing good practices may also encourage States to enhance the protection of migrants'

social security rights and to improve the implementation of existing coordination agreements and mechanisms.

25. The ILO Office recommends that the EU gives consideration to the new ILO Recommendation on Social Protection Floors, supports its implementation in all its Member States, and promotes its application by third countries, especially origin and destination countries.

Concluding Comments

26. The ILO Office warmly welcomes the strategic approach of developing a common framework for social security coordination with third countries, either through Association Agreements, or through a standard EU social security agreement. The EC Communication sets an appropriate framework to address existing gaps in the protection of migrants and to promote their right to social security. In this regard, the ILO would like to reaffirm its support to initiatives aimed at guaranteeing the fulfilment of migrants' rights to social security and enhancing their protection, through improved coordination and through the implementation of national social protection floors.
27. The ILO Office is pleased to note that the EU is willing to work in cooperation with international organisations, including the ILO. As a tripartite institution, the ILO reaffirms the importance of including social partners and all other parties concerned in the discussion when developing the external dimensions of social security coordination rules.
28. The ILO Office thus is willing to assist in the development of this approach and of further initiatives aimed at improving the rights of migrants, and to provide support for the ratification and implementation, as applicable, of the relevant ILO Conventions and Recommendations. In pursuing this initiative, the EU may wish to take advantage of already existing Model Agreements established by ILO standards, in particular those appended to Recommendation No. 167 as mentioned above.

Annex

ILO/ EU Common principles regarding migrant workers' social security rights

1a. Equal Treatment and Non-Discrimination

Equal treatment and non-discrimination are core principles enshrined in international labour standards and international human rights law. Indeed, equal treatment in employment and occupation is recognized as a fundamental right and principle at work in accordance with the 1998 ILO Declaration on Fundamental Principles and Rights at Work. As a result, all ILO Member States are obliged to respecting equal treatment in employment and occupation even if they have not ratified the specific Conventions addressing this area. It could also be pointed out that ILO supervisory bodies have constantly applied the principle of equal treatment in employment and occupation as also covering social security issues.

Supporting EU measures and other related measures:

- Charter of Fundamental Rights of the European Union, Articles 21(1) and 2.
- European Social Charter, Article 12(4), calls for “equal treatment with their own nationals and the nationals of other Parties in respect of social security rights, including the retention of benefits arising out of social security legislation.” Note: This is a Council of Europe instrument and not one of the European Union. Nonetheless, it is important to take into account that all EU Member States have ratified the Charter, or its revised version.
- Regulation No. (EC) 883/2004 and Regulation (EU) 1231/2010 which extends the personal scope of the former Regulation to lawfully resident non-EU nationals (with the exception of the UK and Denmark). Regulation (EC) No. 883/2004 establishes equal treatment of all citizens and members of their families, which includes third-country nationals living within the EU and associated with several EU Member States.
- Directive 2011/98/EU of the European Parliament and of the Council (Single Permit Directive).
- Council Directive 2009/50/EC (Blue Card Directive).

1b. Equal Treatment in the Field of Social Security between Nationals and Non-Nationals

The principle of equal treatment in the field of social security between nationals and non-nationals was established already by the early social security instruments adopted in the 1920s and reaffirmed by Article 68(2) of the ILO's flagship Convention on social security – the *Social Security (Minimum Standards) Convention, 1952 (No. 102)*, which has been ratified by 22 of the 27 EU Member States.¹⁵ This principle lies also at the heart of the *Equality of Treatment (Social Security) Convention, 1962 (No. 118)*, which has to date been ratified by seven EU Member States,¹⁶ as well as by 29 non-EU countries.¹⁷ In Convention No. 118, equal protection is required of States “... in respect of every branch of social security for which it has accepted the obligations of the Convention” (Article 3(1)). Consequently, equal treatment with nationals is accorded to migrants on the basis of reciprocity (In the case of survivors' benefits, such equality of treatment shall also be granted to the survivors of the nationals of a Member for which the Convention is in force, *irrespective of the nationality of*

¹⁵ Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom. It has also been ratified by the five EU candidate countries; Croatia, Iceland, Montenegro, The former Yugoslav Republic of Macedonia and Turkey.

¹⁶ Denmark, Finland, France, Germany, Ireland, Italy and Sweden. It has also been ratified by two EU candidate countries: Montenegro and Turkey. The Netherlands ratified Convention No. 118 in 1964 but denounced it on 20 December 2004.

¹⁷ Of these ratifying countries, three are mentioned in the EC Communication as countries with which the EU would like to foster greater coordination on social security: Israel, Tunisia and Turkey.

such survivors (Article 3(2) of Convention No. 118)). It should be noted that the provisions of the Convention apply to both refugees and stateless persons without any condition of reciprocity (Article 10).

