



Cyprus Worker's Confederation (SEK)

MoveS seminar Cyprus

Free Movement of Workers and Social Security
Coordination: Updates and Impacts on Cyprus

Challenges for EU Migrant Workers in Cyprus Labour Union's Perspective

Panikos Argyrides
SEK, General Organiser

Nicosia, 28 September 2018



1

SEK & migrant workers

2

Migrant's Challenges

3

Trade Union's Challenges

4

Trade Union's Perspective

5

Our Actions

1

About SEK (short brief)

Founded in 1944

7 Sectoral Federations

5 Labor Centers

Departments

Services (members benefits)

International Participation

European Participation

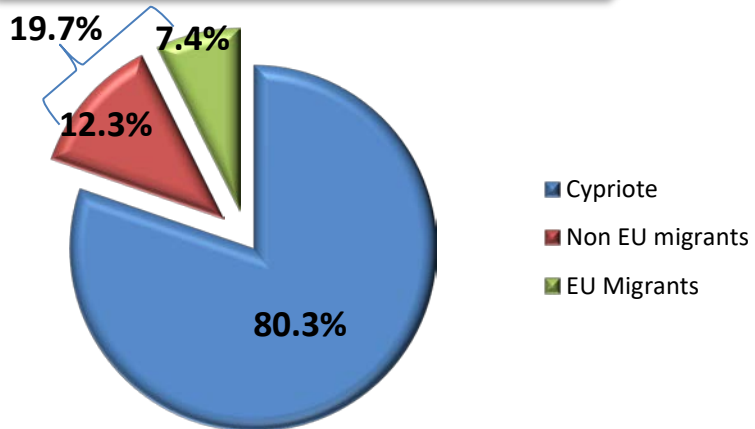
Active Role

Campaigns

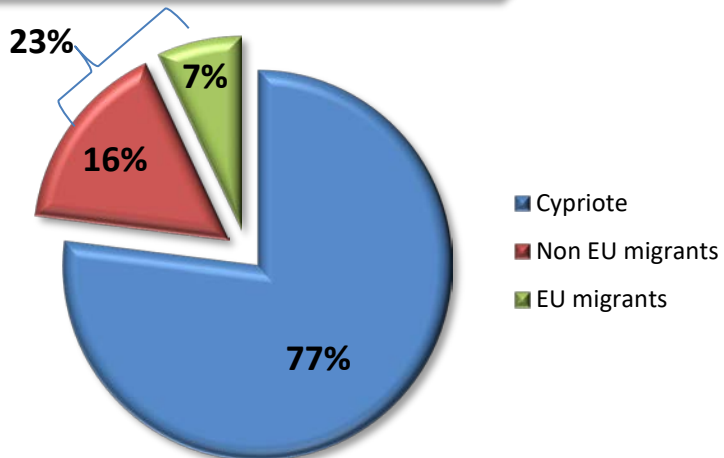
1

SEK & migrant workers

Cyprus Labour Market 2017 \approx 380,000



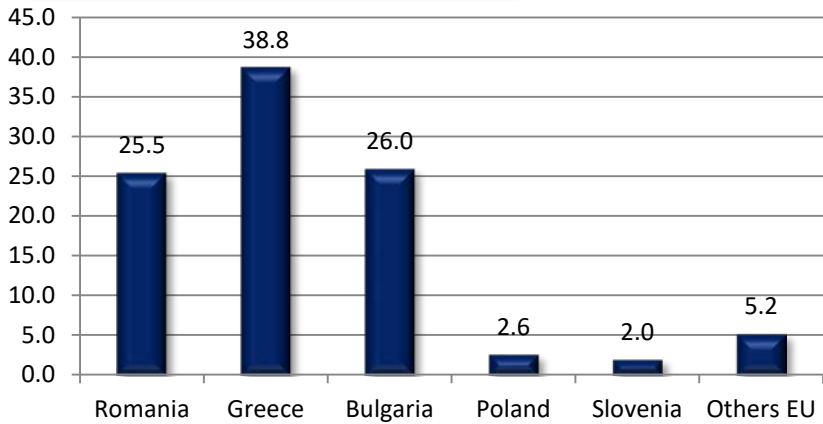
SEK Membership 2017 \approx 55,000



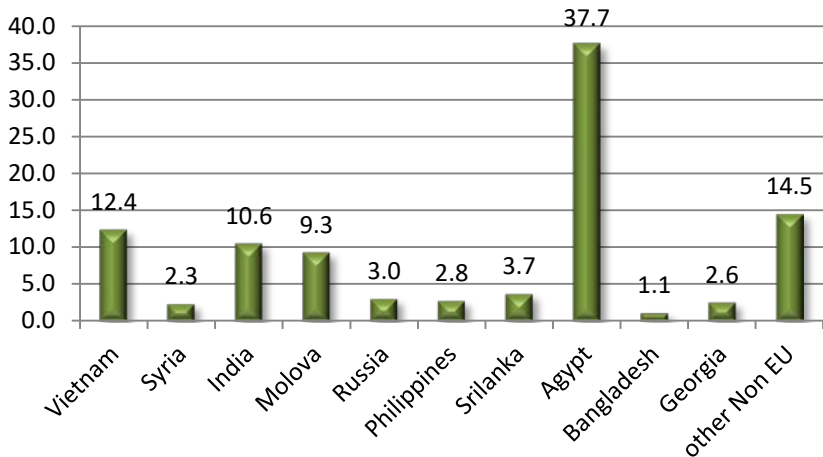
Cyprus Worker's Confederation (SEK)



SEK EU Members - %



SEK Non EU Members - %



Employment / Social security

Housing (accommodation / food)

Communication / language/ Religions

Social integration / discriminations

Rights as Migrants

Skills Recognitions

Health / medical scheme

Different cultures

Implementation of Collective Agreements

Law of equal treatment

Demographic changes in the Labour Market

Health and Safety in the Labour Market

Trade Union density

Illegal / Undeclared work & Precarious work

Information & Inclusion

The opinion and the acceptability for the Trade Union



Increase of membership

Benefiting of know-how in specific cases

Promoting TU image

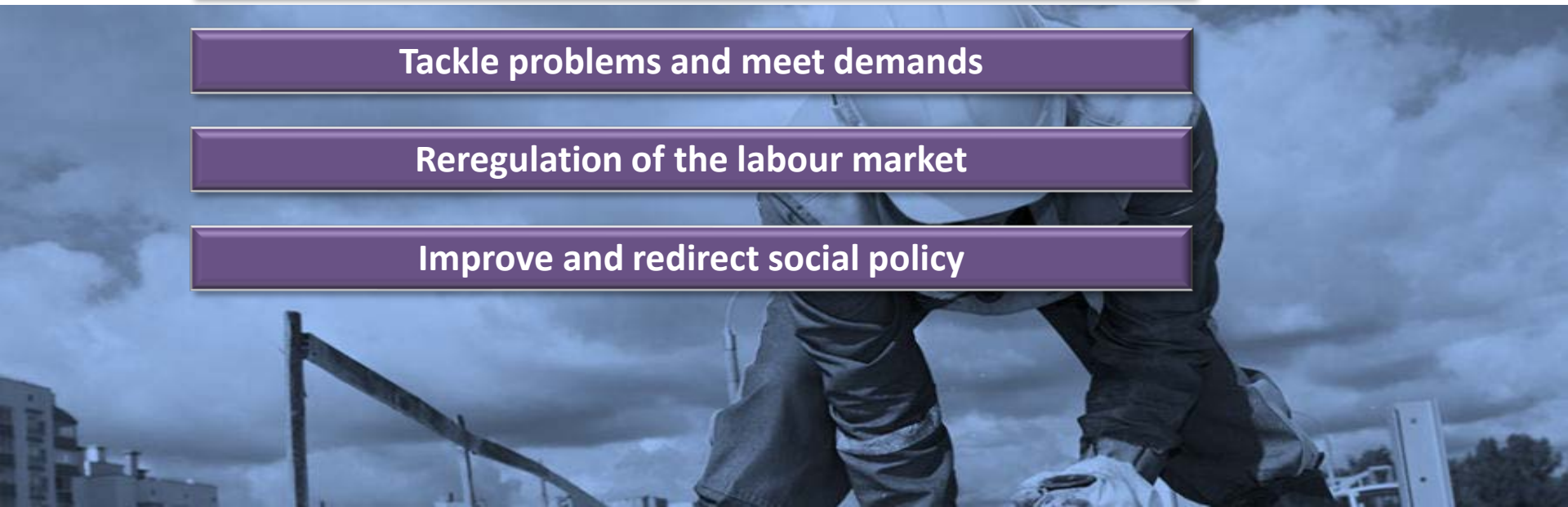
Increasing Union's Negotiating power

Manage of diversity & equality

Tackle problems and meet demands

Reregulation of the labour market

Improve and redirect social policy



Hired migrants from EU states as full time TU Officers

Events with EU migrants

Participation at the board of Local TU councils

Recruitment campaigns

Information Materials

Cooperation with Trade Unions from origin countries

Meetings with politicians (Ambassadors)

Join as partners at European funding projects



Thank you for your attention

Panikos Argyrides

SEK General Organiser

www.sek.org.cy

Find us:



MoveS seminar Cyprus

Nicosia, 28 September 2018

Cyprus Worker's Confederation (SEK)





Social Rights and Mobility



Cyprus, 28 September 2018



- I. Introduction
- II. Migration and Social Responsibility
 1. Changed Case-law – *Dano* and *Alimanovic*
 2. Follow-up Decisions
- III. Right to Residence and Derived Rights
 1. Changes and Continuity
 2. Third-Country Nationals
- IV. Indirect Discrimination
 1. Generalities and Genuine Link
 2. Competences and Financial Balances
- V. Final Remarks



