



**An Roinn Gnóthaí Fostaíochta
agus Coimirce Sóisialaí**
Department of Employment Affairs
and Social Protection

Aire Gnóthaí Fostaíochta agus Coimirce Sóisialaí

**Report by the Minister for Employment Affairs and
Social Protection to the Oireachtas in accordance
with the European Union (Scrutiny) Act 2002
for the period
1st July to 31st December 2019**

4th March 2020

1. Summary

Following the coming into force of the Regulation on a European Labour Authority on 1st August 2019, the activities of the Authority commenced in mid-October with the first meeting of its Management Board. The initial focus of the Authority is on recruiting staff and making appointments to the key positions in the Authority. It is expected that the Authority will reach its full operational capacity in 2024. Two Directives also came into force during the period – the Directive on Transparent and Predictable Working Conditions in the EU and the Directive on Work-Life Balance for Parents and Carers. The introduction of the new Parent’s Leave and Parent’s Benefit scheme in November 2019 commenced the phased implementation of the requirements of the Work-Life Balance Directive. In line with Council Recommendation on access to social protection for workers and the self-employed, cover for Jobseeker’s Benefit and the new Parent’s Benefit was extended to self-employed contributors from November 2019.

A number of measures were concluded during the first half of 2019 to ensure that the existing social security arrangements with the UK are maintained following Brexit. These measures included the agreement of a Convention on Social Security between Ireland and the UK, which will be given effect as required. The Department continued its input into the wider Government deliberative process on Brexit during the remainder of the year.

2. Introduction

This report sets out the legislative and other significant developments at EU level in the employment affairs and social protection areas during the period from 1st July to 31st December 2019, as required in accordance with the European Union (Scrutiny) Act 2002.

Most of the employment affairs and social protection activities at EU level fall within the ambit of the Employment, Social Policy, Health and Consumer Affairs Council ([EPSCO](#)). The work of EPSCO also involves other activities apart from employment affairs and social protection matters, for which a number of other Government Departments have responsibility and these Departments report separately on EPSCO developments in the following areas –

- Department of Justice and Equality in relation to equality and anti-discrimination matters,
- Department of Business, Enterprise and Innovation in relation to occupational health and safety and industrial relations matters,
- Department of Education and Skills in relation to skills and training matters, and
- Department of Health in relation to healthcare matters.

3. Legislative Developments

Four legislative items were adopted by the Council at the June 2019 EPSCO meeting and came into force during the period covered by this report –

- Regulation on a European Labour Authority,
- Directive on Transparent and Predictable Working Conditions in the EU,
- Directive on Work-Life Balance for Parents and Carers, and
- Decision on Employment Guidelines.

A proposal for a Decision of the European Parliament and of the Council on Enhanced Cooperation between Public Employment Services was published in September 2019 and further negotiations between the Parliament and the Council took place on the Revision of the EU Regulations on the Coordination of Social Security Systems.

3.1 Regulation on a European Labour Authority (COM (2018) 131)

As part of its Social Fairness Package, the Commission launched a proposal for a Regulation establishing a European Labour Authority on 13th March 2018. Following agreement with the European Parliament, Regulation (EU) 2019/1149 was adopted by Council at the June 2019 EPSCO meeting (see [Report for January to June 2019](#) for further details).

Regulation (EU) 2019/1149

[Regulation \(EU\) 2019/1149](#) came into force on 1st August 2019 and establishes a [European Labour Authority](#) (ELA) with the aim of fostering agile and efficient work, conducive to reaching solutions to the challenges faced in the areas covered by the Regulation. The Authority will –

- contribute to ensuring that EU rules on labour mobility and social security coordination are enforced in a fair, simple and effective way,
- make it easier for citizens and businesses to reap the benefits of the internal market, and
- assist national authorities in cooperating for the effective enforcement of the rules.

Following consideration of offers from Bulgaria, Cyprus, Latvia and Slovakia, Member States agreed in June 2019 that the seat of the new agency should be in Bratislava, Slovakia. The activities of the ELA started in mid-October 2019 with the first meeting of its Management Board and the process of recruiting the key staff of the Authority has commenced. The ELA is expected to reach its full operational capacity by 2024, when it is estimated it will have approximately 140 staff, of which some 60 will be experts seconded from Member States. The ELA's annual budget will be around €50 million.

3.2 Directive on Transparent and Predictable Working Conditions in the EU (COM (2017) 797)

As part of the follow-up to the European Pillar of Social Rights, the European Commission published proposals in December 2017 for a Directive on transparent and predictable working conditions in the EU in order to update and replace the Written Statement Directive (91/533/EEC) to take account of changes in the world of work in the intervening period, including, in particular, the increase in atypical employment contracts. Following agreement with the European Parliament, this Directive was adopted by the Council at the June 2019 EPSCO meeting (see [Report for January to June 2019](#) for further details).

