**EN**

**Executive Summary**

**Coordination of social security systems in the EUROMED space**

The presence of massive immigration in Europe, especially from some Southern Mediterranean (MED) countries demands that we develop social and economic policies to achieve an international EUROMED space that is more just and competitive.

Europe has become a major pole of attraction for an enormous inflow of refugees and asylum-seekers. Indeed, political and economic migration, especially from the Mediterranean basin, are two sides of the same coin.

On the other hand, the Arab spring and its immediate and near-future consequences made it necessary to intensify the European Neighbourhood Policy with Southern Europe, with the past and present aim of intensifying and reinforcing prosperity and stability in this region.

The demographic situation in Europe and the MED countries is terribly uneven. While population growth in the European Union is stunted, in MED countries, particularly in some, this growth is very sizable. The age pyramid also shows two, opposite situations. In the EU, the over-60s population is considerable. However, in the MED countries, what stands out is the population of under-15s. In addition, other MED countries’ figures (e.g. poverty, labour market participation, women's labour market participation) also propitiate migration flows.

This report provides some quantitative data on migration by MED country citizens to Europe and their professional qualifications.

Moreover, there is a review of social security in some MED States that can be considered to have a proper protection system in place with a view to bilateral or multilateral coordination in the field of social security.

The study dwells on migration rules (Directives) of the European Union in connection with Social Security (equal treatment) and exporting pensions. European coordination rules are also examined, with special attention to Regulations 859/2003 and 1231/2010, which make Regulations 1408/71 and the 883/04 extensive to third-party nationals.

To date, one of the major problems of the EU’s social security policy in connection with the nationals of third states is that the great project of European legislative construction has been built in a self-centred manner, and thereforelacks reciprocity, bilaterality or mutual recognition. There has been no official negotiation with third states. The EU understands that, generally, its scope of action is the territory of the European Union and the social security systems of Member States. Thus, individuals — be they EU nationals or extra-EU citizens (MEDs) — who live and work in EU territory have certain entitlements that could be called internal or EU entitlements; however, these entitlements are dilutedwhen a social security system or territory of a third state are involved (for instance, when someone can prove social security contributions in the MED country of origin).

There are several examples of this included in this study, showing that shortfalls still exist, along with a persisting lack of protection not only for nationals of third states in Europe, but for European citizens working in a MED state’s territory.

For all these reasons, our work here is not done, nor can the cycle be considered closed**.** Indeed, globalisation requires additional effort and commitment in this area, essentially for three reasons: **First of all**, to safeguard the entitlements of migrant workers from MED third countries who might work for a period of time in the EU and, in addition, be able to accredit that they carried out covered work while working in their country of origin; **second**, to protect EU nationals on their work outside the EU, either on secondment or as migrants *strictu senso*. **Third**, to strengthen cooperation with neighbouring MED states and to develop a more socially active and just Mediterranean space that contributes to bringing values and principles closer together.

The first experiences in the area of coordinating systems with a certain external dimension and, above all, negotiated bilaterally by the European Union, are the Stabilization and Association Agreements with Tunisia, Morocco, Algeria, Israel, Montenegro, Turkey, FYROM and Albania, and the Decisions approved by the Council in 2010 and 2012 on the Coordination of Social Security Systems**.** The content of these Decisions is fourfold: Aggregation of all the periods covered only on EU territory, recognition of the principle of equal treatment in social security matters, export of pensions, and payment of family benefits in the territory of the EU.

It needs to be underlined that in order for these provisions to become effective it is necessary to have a formal Decision adopted by the corresponding Stabilization and Association Councils. Nevertheless, as of now, no Stabilization and Association Council has approved the EU proposal; therefore, these rules cannot be implemented, which does not benefit migrant workers of the EU or of MED in the least.

Many of the existing problems in coordinating social security systems are being solved through bilateral agreements between Member States and third states. However, this line of national action necessarily requires variable geometry, with each Member State defending its own interests and concluding bilateral Agreements based on its own criteria. Moreover, such Agreements are concluded with countries in their area of influence. Nevertheless, it is practically impossible for all 28 Member States to individually initiate negotiations with all MED countries or, vice versa, for all these countries, with EU Member States. Hence, there is no harmonisation of approaches or criteria which, in turn, leads to a lack of transparency and lack of coordination, which is detrimental to employees and companies.

On the other hand, bilateral Agreements are limited in scope, both in terms of their personal implementation, which covers, in some cases, only workers from signatory countries and, also, in connection with the material elements therein.