II. Migration and Social Responsibility

1. Changed Case-law

- *Dano* – C-333/13 of 11 November 2014
- *Alimanovic* – C-67/14 of 15 September 2015
- *lawful* residence
- *abstract* proportionality
- Art. 24(1) Dir. 2004/38 *overrides* Art. 4 Reg. 883/2004



II. Migration and Social Responsibility

2. Follow-up Decisions

- *García-Nieto* – C-299/14 of 25 February 2016
- *Com/UK* – C-308/14 of 14 June 2016
- Art. 14(2) Dir. 2004/38



II. Migration and Social Responsibility

2. Follow-up Decisions

- *García-Nieto* – C-299/14 of 25 February 2016
- *Com/UK* – C-308/14 of 14 June 2016
- *Com/NL* – C-233/14 of 2 June 2016
- Art. 24(2) Dir. 2004/38



II. Migration and Social Responsibility

2. Follow-up Decisions

- *García-Nieto* – C-299/14 of 25 February 2016
- *Com/UK* – C-308/14 of 14 June 2016
- *Com/NL* – C-233/14 of 2 June 2016
- *Prefeta* – C-618/16 of 13 September 2018
- Dir. 2004/38 and Art. 7(2) Reg. 4092/2011



III. Right to Residence and Derived Rights

1. Changes and Continuity

➤ *Gusa* – C-442/16 of 20 December 2017

➤ **Art. 7 (3)(b) Dir. 2004/38:**

shall retain the status of worker or self-employed ...

,he/she is in duly recorded involuntary unemployment after

having been employed for more than one year and has registered

...'



III. Right to Residence and Derived Rights

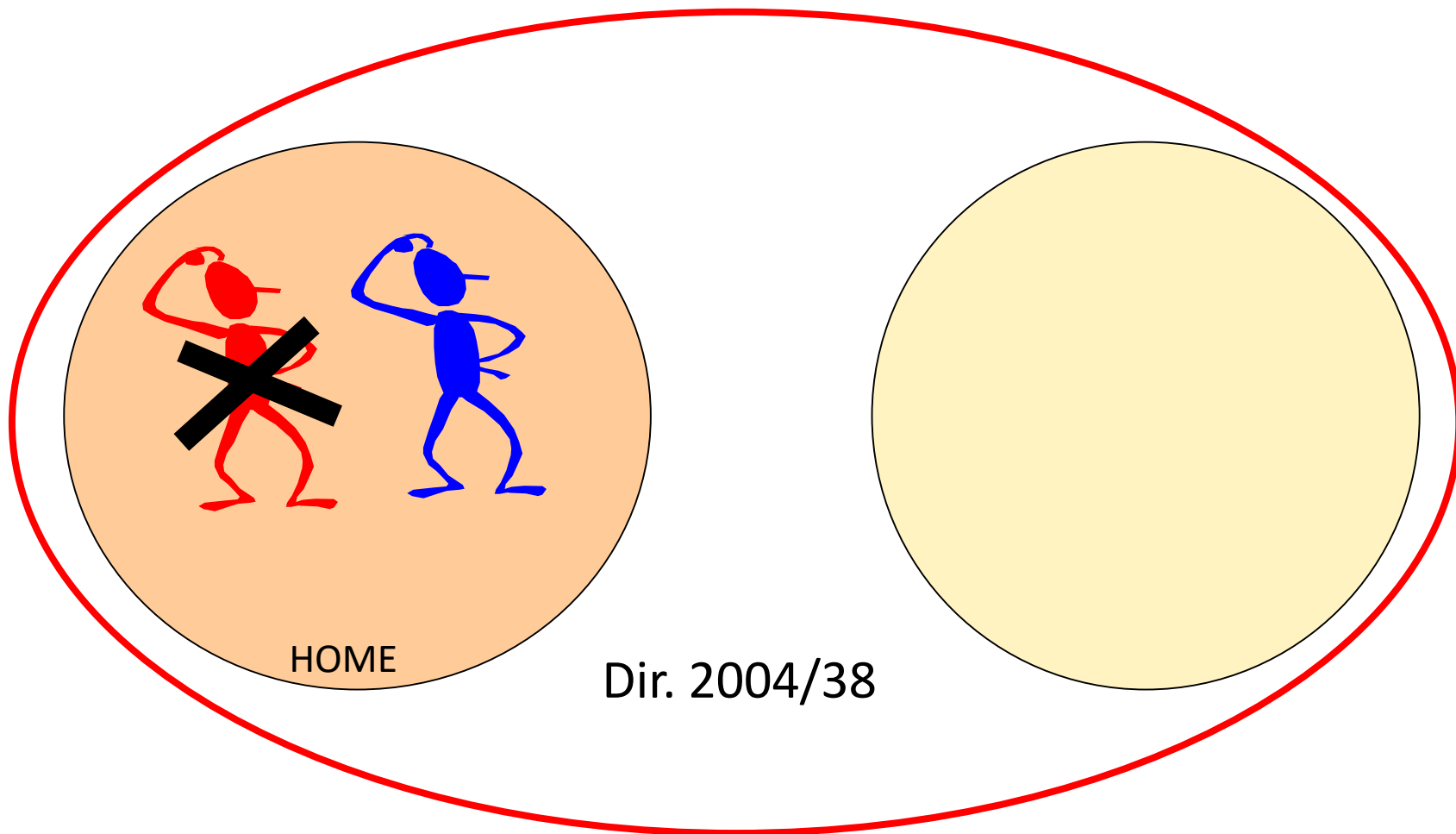
1. Changes and Continuity

- *Depesme ao* – C-401-403/15 of 25 December 2016
- Art. 7 (2) Reg. 492/2011
- Art. 2 (2)(c) Dir. 2004/38



III. Right to Residence and Derived Rights

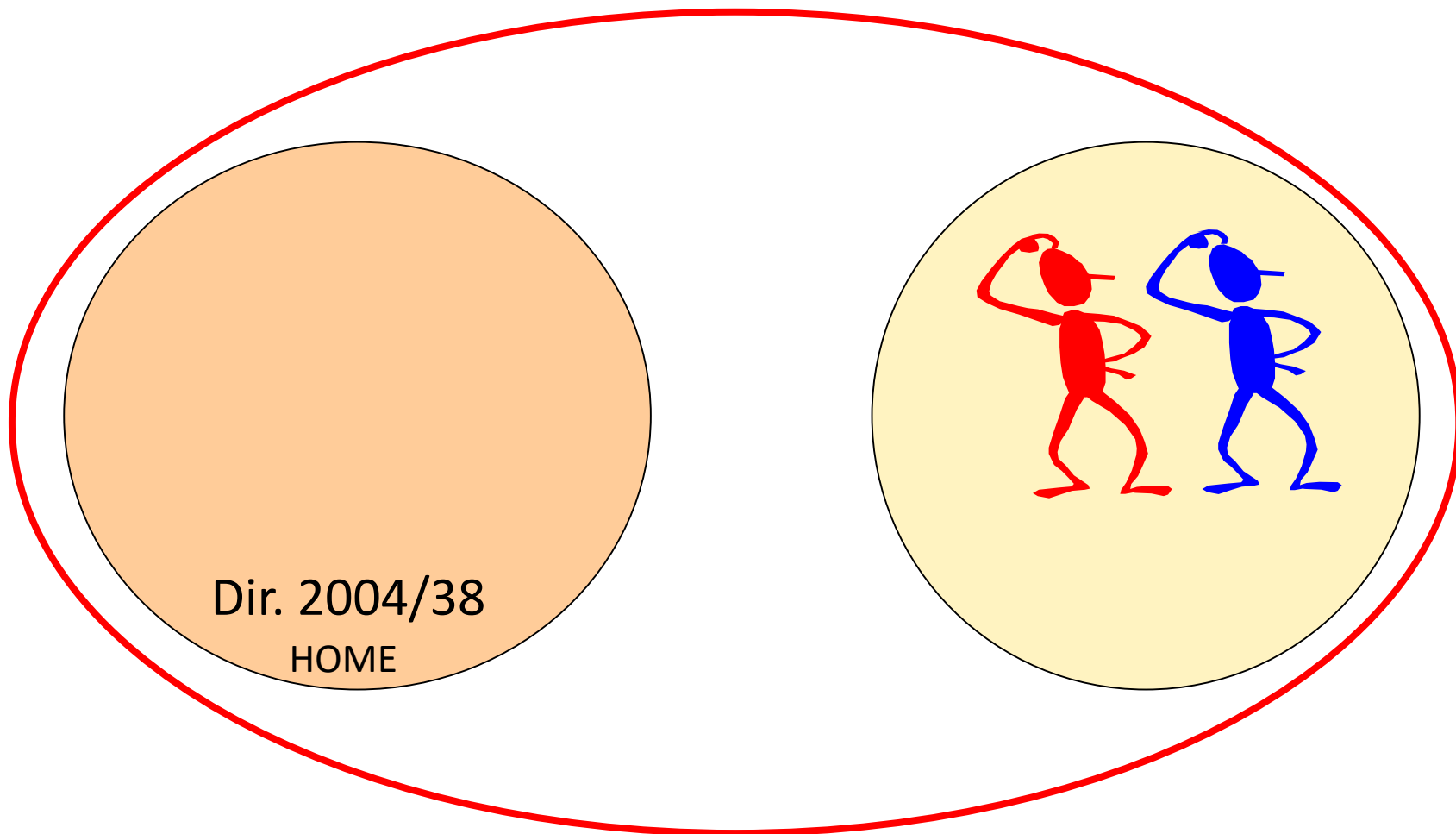
1. Third-Country Nationals





III. Right to Residence and Derived Rights

1. Third-Country Nationals





III. Right to Residence and Derived Rights

1. Third-Country Nationals

- [NA – C-115/15 of 30 June 2016](#)
- [Art. 13 \(2\)\(a\) Dir. 2004/38](#)
- [Art. 10 Reg. 492/2011](#)
- [Art. 21 TFEU](#)