In addition, two ILO Conventions specifically addressing migrant worker's rights establish the principle of equal treatment in the field of social security between nationals and non-nationals. Article 6 of the *Migration for Employment Convention (Revised), 1949 (No. 97)* establishes equal treatment for nationals of ILO Members party to the Convention with respect to access to social security. With regard to social security issues, the Convention provides that appropriate arrangements may be made between countries for the maintenance of acquired rights and rights in course of acquisition. This Convention has been ratified by ten EU Member States.¹⁸

Article 1 of the *Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)* establishes that obligation to respect the basic human rights of *all* migrant workers while Article 10 of the same Convention requires ratifying countries to pursue a national policy designed to promote and to guarantee equality of opportunity and treatment in respect also of social security for regular migrants and their families.¹⁹ Five EU Member States have ratified Convention No. 143.²⁰

Finally, paragraph 2(f) of the *Migrant Workers Recommendation, 1975 (No. 151)*, which specifically addresses access to social security measures, calls for the effective equality of opportunity and treatment with nationals for migrant workers and members of their families lawfully within the territory of a Member.²¹

Supporting EU measures:

- Regulation No. (EC) 883/2004 and Regulation (EU) 1231/2010.

2. The Maintenance of Acquired Rights

The *Equality of Treatment (Social Security) Convention, 1962 (No. 118)* requires ratifying countries to endeavour to participate in schemes for the maintenance of acquired rights under their legislation of the nationals of Members for which the Convention is in force (Article 7). In addition, Article 9 of the *Maintenance of Social Security Rights Convention, 1982 (No. 157)* requires that ratifying Members to the Convention maintain acquired rights and guarantee the provision of invalidity, old-age and survivors' cash benefits, and employment injury pensions. This ensures that the rights to social security benefits acquired in a State are secured for those persons who have acquired them but who are no longer residents in that State. This Convention has been ratified by two EU Member States.²²

Supporting EU measures:

- Regulation No. (EC) 883/2004, Article 6 on aggregation of periods, and Regulation (EU) 1231/2010.

¹⁸ Belgium, Cyprus, France, Germany, Italy, Netherlands, Portugal, Slovenia, Spain, and United Kingdom. Other ratifying countries worth noting in view of the possible conclusion of association or other agreements include: Albania, Algeria, Armenia, Bosnia and Herzegovina, Brazil, Israel, Moldova, Montenegro, Serbia, and The former Yugoslav Republic of Macedonia.

¹⁹ Article 9 of Convention No. 143 provides for the equal treatment of migrant workers in an irregular situation and their families in respect of social security rights arising out of past employment as regards remuneration, social security and other benefits.

²⁰ Cyprus, Italy, Portugal, Slovenia, and Sweden. Other ratifying countries worth noting in view of the possible conclusion of association or other agreements include: Albania, Armenia, Bosnia and Herzegovina, Montenegro, San Marino, Serbia, and The former Yugoslav Republic of Macedonia.

²¹ Paragraph 8(3) of Recommendation No. 151 also provides for equality of treatment for migrant workers in an irregular situation as well as their families in respect of rights arising out of present and past employment as regards remuneration, social security and other benefits.

²² Spain and Sweden.

3. The Maintenance of Rights in the Course of Acquisition

Article 7 of the *Equality of Treatment (Social Security) Convention, 1962 (No. 118)* also requires ratifying countries to endeavour to participate in schemes for the maintenance of rights in course of acquisition under their legislation of the nationals of Members for which the Convention is in force, in particular as regards the totalization of periods of insurance, employment or residence and of assimilated periods for the purpose of the acquisition, maintenance or recovery of rights and for the calculation of benefits. Likewise, Article 7 of the *Maintenance of Social Security Rights Convention, 1982 (No. 157)* provides for the maintenance of rights in the course of acquisition. According to this principle, the qualifying periods completed by a person towards the acquisition of a right to a benefit in a given country should not be lost when that person moves to a second country. Under Article 7 of the Convention, schemes for the maintenance of rights in the course of acquisition have to provide for the adding together of qualifying periods for the acquisition, maintenance or recovery of rights, and for the calculation of benefits.

Supporting EU measures:

- Several existing EU Association Agreements including those with Algeria, Morocco, Tunisia, Israel, Croatia and FYROM, have provisions requiring for the maintenance of rights in the course of acquisition.
- Regulation No. (EC) 883/2004, Article 6, provides for aggregation of periods between EU Member States.

4. Payment of Benefits to Beneficiaries Residing Abroad

The principle established by *Equality of Treatment (Social Security) Convention, 1962 (No. 118)* is that “equality of treatment as regards the granting of benefits shall be accorded without any condition of residence” (Article 4). Residence conditions may however be imposed on nationals of any Member the legislation of which makes the granting of benefits under that branch conditional on residence in its territory. However, in the case of long-term benefits (invalidity benefits, old-age benefits, survivors’ benefits and death grants, and employment injury pensions), Article 5 of the *Equality of Treatment (Social Security) Convention, 1962 (No. 118)* requires the payment of benefits to beneficiaries resident abroad, in those cases when eligibility for a benefit is established by a State party’s national legislation.²³ This provision of Convention No. 118 is echoed and further developed by Article 9 of the *Maintenance of Social Security Rights Convention, 1982 (No. 157)*.

Supporting EU measures:

- Several existing EU Association Agreements including those with Algeria, Morocco, Tunisia, Israel, Croatia and FYROM, have provisions requiring for the export of acquired pensions.

²³ It should be noted that Article 5 of Convention No. 118 applies to the same benefits outlined in the EC Communication: invalidity benefits, old-age benefits, survivors’ benefits and death grants, and employment injury pensions.