The EU has left external relations in social security matters exclusively and individually to Member States. Little by little, however, there is a growing trend demanding that the EU, as such, should negotiate and sign international agreements granting bi- or multilateral coverage that is more comprehensive than that offered by bilateral agreements. Legally, this option is covered under Article 216 of the TFEU.

But Member States, however, are very reluctant to lose their jurisdiction in the sphere of international relations, which is why it is necessary to begin a slow process to convince them in the medium-term to explore this possibility.

The various European institutions have already given their opinion on this option. For example, in 2012, the European Commission produced a Communication of far-reaching importance to this area: “***The External Dimension of EU Social Security Coordination***” in which it, generally, calls for a common European strategy in the coordination of social security systems regarding third states that complements national approaches and enables the role of the EU in the rest of the world to be strengthened. To this end, the EU agreements on social security constitute a channel that could be used. These EU agreements could be concluded, for instance, to address matters relative to double payments to social security or the export of pensions which, **according to the Commission, could be applied on a voluntary basis by Member States.**

The European Parliament has also been active and has clearly called for going beyond the bilateral framework and expanding the footprint of the EU's Social Security policy. In its Resolution of 14 March 2013 on the integration of migrants, its effects on the labour market and the external dimension of social security coordination systems in the EU reads as follows: "*Calls, therefore, for a uniform and reciprocal EU approach to social security coordination vis-à-vis third countries to be adopted, covering all EU citizens and third-country nationals, without prejudice to the rights of third-country nationals deriving from association agreements and developed by the European Court of Justice".*

Likewise, the 2012 opinion by the European Economic and Social Committee (EESC) on the external dimension of EU social security coordination stresses the following: "*This is why the EESC calls for a period of discussion on the need to strengthen a unified EU approach in the area of international social security through EU agreements or reciprocal cooperation policies with other global players."*

Furthermore, the Council has taken the first steps in this direction when it approved the coordination rules in the Decisions on coordination of the Social Security systems of the Association, Stabilization and Cooperation Agreements with Israel, Tunisia, Algeria, Morocco, Croatia, FYRM, San Marino, Albania and Turkey.

Hence, the idea of a European approach that goes beyond what is strictly bilateral is beginning to gain momentum in European institutions. In addition, for many Member States this approach can be attractive, and very interesting with a view to avoiding a bilateral negotiation that requires great efforts and produces relatively meagre results. Actually, bilateral negotiation is incomplete, which is why other alternatives are cropping up, the best examples of which are Regulation 883/04 and the Multilateral Ibero-American Social Security Agreement. In this sense, the protection of European citizens working in MED States would be better guaranteed through European multilateral Agreements or with a comprehensive Agreement on Social Security in the EUROMED space.

Likewise, MED States wish to protect all their migrant citizens who work on European territory as best they can. In fact, the comprehensive approach offers better protection, and is more efficient than the bilateral approach. Its Achilles' heel is the political and technical difficulty of making it a reality. However, this process is not going to be perfected overnight, but will require time, and, above all, awareness-raising.

One example of the success of multilateral coordination is the **Multilateral Ibero-American Social Security Agreement,** an international instrument concluded by several states in the Americas for the coordination of their national legislations on pensions (old age, disability or death). The **Multilateral Ibero-American Social Security Agreement** was signed on 10 November 2007. It entered into force on 1 May 2011, after ratification by seven States Parties to the Convention and its Administrative Arrangement. To date, these conditions have been met by Spain, Argentina, Bolivia, Brazil, Chile, El Salvador, Ecuador, Paraguay, Portugal and Uruguay. The great majority of Ibero-American States are party to this Agreement, although some of them have yet to ratify it. The Multilateral Agreement is the soulmate of Regulation 883/04 with which it shares principles, provisions and legal mechanisms. In this regard, especially in the multilateral arena, this Instrument is a model for the protection of migrant workers’ rights that can be used in other settings and spaces, such as EUROMED.

This study proposes a roadmap with Immediate Actions, Short-Term Actions, Medium-Term Actions and Long-Term Actions. Lastly, it outlines a series of recommendations to be presented at the EUROMED Summit of Economic and Social Councils on 24-25 October 2016.

The final conclusion of the present study could be summarised in two sentences: With a EUROMED Agreement on social security matters, the EUROMED space would be much more social and much more just. In addition, workers and entrepreneurs would participate much more intensely in EUROMED's political and social dimension, and would understand its inherent advantages much better.

\_\_\_\_\_\_\_\_\_\_\_\_\_