III. Right to Residence and Derived Rights

1. Third-Country Nationals

➤ *Chavez-Vilchez* – C-133/15 of 10 May 2017

➤ Art. 20 TFEU



III. Right to Residence and Derived Rights

1. Changes and Continuity

- *Coman* – C-673/16 of 5 June 2018
- Art. 2 (2)(a) Dir. 2004/38: ‘spouse’
- Art. 21 TFEU



IV. Indirect Discrimination

1. Generalities and Genuine Link

- *Com/BE – C-317/14* of 5 February 2015
- Art. 45 TFEU



IV. Indirect Discrimination

1. Generalities and Genuine Link

- *Bragança Linares Verruga* – C-238/15 of 14 December 2016
- Art. 21 TFEU
- *Giersch ao*, C-20/12 of 20 June 2013



IV. Indirect Discrimination

1. Generalities and Genuine Link

- A – C-579/16 of 25 July 2018
- Art. 3 Reg. 883/2004
- Art. 21 TFEU



IV. Indirect Discrimination

2. Competences and Financial Balances

➤ *DW* – C-651/16 of 7 March 2018

➤ Art. 45 TFEU



IV. Indirect Discrimination

2. Competences and Financial Balances

- *Eschenbrenner* – C-496/15 of 2 March 2017
- Art. 45 TFEU
- Dir. 2008/94



IV. Indirect Discrimination

2. Competences and Financial Balances

➤ *Bechtel* – C-20/16 of 22 June 2017

➤ Art. 45 TFEU



V. Final Remarks



The EURES Network Recent Developments and the EURES Reform

Facilitating Job Mobility in Europe

Antonis Kafouros
EURES National Coordinator
Department of Labour, MLWSI





Background

- EURES set up in 1993
- The most frequently visited portal of the European Union.
- Operating as of 2016 through a new EU Regulation (2016/589 – “On a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets”
- Promoting the freedom of movement of jobseekers
- Enabling the transparent exchange of vacancies and job applications in Europe, making European labour markets open to all citizens.
- Becoming “TRUE” matching tool for vacancies and CVs fostering employment and working mobility in the EU



Why Labour Mobility is of high importance for the European Union

- Limited geographical mobility
- High number of unfilled jobs in many countries
- High unemployment rates co-existing with bottleneck vacancies and skills shortages across the Union
- Free movement of workers is one of the fundamental rights of European citizenship
- Broadening opportunities for individual jobseekers and for companies to recruit the best talents
- Europe 2020 target of 75% employment rate
- In 2016 about 8.5 million EU citizens were employed or looking for work in another EU country, making up 3% of the entire European working-age population



What is the EURES network aiming to achieve through the new Regulation 2016/589?

- Allow an easy job search across all countries by having as many job vacancies as possible available in one place, namely the **EURES portal**.
- Introduce the pan-European CV matching tool by using cutting edge available technologies.
- Create a bigger network to enable the delivery of a broader range of services and have a greater impact.
- Job seekers and employers should be able to count on a consistent level and range of support services across all countries.
- Include Apprenticeships and Practical Training Opportunities



Challenges Addressed by the new Regulation since May 2018 (1)

- **Transparency** - *Introduces obligations for all publicly available job vacancies and CVs to be made available at European level, through the EURES portal.*
- **Multilingual online skills-based matching** of JVs and CVs *by re-engineering the EURES portal to carry out multilingual skills-based matching, using the ESCO classification to ensure interoperability between member states*
- **Broadening the network with more members and partners-** *Allows for the broadening of the network beyond Public Employment Services in order to integrate new service providers (Private employment agencies, Universities, Schools, social partners, NGOs, etc).*

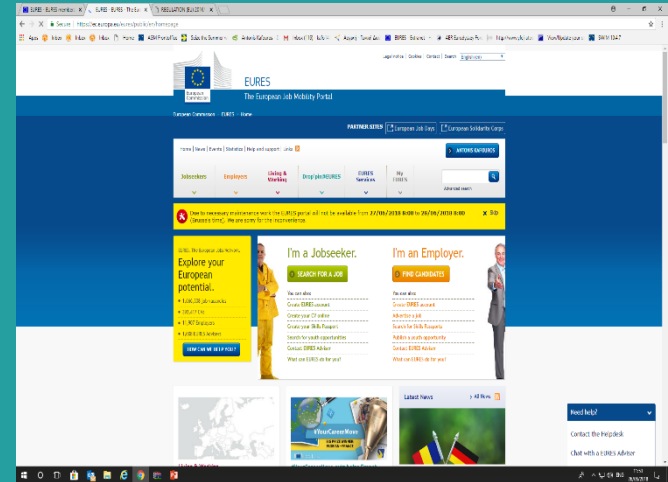
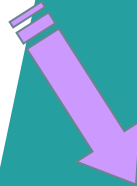


Challenges Addressed by the new Regulation (2)

- **Minimum Support Services** - *Ensures the delivery of targeted and consistent services across all countries.*
- Extends the exchange of labour market information to apprenticeships and traineeships

How the Network Works

The Network is based on two important axes:



**Human Axis-
The Advisers**

EURES Web Portal

Between them, they provide a broad range of information, vacancies and CVs



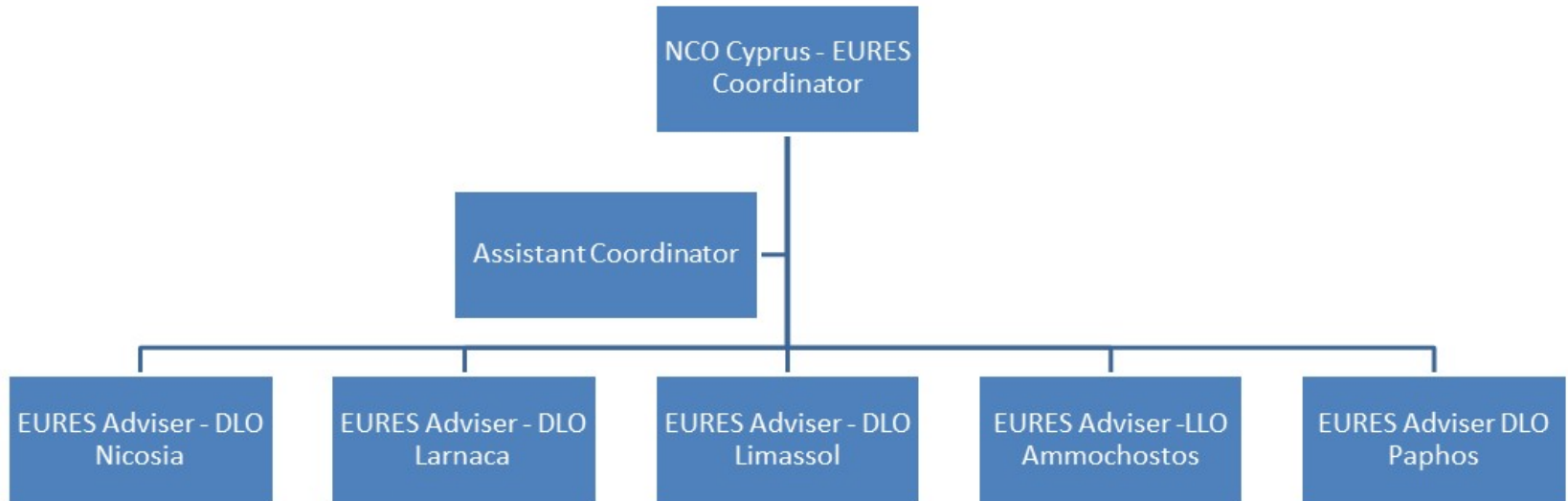
EURES Advisers



- EURES offers a **network of advisers** who provide information and support to jobseekers and employers through personal contacts.
- There are **more than 1000 EURES Advisers** across Europe.
- EURES advisers are **trained specialists** who provide the three basic services: information, advice and guidance for placement in vacancies existing in Europe.
- They work **within the EURES national structure** in all Member States in the EU and EEA.
- Trained for 120 Hours by the EU and receive **continuing training** every year on mobility issues.



EURES Network in Cyprus





The EURES Portal

www.eures.europa.eu

The screenshot shows the EURES Portal homepage in a browser window. The browser's address bar displays the URL <https://ec.europa.eu/eures/public/homepage>. The page header includes the European Commission logo and the title "The European Job Mobility Portal". A navigation menu lists "Home", "News", "Events", "Statistics", "Help and support", and "Links". A "PARTNER SITES" section features links to "European Job Days" and "European Solidarity Corps". A login section prompts users to "LOG IN" or register at EURES. A central navigation bar includes categories: "Jobseekers", "Employers", "Living & Working", "Drop'pin@EURES", and "EURES Services", along with an "Advanced search" box. The main content area is divided into three sections: a yellow box for "Explore your European potential" with statistics (1,621,032 job vacancies, 379,536 CVs, 11,616 Employers, 1,002 EURES Advisers) and a "HOW CAN WE HELP YOU?" button; a "I'm a Jobseeker." section with a "SEARCH FOR A JOB" button and a list of services like "Create EURES account", "Create your CV online", "Create your Skills Passport", "Search for youth opportunities", and "Contact EURES Adviser"; and a "I'm an Employer." section with a "FIND CANDIDATES" button and similar service options. The footer contains a "Latest News" section with a "WORK IN DENMARK" banner, a "#YourCareerMove" banner for a "BIG PRIZE WINNER: GLOBAL FRANCE", and a "Need" chat widget.