Directive (EU) 2019/1152

[Directive \(EU\) 2019/1152](#) on Transparent and Predictable Working Conditions in the EU came into effect on 1st August 2019 and sets new rights for all workers, particularly addressing insufficient protection for workers in more precarious jobs, while limiting burdens on employers and maintaining labour market adaptability. In particular, the Directive provides that all workers in the EU will have the right to –

- more complete information on the essential aspects of the work, to be received early by the worker, in writing,
- a limit to the length of probationary periods at the beginning of the job,
- seek additional employment, with a ban on exclusivity clauses and limits on incompatibility clauses,
- know a reasonable period in advance when work will take place, for workers with very unpredictable working schedules, as in the case of on-demand work,
- anti-abuse legislation for zero hour contract work,
- receive a written reply to a request to transfer to another more secure job, and
- receive cost-free the mandatory training that the employer has a duty to provide.

Member States have 3 years up to 1st August 2022 in which to transpose this Directive and work is underway for its transposition into Irish law in advance of this deadline. The transposition of this Directive will be informed by the close co-operation that was achieved with both employer and employee representative groups in implementing similar policy proposals in the Employment (Miscellaneous Provisions) Act 2018.

3.3 Directive on Work-Life Balance for Parents and Carers (COM (2017) 253)

The European Commission published proposals for a Directive on Work-Life Balance for Parents and Carers in April 2016 aimed at increasing female labour market participation by encouraging an equal sharing of care responsibilities between women and men.

While the provisions of this Directive relate, in the main, to statutory entitlements to various forms of family leave, for which the Department of Justice and Equality has responsibility, a number of aspects of this Directive relating to paid paternity, parental and carers' leave have social protection implications. Following agreement with the European Parliament, this Directive was adopted by the Council at the June 2019 EPSCO meeting (see [Report for January to June 2019](#) for further details).

Directive (EU) 2019/1158

[Directive \(EU\) 2019/1158](#) on Work-Life Balance for Parents and Carers came into force on 2nd August 2019. The main elements of the Directive are –

- the introduction of paternity leave: under the directive, fathers must be able to take at least 10 working days of paternity leave around the time of birth of their child, compensated at least at the level of sick pay,
- ensuring that two out of the four months of parental leave are non-transferable between parents and compensated at a level that is determined by the Member State,
- the introduction of carers' leave: workers providing personal care or support to a relative will be entitled to five days of leave per year, and
- the extension of the right to request flexible working arrangements to carers and working parents of children up to eight years old.

The directive is also accompanied by a set of policy measures that are designed to support Member States in achieving the aims of better work-life balance and more equally distributed caring responsibilities. These include –

- encouraging the use of European funds to improve the provision of formal care services,
- ensuring protection for parents and carers against discrimination or dismissal, and
- removing economic disincentives for second earners within families.

Member States have 3 years up to 2nd August 2022 in which to generally transpose the provisions of this Directive and there is a 2 year extension to 2nd August 2024 to implement some aspects of the paid parental leave period. Work is underway for its transposition into Irish law in advance of this deadline. As a first step towards the phased implementation of the provisions of this Directive, a new 2 week [Parent's Leave and associated Parent's Benefit scheme](#) was introduced with effect from 1st November 2019.

3.4 Council Decision on Employment Guidelines (COM (2019) 151)

As part of its European Semester Winter 2019 Package, which was published on 27th February 2019, the European Commission adopted a proposal to maintain the 2018 Council Decision on guidelines for the employment policies of the Member States. The Employment Guidelines present common priorities and targets for national employment policies (see [Report for January to June 2019](#) for further details).

Council Decision (EU) 2019/1181

Following its adoption by Council at the June 2019 EPSCO meeting, [Council Decision \(EU\) 2019/1181](#) on guidelines for the employment policies of Member States came into force on 8th July 2019.

3.5 Decision on Enhanced Cooperation between Public Employment Services (COM (2019) 620)

Background

The European Commission published a [proposal](#) for a Decision of the European Parliament and of the Council amending Decision No 573/2014/EU on enhanced cooperation between Public Employment Services (PES) on 11th September 2019. [Decision No 573/2014/EU](#) establishes the European Network of Public Employment Services and this Network was to run until 31st December 2020. The European Network brings together the PES of all EU Member States, as well as Norway and Iceland and also involves the European Commission.

The Network has been established to contribute to the [European Employment Strategy](#) to create more and better jobs throughout the EU, as an integral part of the Europe 2020 growth strategy. The Network promotes cooperation among PES and supports them in boosting their performance and preparing for future labour market challenges. It implements an EU wide bench learning initiative (combining benchmarking and mutual learning) aimed at enhancing PES capacity, effectiveness and efficiency.