[> Statistics](#)[CV Online](#)[Job vacancies](#)

Statistics - 23/06/2018

1,666,338 vacancies (3,047,314 posts)

Location	Vacancies	Posts
+ Austria	64,244	82,235
+ Belgium	216,595	258,527
+ Bulgaria	5,882	23,228
+ Switzerland	4,190	5,476
+ Cyprus	2,655	6,892
+ Czech Republic	76,889	253,432
+ Germany	888,757	1,700,452
+ Denmark	1,506	2,535
+ Estonia	2,452	4,991
+ Greece	2,417	4,144
+ Spain	2,211	6,273
+ Finland	18,457	36,058
+ France	213,656	233,549
+ Croatia	40	235

[Need help?](#)

> Statistics

CV Online

Job vacancies

Statistics - 25/06/2018

393381 CV Online

4665 search profiles

11904 Companies

12532 workplaces
12307 contact persons
352 searches made
96481 enquiries sent

More statistics - Jobseekers per country

Jobseekers per country ▾

Country	Jobseekers
1. Italy	74502
2. Spain	63197
3. France	18764
4. Portugal	18160
5. Romania	17258
6. Poland	15137
7. Croatia	15081
8. Germany	14331
9. Greece	12398
10. United Kingdom	9291



Due to the migration of the data from the old system to the new CV Online, some inconsistencies could appear in the statistics for a period of time. These inconsistencies will gradually disappear.



Subscribe to our Newsletter



Join us on Facebook



Follow us on Twitter



Circle us on Google+



Connect with us on LinkedIn



Visit our channel



Where EURES portal can be useful

- Through the EURES portal you have access to information from a network of more than **1000 EURES Advisers** across Europe
- Selecting "**Search for a Job**" you have access to a million of jobs in 32 European countries (real time).
- **Create your personal «EURES» account.** To **subscribe** to EURES as a jobseeker, and **post your CV on-line** to make it available to search to thousands of registered employers from Europe. Whenever your resume **meets the criteria** of an employer, the employer has the ability to send you quick and easy communication request through the EURES portal (**Until the matching facility is put in place by early 2019**)

European Online Job Days

www.europeanjobdays.eu

Secure | <https://www.europeanjobdays.eu/en>

WORK IN FLANDERS 2018 - LISBON

🕒 19 - 20 JUNE 2018

📍 Onsite event (Lisbon, Portugal)

Are you a professional in the field of Engineering, Construction or ICT? Do you have experience of and a background in Maintenance, Construction, IT or Robotics? If you're based in Portugal, have you ever thought about Belgium - Flanders as a career destination? Flanders, one of the 3 regions of...

[VISIT THE EVENT PAGE](#)

● ○ ○ ○ ○



🕒 16 - 18 April 2018

[FINDE.U - Virtual University International Job Fair](#)

@ Online event



🕒 12 April 2018

[Industry Finland](#)

@ Online event

Are you looking for employment opportunities? Would you like to try a chance of crane? Are you a motivated



🕒 28 March 2018

[IT, sales and engineering - Work in Estonia!](#)

@ Online event

1
5



New EURES Cyprus Website - www.eures.gov.cy



REPUBLIC OF CYPRUS

- Homepage
 - Printer Friendly
 - Cyprus Web Portal
 - FAQ
- Search...

Home Page

Contact Us

- What Eures can do
- Living & Working in Cyprus
- Jobseekers
- Employers
- News and Events
- Useful Links & Downloads
- Contact us

Welcome to our Website



Europe Day 2018 Event "Europe and Me" - 06/05/2018

The main objectives of EURES are:

- To inform, guide and provide advice to potentially mobile workers on job opportunities as well as living and working conditions in the European Economic Area
- To assist employers wishing to recruit workers from other countries, promote their vacancies in the EU while helping with the matching process
- To promote fair mobility of workers across the EU
- To provide advice and guidance to workers and employers in cross-border regions

Are You a Jobseeker?

See available positions

[view now](#)

Are You an Employer?

Recruitment & job advertising

[more info](#)

What to Know Before You Go To Cyprus ...

[more info](#)

QUICK LINKS

[ENTER TITLE HERE](#)

[RATE THE EURES CYPRUS SERVICES](#)



Find Us on: [facebook](#)



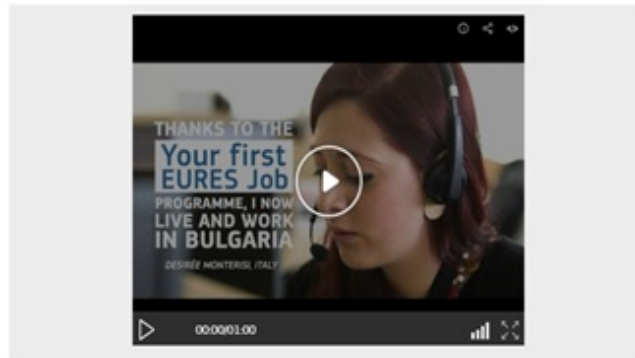


Your First EURES Job (18-35) / REACTIVATE (35+)

www.yourfirsteuresjob.eu



Making it easier to move and work / recruit young people in Europe



Jobseekers **Employers**

Name

Email

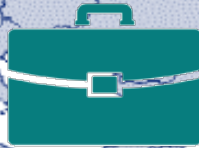
[I'm already registered](#)

What can we do for you?



To help young people from Europe to find employment, apprenticeship or practical training in a country other than their own

To motivate mobility by offering some financial help to young people that have found an opportunity in Europe



Addressed to

- Young people aged 18-35
- EU 28 nationals + Norway and Iceland
- moving to another EU country for a job, apprenticeship or internship
- minimum 6-months contracts, 3 for apprenticeship or traineeship



Procedure



- Young people up to 35 must register first and fill in their CV (EUROPASS)
- The system matches CVs and Vacancies available
- The final selection of candidates is made by the employer

Financing

- Interview trip (up to 350 € for the travel / 50€ per max 3 day for DSA) – for selected jobseekers by the employer
- Relocation costs (up to 1.400 €)
- Language training (up to 2000 €)
- Recognition of qualifications (up to 400 €)



EURES

Facilitating Job Mobility in Europe



Recent developments in coordination of social security in the light of CJEU case-law

Kristina Koldinská
MoveS visiting expert

SSC cases

- Many very technical – avoided in this presentation
- Tackle several issues:
 - Applicability of SSC
 - Applicable legislation
 - Unemployment benefits
 - Family benefits
 - Special non-contributory benefits and follow up

Applicability of SSC

- The moment of joining the EU – important also for applicability of the SSC
 - C-465/14 Wieland and Rothwangl
 - 2 AT citizens – worked as seafarers in NL boats in 1960s – as such seen as 3. country nationals for purposes of pensions – were they discriminated? – according to the CJEU not- their situation different from Kauer and Duchon case – they did not have residence in NL, just worked on the ship and lived there – NL national legislation makes difference for seafarers
 - Already before the AT joined the EU, the third country nationals not insured in NL, if working on a NL ship
 - If the NL legislation covered 3 country nationals before their country joined the EU, then insurance periods must have been aggregated as insured periods also before the AT joined the EU
 - This has not been the case

Applicability of SSC

- Is a bilateral agreement between two future member states able to overrule the SSC rules?
 - C-401/13, C-432/13 – Balazs
 - RO and EL adopted a bilateral agreement before RO joined the EU. According to it, EL is not responsible for insurance periods of political persecuted RO workers, EL paid to RO 15 million USD
 - According to the CJEU – such bilateral agreement irrelevant, insurance periods must be aggregated according to SSC rules

Applicability of the SSC

- C-45/17 Jahin
 - French citizen, civil servant, works and lives in China, has some houses in France, from which he gains money, which is subject to SS contributions in FR. If he had worked in another MS, and was covered by SS system of another MS, he would have been liberated from the obligation to pay contributions.
 - Is it discriminatory?
 - CJEU: The SSC is not applicable to situations, where the SS system of a third state is involved, not even free movement of capital applies to situations with 3. country

National legislation can have own concept of social security, but not against the EU law and FMW principle

- C-515/14 EC vs. Cyprus
 - A cyprriot civil servants who remains in Cyprus better of than the one, who quits his job in order to go to work to another MS
 - According to the EC – discriminatory
 - CJEU: settled case law: MS are free to organise and legislate own social security as they wisch, nevertheless, they must be in line with the EU law, especially with the right to free movement and right to residence
 - Limitations of FMW do not have to be based only on nationality, also certain categories of workers (civil servants) might be affected

National legislation can have own concept of social security, but not against the EU law and FMW principle

- C-187/15 Pópperl
 - DE civil servant, covered by special insurance for civil servants, then goes to AT to seek for a job, on basis of which his insurance periods lost and re-calculated, as if he has been covered by the general DE pension system, which is less convenient
 - CJEU: not a proportional limitation to FMW - discriminatory

National legislation can have own concept of social security, but not against the EU law and FMW principle incl. Principle of loyal cooperation

- C-408/14 Wojciechowski
 - BE citizen after having worked to 13 years for the EU, could not aggregate these periods because of national legislation – rules against cumulation of insured periods
 - The MS shall not reduce entitlements to EU citizens, who worked as EU staff (staff regulations)
 - Similar C-690/15 Lobkowicz

Applicable legislation

- Evergreen, still hot issue
- Simultaneous employment
- C-89/16 Szoja
 - Not too complicated preliminary question – simultaneous employment – self-employment PL, marginal employment relationship in SK – self-employment substantial – PL competent state
 - SK preliminary question – useless?
- Working in diplomatic services always convenient?
- C-179/13 Evans
 - UK citizen working in NL for USA embassy – covered as diplomatic staff, excluded from NL insurance
 - If she had been NL citizen, she would have been covered also by the NL system
 - Shall SSC apply? CJEU: not, diplomatic services coverage excluded from the SSC rules, NL institutions entitled to exclude Ms. Evans from the NL coverage

Applicable legislation – health care coverage

- C-543/13 Fischer-Lintjens
 - NL citizen – 1934-70 lives in NL, then until 2006 in DE, after which returned to NL. Since 2004 took DE pension, after she went to NL, health care paid by DE (DE pensionaire). In 2007 claimed NL pension, got it retroactively since 2006, NL institution informed only in 2010. DE institution paid back health care contributions for 2006-2010. NL legislation makes possible to pay contributions to health care insurance only for 4 months retroactively. – Ms. F-L not insured for 4 years, NL institutions asked for payments for health care paid during those years.
 - CJEU – no possibility to pay health care insurance retroactively against the SSC, esp. If pensions payable retroactively.
- Mentioned in preamble of regulation amendment

Applicable legislation – two MS?

- C-430/15 Tolley
 - UK citizen, since entitled to disability living allowance. In 2002 moved to ES. UK authorities refused export of this benefit, as of 2002 no entitlement, because she moved to another MS
 - ? Character of the benefit, ? Competent state
 - CJEU – DLA – long-term care benefit – sickness benefit, but
 - Even if Ms. Tolley moved to ES, so ES is competent as of 2002, UK is responsible for paying DLA and the DLA should be exported to ES
 - Strange judgement – 2 competent states?

Applicable legislation – 2 MS?

- C-382/13 Franzen
 - NL citizen, single mother, resides in NL with her daughter, takes family benefits. She worked 20 hours per week in DE, her wages so low, that she insured only for accident insurance. NL institutions ceased to pay family benefits. Other two similar cases – on call work, occasional employment.
 - CJEU: only one legislation applicable, but the MS of residence is not hindered to pay benefits, if it wishes to do so
 - Confirmation of Bosmann, Hudzinski cases

Applicable legislation – A1 form

- CJEU seems to have gone two steps forward and one back
- A1 is binding, but not that much
- C-620/15 A-Rosa
 - A-Rosa – DE company, active only in FR, branch in Switzerland, this branch responsible for all legal and logistic issues, employment agreements according to SW legislation, SW E101. FR institutions did not want to accept the E101, asked for FR contributions
 - CJEU: E101 binding until not abolished
- C-359/16 – Altun
 - BE company, working in construction, has no own workers, all construction work enacted through BG contractors, which posted workers to BE. A1 issued – BG legislation applicable. BE inspection - fraud
 - CJEU: If fraud and error – A1 can be also not accepted – shift in argumenation
- Alpen an Rijn – a step back, A1 still binding

Simultaneous employment

- C-570/15 X
 - NL citizen, resident in BE, employed by NL employer in NL, small percentage of activity enacted in BE – simultaneous employment? No written agreement on activity in BE
 - CJEU: if no written agreement, hardly simultaneous employment BUT in Format case – material state of affairs more important than formal situation

Simultaneous employment

- C-569/15 X
 - NL citizen working in NL, in winter interrupts her work – unpaid leave, during which works in AT as ski teacher – her employment relationship in NL exists, only suspended, according to NL legislation
 - CJEU: simultaneous employment
 - ? Problematic? Depends not on EU law, but on national law, how it handles the unpaid leave. If unpaid leave not covered by social insurance, CJEU would decide differently?

Pensions – comparable benefits

- C-453/14 Knauer
 - AT citizens with residence in AT – AT pensionaires – covered by health insurance in AT. For some years they worked in Lichtenstein – insured in 2. pillar system (obligatory) – get pensions also from Licht. – asked by AT institutions to pay health insurance contributions for pension from Licht.
 - Are AT 1. pillar pension and LCh 2. pillar pension comparable?
 - CJEU: yes, objective is the same – really? Is just objective (keeping living standard in old age) sufficient to be comparable?

Family benefits

- C-378/14 Trapkowski
 - Mentioned in preamble of proposal for amendment
 - Mr. T works and resides in DE, his ex-wife lives with children in PL – she did not ask for family benefits, he did – claimed DE benefits
 - Entitled is the mother, because she lives with children – DE benefits will be paid to PL, to the mother, even if she did not claim those benefits

SSC and residence directive

- C-442/16 Gusa
 - Self-employment vs. employment
 - RO citizen living and working in IR – unemployed – asks for unemployment social assistance benefit – rejected, does not fulfil conditions according to residence directive
 - CJEU – if worked more than one year as self-employed, has been employed according to res.directive – entitled to IR benefits
- Garcia – Nieto
 - Continuation of Brey, Alimanovic cases
- UK vs. EC
 - Step forward – UK can reject not only social assistance benefits, but also other benefits – correspondent to referendum on Brexit
- Some EU citizens are more equal than others

Conclusions

- CJEU case law
 - Complicated
 - Not always consistent
 - Still relevant source of EU law interpretation
 - Worth following

Regulations amendment

- (19) Taking into account the jurisprudence of the Court of Justice in Cases C-345/09 *van Delft and Others*, EU:C:2010:610 and C-543/13 EU:C:2015:359 *Fischer-Lintjens* there is a need to facilitate retrospective changes in applicable legislation. Therefore the offsetting procedure that applies in situations where the legislation of a Member State was applied provisionally in accordance with Article 6 of Regulation (EC) No 987/2009 should also be extended to other cases resulting from a retroactive change of the applicable legislation. In addition, in this context, it is necessary to disapply divergent limitation provisions in national law to ensure that a retroactive settlement between the institutions is not impeded by any incompatible time-limits laid down in national legislation while at the same time establishing a uniform limitation period of five years counting backwards from the commencement of the dialogue procedure referred to under Article 5(2) and 6(3) of this Regulation to ensure this procedure for resolving such disputes is not frustrated.

- Recital 5a is inserted to clarify that the application of Directive 2004/38/EC to the Regulations has been elucidated by the jurisprudence of the Court of Justice in Cases C-140/12, *Brey*, EU:C:2013:565, C-333/13, *Dano*, EU:C:2014:2358 and C-308/14 *Commission v United Kingdom*, EU:C:2016:436.



Recent developments in the field of free movement of workers at EU level

MoveS Seminar
Nicosia, 28 September 2018

Dimitrios KONTIZAS, Team leader "Supplementary pensions"
Directorate-General for Employment, Social Affairs and Inclusion
Unit D1 – Free movement of workers, EURES

Facts and figures

*17 m EU citizens leaving in another Member State,
2017 annual report on intra-EU labour mobility ([Hypelink](#)):*

11.8 m long-term EU-28 movers of working age

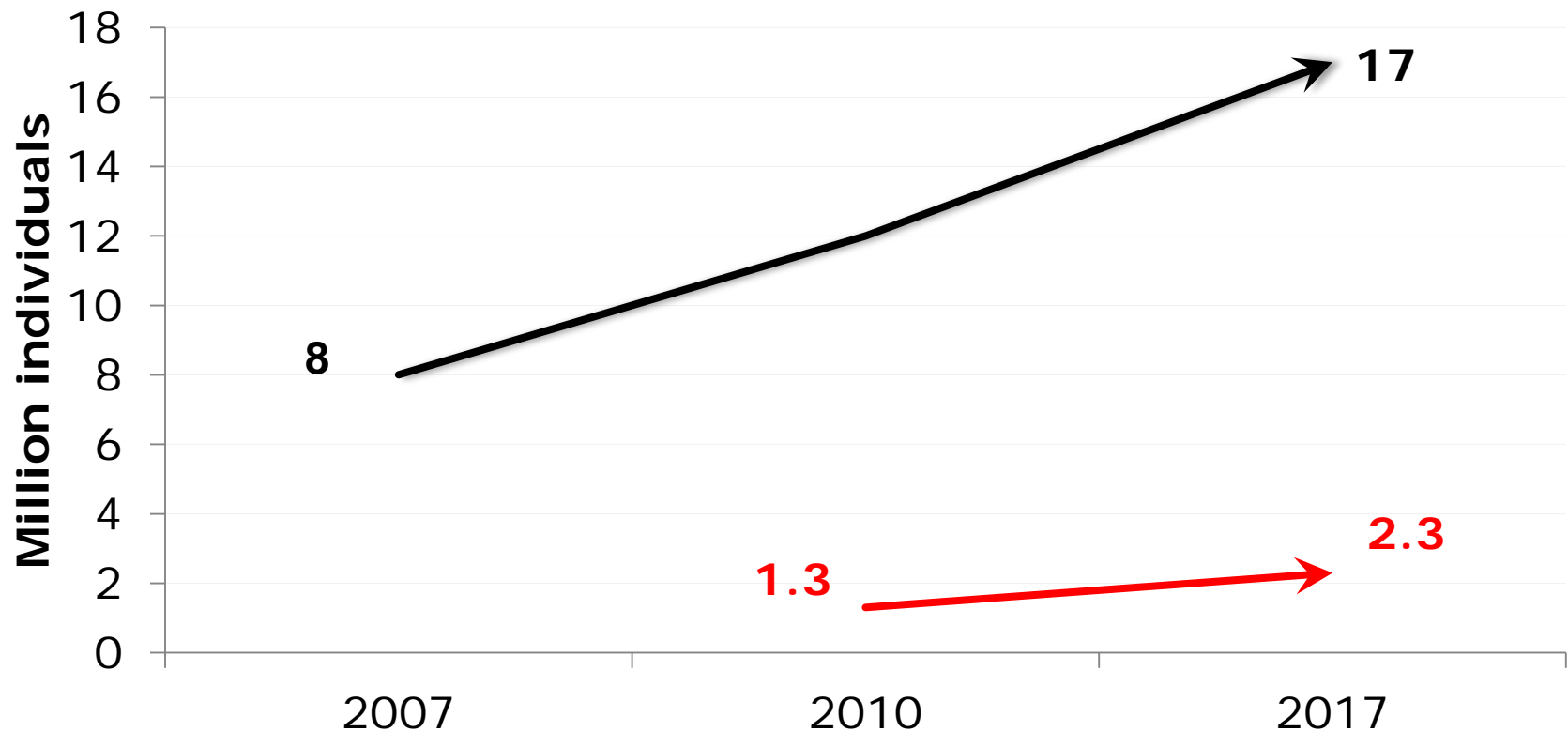
*Of which 9.1 m active EU-28 movers (employed or looking
for work)*

1.4 m cross-border workers (20-64 years)

*2.3 m postings (no of PDs A1 issued to employed and self-
employed in 2016)*

614,453 annual return mobility (20-64 years)

Labour mobility in the EU



➔ Mobile citizens ➔ Posted workers



Labour mobility

1. Free movement of workers

- Transposition of Directive 2014/54 (Enforcement of Free Movement of Workers)*
- Implementation of Regulation No (EU) 2016/589 (EURES reform)*
- Transposition of portability Directive (2014/50/EU (supplementary pensions)).*



Labour mobility

2. Posting of workers

*-Transposition of Directive 2014/67/EU
(enforcement)*

*-Review of Directive 96/71/EC-Adoption of
Directive 2018/957/EU*



Labour mobility

3. European Pillar of Social Rights

4. European Labour Authority (ELA)



FREE MOVEMENT OF WORKERS



Better enforcement of rights conferred under EU law on free movement of workers

Practice shows that it is difficult for citizens to enforce their rights at national level

Directive 2014/54 aims to facilitate the exercise of rights on Union workers and members of their families in the context of the freedom of movement for workers

The Directive does not create new "substantive" rights for mobile workers



Main Features of Directive 2014/54 on facilitating the exercise of rights in the context of free movement of workers

Specific measures to ensure effective protection of rights conferred by Art 45 TFEU and Regulation (EU) No 492/2011 (defense of rights).

National body or bodies must exist to provide assistance to Union workers (including jobseekers) and their family members;

Promotion of dialogue

Better information provision at national level (also about EU rights)

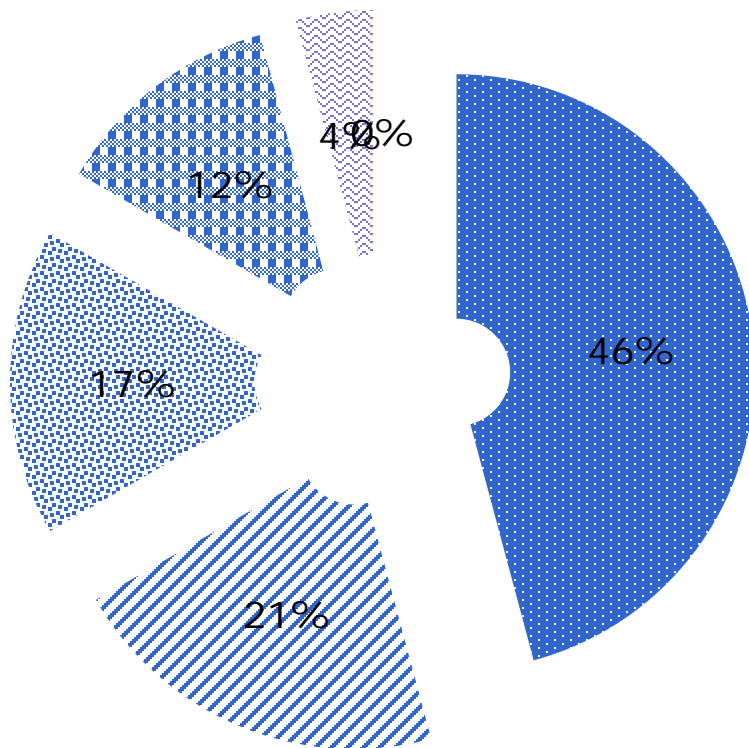


Transposition

All Member States notified complete transposition by the end of 2017

Conformity check is ongoing with a view to presenting a report in November 2018 as foreseen by the Directive

Types of the bodies



- Equality/ human rights authorities/ ombudspersons- AT*, CZ, EL, FI*, FR, HR*, IE, IT, LT, MT, NL*, PL*, SK*
- ▨ Employment services- BG, DK, HR*, HU, LV, SI
- ⊞ Ministries- CY, HR*, NL*, PL*, SK*
- ▣ Migration authorities- BE, DE, ES
- ⊘ Chambers- AT*, SE
- Labour inspectorate- NL*, PL*

* Notified more than one body



The list of the bodies available online

- *the list with contact details is available at*
<http://ec.europa.eu/social/main.jsp?catId=1277&langId=en>
- *information on national body should be also available at national level*



EURES

EURES (European Employment Services) aims at facilitating and promoting the freedom of movement for workers within the EU notably by exchanging information on employment opportunities

It is a cooperation network within the EU 28 countries plus Switzerland, Iceland, Liechtenstein and Norway.

New EURES Regulation 2016/589



Regulation 2016/589. Key improvements

A stronger network of European employment services at EU level that delivers more efficient labour market information exchange for the purpose of matching processes across borders in the EU/EEA, in support of the internal market

Enhanced transparency: more jobs advertised;

Online skills-based matching: JV – CV;

Reinforced scope: more service providers;

An agreed minimum package of services for job seekers and employers in all MS



SUPPLEMENTARY PENSIONS



Directive 2014/50/EU on supplementary pension rights

*The Directive came into force on 21 May 2014 -
According to Article 8(1) of the Directive,
Member States shall bring into force the laws,
regulations and administrative provisions
necessary to comply with this Directive **by 21
May 2018.***

Directive 2014/50/EU

- **Waiting + vesting period = max 3 years**
- **Employee contributions vest immediately**
- **Minimum age for vesting = max 21 years (no limit age for scheme member)**
- **Right to retain dormant pension rights in former employer's pension scheme**
- **Preservation may vary depending on the scheme**
 - **E.g. indexation, capital returns...**
- **Basic principle: dormant members treated on par with active members**
- **Payment as capital sum possible subject to:**
 - **national ceilings**
 - **informed consent of the worker**
- **Information standards**
 - **Impact of mobility on pension rights**



Directive 2014/50/EU

On 19 July, the Commission launched infringement procedures for non-communication or partial communication for 10 Member States (AT, CY, CZ, GR, ES, FR, IE, LU, NL, RO).

At present (26/09/2018), 23 Member States declared complete transposition (AT, BE, BG, CZ, DK, DE, EE, ES, HR, IT, NL, LV, LT, HU, MT, PL, PT, SL, SK, FI, SV, UK). 1 Member State, IE, declared partial transposition. 4 Member States, GR, FR, CY, LU, RO, did not officially communicate any transposition measures.



POSTING OF WORKERS



Directive 2014/67/EU

Enforcement of PWD rules

The Enforcement Directive 2014/67/EU:

- increases the awareness of posted workers and companies about their rights and obligations*
- improves cooperation between national authorities in charge of posting*
- defines Member States' responsibilities to verify compliance with the rules on posting of workers*
- ensures the effective application and collection of administrative penalties and fines across the Member States if the requirements of EU law on posting are not respected*



Directive 2018/957/EU-Revision of Posting of Workers Directive

Why revising the Directive?

- Restore a level-playing field*
- Ensure that the same (mandatory) rules apply to posted and local workers*

***Legal basis:** remains unchanged, but a paragraph added to Article 1(1) underlines that the Directive is aimed at protecting posted workers in the context of the freedom to provide services*



Directive 2018/957/EU-Revision of Posting of Workers Directive

. Main changes

- Remuneration (instead of “minimum rates of pay”)
- Collective agreements
- Extension of the core of rights
- Special rules for long-term posting
- Monitoring, control and enforcement
- Posting by temporary employment undertakings and placement agencies
- Synchronization clause with *lex specialis* on transport
- Application only from 30 July 2020

Remuneration

- *"all the constituent elements rendered mandatory by national law or by collective agreements which have been declared universally applicable"*
- Allowances specific to the posting are part of the remuneration:
 - Travel, board, lodging within the MS where one is posted
- Reimbursement of expenditures incurred on account of posting are not



Applicable collective agreements

- Agreements declared universally applicable
- In absence thereof, Member States may decide to base themselves on:
 - Generally applicable collective agreements;
 - Collective agreements concluded by the most representative social partners organizations and applied throughout a territory.
- Pre-conditions: equality of treatment & transparent information

Extension of the core of rights 1

Undertakings operating posting guarantee, on the basis of equality of treatment, workers who are posted to their territory the terms and conditions of employment covering the following matters which are laid down in the Member State where the work is carried out:

- by law, regulation or administrative provision, and/or
- by collective agreements or arbitration awards which have been declared universally applicable or otherwise apply:

Extension of the core of rights 2

- (a) maximum work periods and minimum rest periods;
- (b) minimum paid annual leave;
- (c) remuneration, including overtime rates; this point does not apply to supplementary occupational retirement pension schemes;
- (d) the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings;
- (e) health, safety and hygiene at work;
- (f) protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people;
- (g) equality of treatment between men and women and other provisions on non-discrimination;

Extension of the core of rights 3

(h) the conditions of workers' accommodation where provided by the employer to workers away from their regular place of work;

(i) allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons.

Point (i) shall apply exclusively to travel, board and lodging expenditure incurred by posted workers where they are required to travel to and from their regular place of work in the Member State to whose territory they are posted, or where they are temporarily sent by their employer from that regular place of work to another place of work.

Long-term posting

- When the duration of posting exceed 12 months (extensible to 18 months with motivated notification)...
- Posted workers should be granted all the applicable terms and conditions of employment of the host Member State...
- Except rules on conclusion and termination of the employment contract and supplementary pensions schemes
- In case of replacement, the cumulated duration shall be counted



Monitoring, control and enforcement

The Member State to whose territory the worker is posted and the Member State from which the worker is posted shall be responsible for the monitoring, control and enforcement of the obligations laid down in this Directive and in Directive 2014/67/EU and shall take appropriate measures in the event of failure to comply with this Directive.

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Member States shall in particular ensure that adequate procedures are available to workers and/or workers' representatives for the enforcement of obligations under this Directive.



Posting by temporary employment undertaking and placement agency

Member States shall provide that the temporary employment undertaking and placement agency guarantee posted workers the terms and conditions of employment which apply pursuant to Article 5 of Directive 2008/104/EC of the European Parliament and of the Council to temporary agency workers hired-out by temporary-work agencies established in the Member State where the work is carried out.

International Road Transport

- The rules of the revised Directive apply to the road transport sector only when *lex specialis* is applied;
- *Lex specialis* under negotiation
- For the time being, minimum rates of pay apply to cabotage operations and certain international road transport operations



Deadline for transposition

*The Directive was officially adopted on the **28 June 2018***

*Deadline for transposition and application: 2 years **30 July 2020**. Until that date, Directive 96/71/EC shall remain applicable in its wording prior to the amendments introduced by this Directive*

A report on its transposition and application is foreseen



Report for application, implementation

By 30 July 2023, the Commission shall submit a report on the application and implementation of this Directive to the European Parliament, the Council and the European Economic and Social Committee and propose, where appropriate, necessary amendments to this Directive and to Directive 96/71/EC.

Review

The report shall include an assessment of whether further measures to ensure a level playing field and protect workers are required:

- (a) in the case of subcontracting;
- (b) taking into account the developments concerning the legislative act amending Directive 2006/22/EC of the European Parliament and of the Council as regards enforcement requirements and laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector.



EUROPEAN PILLAR OF SOCIAL RIGHTS



European Pillar of Social Rights

On 17 November 2017, the European Parliament, the Council and the Commission jointly proclaimed at the Social Summit in Gothenburg the European Pillar of Social Rights. The Pillar sets out a number of key principles and rights to support fair and well-functioning labour markets and welfare systems.



European Pillar of Social Rights

It is designed as a compass for a renewed process of convergence towards better working and living conditions across the Union, ensuring the citizens equal opportunities and access to the labour market, fair working conditions and social protection and inclusion. Ensuring fair labour mobility in Europe is central to this objective. .



European Pillar of Social Rights

An overview of the European Pillar of Social Rights is available here:

https://ec.europa.eu/commission/priorities/deeper-and-fairer-economic-and-monetary-union/european-pillar-social-rights_en



EUROPEAN LABOUR AUTHORITY (ELA)



The Policy Context

- Fair and effective labour mobility
 - ✓ Revision of the Posting of Workers Directive
 - ✓ Revision of Social Security Coordination rules
 - ✓ Sector specific rules for posting of workers in international road transport
- European Pillar of Social Rights
- Social Fairness Package

Towards a European Labour Authority

"We should make sure that all EU rules on labour mobility are enforced in a fair, simple and effective way"

President Juncker, State of the Union Address, 13 September 2017



Objectives of the Authority



Easier access to information and labour mobility services for individuals and employers



Strengthened cooperation between national authorities in cross-border enforcement, including inspections



Mediation between national authorities, and facilitating solutions in case of labour market disruptions

Target groups of the Authority

Workers

- **17 million citizens living or working in other MS** (almost double compared to a decade ago); 12 of working age; amongst these, 9 working or searching a job
- 2.3 million posting operations
- 1.4 cross-border workers (40% more than 2006)

Companies

- Cross-border service providers
- Small and medium enterprises
- Multinational companies

Authorities

- Employment services
- Labour inspectorates
- Social security institutions



The Authority's Tasks (1 to 3)

- 1) Facilitate **access to information by individuals and employers** on rights and obligations and **to relevant services** in cross-border labour mobility situations
- 2) Facilitate **cooperation and exchange of information** between national authorities → through National Liaison Officers within ELA
- 3) Coordinate and support **concerted and joint inspections** by national authorities (governed under law of MS concerned, possible presence of ELA staff)



The Authority's Tasks (4 to 7)

- 4) Carry out **analyses and risk assessments** on issues of cross-border labour mobility
- 5) Support **capacity building national authorities** through guidance, mutual learning and training
- 6) **Mediate in disputes between Member States** on the application of EU law concerning labour mobility
- 7) Facilitate **cooperation between relevant stakeholders for cross-border labour market disruptions**, e.g. large scale restructuring



Functioning and governance

- Established as a new EU Agency (in line with the 2012 common approach between the EP, Council and Commission)
- A Management Board and an Executive Director.
- EU-level social partners represented in Stakeholders Group
- Size at cruising speed:
 - ✓ Staff of 144 (incl. national liaison officers and other seconded national experts)

✓ Budget of €1M€



The Management board

The Management Board will be composed of 1 representative per Member State and 2 representatives of the Commission with voting rights.

The members will be in office for a mandate of 4 years (renewable).

For non-EU members applying EU law there will be an observer status.

The Management Board will meet at least twice per year and will hold at least one meeting with the Stakeholder Group.

Decisions will be taken by majority of votes.

The Management Board will have administrative functions in terms of planning, budget, staff, auditing and internal committees,



The Authority's impact on existing labour mobility bodies

ELA integrates

EURES European Coordination Office

Technical Committee on the Free Movement of Workers

Expert Committee on the Posting of Workers

Audit Board, Technical Commission, and Conciliation Board within the framework of the Administrative Commission for the Coordination of Social Security Systems

European Platform to tackle Undeclared Work

ELA works together with

- Administrative Commission for the Coordination of Social Security Systems (regulatory tasks)
- Advisory Committee for the Coordination of Social Security Systems
- Advisory Committee on the Free Movement of Workers
- Cedefop, ETF, EU-OSHA, and Eurofound



The Authority's relationship with labour mobility tools

ELA manages

- EURES Job Portal

ELA promotes the use of

- IMI information exchange on posting
- EESSI information exchange on social security

ELA contributes to

- **The Single Digital Gateway**
- **Your Europe and Your Europe Advice information and services**
- **SOLVIT problem-solving service**



Procedural steps

ELA Regulation

- Adoption by Commission 13 March 2018. (*COM(2018)131 final*)
- Council: 3 SQWP under BG Presidency, 3 (plus 2 planned so far) under AT Presidency
- European Parliament: Rapporteur Jeroen LENAERS (EPP, NL)
- Aim to establish ELA in 2019.

Laying the ground for ELA's set up

- Commission Decision establishing Advisory Group for ELA: in place until ELA is set up.
- Composed of MS, EU-level social partners, existing agencies, other stakeholders

Thank you for your attention!

Visit us @

<http://ec.europa.eu/social/main.jsp?langId=en&catId=25>

<https://ec.europa.eu/eures/public/en/homepage>

http://europa.eu/youreurope/citizens/index_en.htm

<http://ec.europa.eu/social-security-coordination>

<http://www.facebook.com/#!/socialeurope>



Recent developments at EU level

Social Security Coordination

MoveS Seminar Cyprus

Nicosia, 28 September 2018

Marzena Brauhoff

Team Leader, Social Security Coordination

DG Employment, Social Affairs and Inclusion, European Commission

Overview

* Ongoing revision

- *Context*
- *Objective, scope, state of play*
- *Main proposed changes*

* Current initiatives

- *Electronic data exchange*
- *European Social Security Number*
- *Anniversaries*



Ongoing revision of EU coordination rules

Political context of the revision

- *Free Movement of Workers: one of the key pillars of the internal market*
- *Right of national authorities to fight abuse of fraudulent claims*
- *Free movement is an economic opportunity and not a threat*



Political Guidelines for the new Commission (15 July 2014)

- ***Labour Mobility Package:*** *announced in the context of the State of the Union 2015 / Commission Work Programme 2016 including better coordination of social security systems to tackle abuse*

Why change the current rules?

- Current rules in force since 2010
- Evolving labour market and society, as well as national systems and the CJEU case-law
- Targeted adjustments to ensure that rules are fair, clear and easier to enforce

Scope of the proposal

Targeted amendments on:

- Social security of posted workers / work in 2+ MS
- Access of economically inactives to benefits
- Long-term care benefits
- Family benefits
- Unemployment benefits



Overview of main proposed changes

1) Posted workers / work in 2+ MS

- Strengthened administrative rules, to make sure national authorities have tools to verify social security status of posted workers
- Clearer procedures for cooperation between Member States' (MS) authorities to address unfair practices or abuse

2) Access of economically inactive citizens to social benefits

- Equal treatment limitations following case-law
- MS may decide not to grant social benefits to economically inactive mobile citizens
 - = not working nor actively looking for a job, and do not have the **legal right to reside** in the host MS territory
- Legal residence: means of subsistence + comprehensive health coverage (Dir. 2004/38)

3) Long-term care benefits (LTC)

- Legal certainty to a growing group of citizens in aging societies
- Definition of LTC benefits
- Specific coordination rules - same logic as sickness rules
- List of benefits existing in the MS

4) Family benefits

- No changes to the existing rules on **export of child benefits**:
 - = the country of work of the parent(s) remains responsible for paying the child allowances
- **No indexation** to the living costs of the country of residence of the child:
 - = amount cannot be adjusted if the child resides elsewhere
- Reflects the principle that same pay and benefits for the same work, taxes and contributions paid

5) Unemployment benefits I (UB)

Export of UB (to another MS where looking for a job) extended:

- from a min. 3 months to 6 months, with possible further extension for the remaining period of entitlement

5) Unemployment benefits II (UB)

Frontier workers:

- if work for at least 12 months, the MS of last employment (instead of the MS of residence) is responsible for UB
- if work less than 12 months, the MS of residence responsible

5) Unemployment benefits III (UB)

Aggregation:

- MS will only have to aggregate periods of insurance in other MS, if work in that MS for at least 3 months
- in other cases the former MS of work will be responsible



State of play I

- Commission proposal: 13 December 2016
(COM(2016) 815 final - [link](#))
- Now examined by the European Parliament and the Council as co-legislators
- Joint Declaration of the Council, Parliament and the Commission on the EU's legislative priorities for 2018/2019
- [Current rules](#) in place until entry into force of the new ones

State of play II

In the Council:

- Negotiations have been carried out under the Maltese, Estonian and Bulgarian Presidencies (*January 2017 – June 2018*)
- 21 June 2018: the Council reached a General Approach
 - = *Council has a mandate to start inter-institutional discussions (trilogues) with the European Parliament and the Commission*



State of play III

In the European Parliament:

- Rapporteur: MEP Guillaume Balas (S&D – FR)
- Vote on the 'Balas report' in the EMPL Committee planned for November 2018, to be followed by the plenary vote
 - = to give the EP a mandate to negotiate in trilogues



Current initiatives



Electronic Exchange of Social Security Information (EESSI) system

- **Key innovation** of the modernised rules of 2010
- IT system that will help social security bodies across the EU exchange information **more rapidly and securely**
- All communication between national bodies using structured electronic documents (SEDs), **replacing paper-based exchanges**
- Covers all branches of social security of Regulation 883/2004
- Will connect electronically around **15.000 social security institutions** of EU Member States & Iceland, Liechtenstein, Norway and Switzerland
- **By July 2019** MS to connect national systems to the central IT platform



European Social Security Number (ESSN)

- One identifier: simplification for mobile persons and administrations
- To replace the current paper forms and:
 - *help mobile persons to prove their coverage abroad*
 - *facilitate the portability of rights across borders*
 - *reduce risks of errors and fraud*
- Preparatory works ongoing
(part of Commission Work Programme 2018)

2018 - anniversaries



- **50'** anniversary free movement
- **60'** anniversary coordination



Thank you!

To find out more: click [here](#)



Solutions to problems with your EU rights

“Recent Development regarding Solvit Cyprus”

*MoveS Seminar
28 September 2018
Hilton Park Nicosia
Cyprus*

Solutions to problems with you

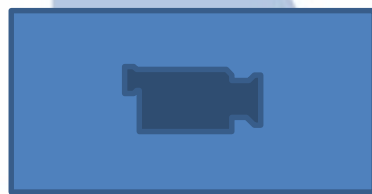
What is Solvit;

- It is a user-friendly service, free of charge design to help EU citizen and businesses find fast and pragmatic solutions to their internal market problems.
- Solvit consists of a network of 31 countries (28 ms plus Iceland, Liechtenstein and Norway)

Solutions to problems with you

How it works;

- <http://ec.europa.eu/avservices/video/player.cfm?ref=I079671&sitelang=en&videolang=en>



βλήματα σχετικά με τα δικαιώματά σας ω

Solvit Criteria



- ✓ Public Authority
- ✓ Cross border element
- ✓ Breach of EU law

Βλήματα σχετικά με τα δικαιώματά σας ω

Reasoning behind Solvit

- Increase cross border mobility
- Identify misapplication of eu law
- Offer a fast, free-of-charge alternative dispute settlement mechanism

Βλήματα σχετικά με τα δικαιώματά σας ω

Major areas

- Residence rights
- Social Security
- Driving Licences
- Motor vehicle registration
- Market access for products
- VAT reimbursement
- Recognition of Professional qualifications

Βλήματα σχετικά με τα δικαιώματά σας ω

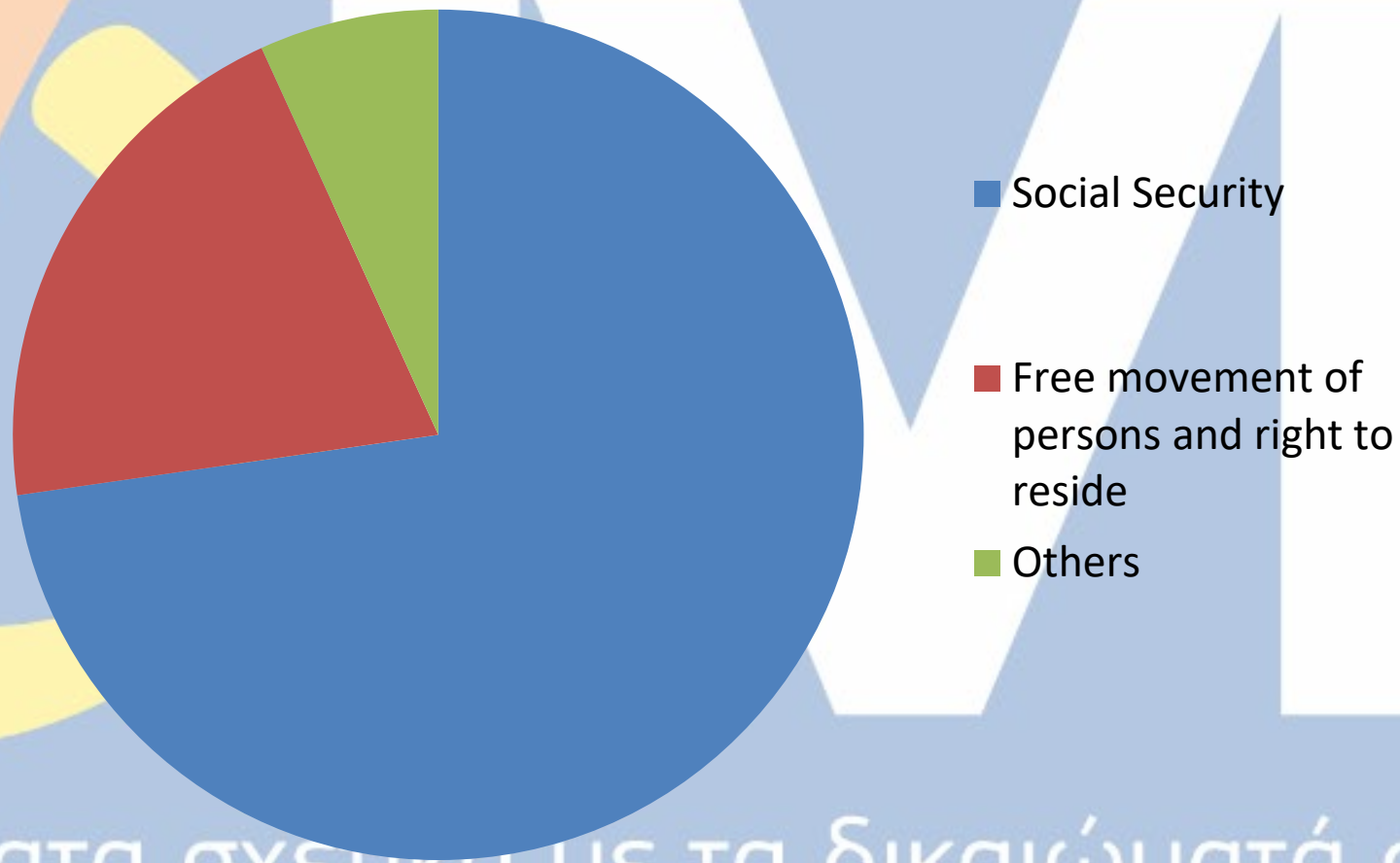
Cyprus and Solvit

- 45 cases for 2017 – 50 for 2018
- 14.2 cases per million inhabitant
- Resolution rate - 97%
- Case handling speed as lead - cases closed in 10 weeks – 94%

Βλήματα σχετικά με τα δικαιώματά σας ω

Cyprus and Solvit

Typology of Cases



βλήματα σχετικά με τα δικαιώματά σας ω

Solvit Action Plan

- **Further promote Solvit by**
 - 1. improving its quality,***
 - 2. Increasing the use of the network and***
 - 3. upgrading its role in EU law enforcement.***

βλήματα σχετικά με τα δικαιώματά σας ω

Solvit Cyprus!

- http://ec.europa.eu/solvit/index_el.htm
- Ministry of Energy, Commerce, Industry and Tourism,
Andrea Araouzou 6,
Nicosia
- Tel. 2286733, 22867181,
22867193



Βλήματα σχετικά με τα δικαιώματά σας ω



<http://ec.europa.eu/solvit/>

βλήματα σχετικά με τα δικαιώματά σας ω