The aim of this proposal is to prolong the period of the establishment of the European Network until 31st December 2027 in order to capitalise on the results achieved so far, to further foster and encourage cooperation between PES and to continue to contribute to modernising and strengthening EU-wide PES. In order to ensure a seamless continuation of the Network's activities, it is proposed that this latest Decision should apply from 1st January 2021.

Progress in Council

Discussions at Council commenced in September 2019, when there was wide support among Member States for this Decision, and these discussions are continuing during the [Croatian Presidency](#).

Irish Position

Ireland is supportive of the Decision to extend the European Network until 2027 as it will support the development and effectiveness of the Irish Public Employment Services by providing a very useful tool in terms of benchmarking and mutual learning.

3.6 Revision of EU Regulations on Coordination of Social Security Systems (COM (2016) 815)

Background

The European Commission published proposals in December 2016 for the revision of the EU Regulations on the Coordination of social security systems. These proposals focus on a number of areas of coordination where it is considered that improvements are required, i.e. –

- access to social benefits for economically inactive EU citizens,
- coordination of Long-Term Care Benefits,
- Unemployment Benefits for cross-border workers,
- Family Benefits which replace income during child-raising periods, and
- applicable legislation in the case of posted workers.

The proposals also provide for a number of technical amendments to the procedures of the recovery of social security benefits and contributions, cross-border data sharing and the calculation of benefits and costs to be reimbursed between Member States.

The Council agreed its overall negotiation position on these revisions in June 2018 (see Report for January to June 2018 for further details) and the European Parliament adopted its position in December 2018 (see [Report for January to June 2019](#) for further details).

Interinstitutional Negotiations (Trilogues)

Negotiations between the European Parliament, the Council and the European Commission commenced in January 2019 and focussed, in particular, on what the Parliament considered were the more “political” aspects of the revisions, i.e. unemployment benefits for cross-border workers and the applicable legislation in the case of posted workers. Despite intensive efforts, it was not possible to reach agreement in the limited time available before the Parliament completed its term in advance of the May 2019 European Parliament elections.

Following the European elections, the [Finnish Presidency](#) recommenced negotiations with the new Parliament in October 2019. Although the Finnish Presidency secured Council approval for a new negotiating mandate in relation to the “political” aspects of the revisions, little progress was made in the subsequent discussions with the Parliament. The [Croatian Presidency](#) is examining how best to progress the negotiations with the European Parliament.

3.7 Transposition of Directive 2014/50/EU on the Acquisition and Preservation of Supplementary Pension Rights

[Directive 2014/50/EU](#) on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights aims to facilitate the exercise of the right of workers to freedom of movement between Member States by reducing the obstacles created by certain rules concerning supplementary pension schemes linked to an employment relationship. While existing Irish pensions law was already compliant with many aspects of this Directive, some minor and technical amendments to the Irish pensions legislation were necessary in order to fully transpose this Directive.

The Occupational Pension Schemes (Disclosure of Information) (Amendment) Regulations 2019 ([S.I. No. 239 of 2019](#)) and the European Union (Supplementary Pension Rights) Regulations 2019 ([S.I. No. 447 of 2019](#)) make the necessary amendments to fully transpose Directive 2014/50/EU by –

- providing that survivors getting pensions from defined benefit schemes can request information relating to the value and conditions governing the treatment of their benefits, and
- specifying certain requirements in respect of active scheme members whose current employment relationship terminates for reasons other than becoming eligible for a supplementary pension and who move between Member States, including the right to a refund of pension contributions where such workers are not entitled to a preserved benefit under a scheme and that a maximum waiting period of 12 months is to apply to such workers for the purposes of becoming a member of a scheme.

4. Other Significant Developments

4.1 Brexit

During the first half of 2019, work focussed on a number of measures to ensure existing social security arrangements with the UK would be maintained post-Brexit. These measures included the signing of a [Convention on Social Security](#) between the Governments of Ireland and of the United Kingdom which provides a legal basis for maintaining all of the existing arrangements with regard to the recognition of, and access to, social insurance entitlements in both jurisdictions following Brexit (see [Report for January to June 2019](#) for further details).

The Department's input into the wider Government deliberative process on Brexit continued during the second half of 2019 and, while planning for all scenarios, particular focus centred on contingency planning arrangements in the event of a no-deal Brexit.

A Brexit Liaison Group, comprising representatives from Government Departments and State Agencies and chaired by the Department of Employment Affairs and Social Protection was established. This was to ensure that, in the event of firms experiencing a downturn related to Brexit, a cross-Government early warning framework is in place, with a multi-agency team to respond as required. Scenario planning events were held in various locations nationwide to ensure regional coordination.

4.2 Access to Social Protection for Workers and the Self-employed (COM (2018) 132)

A proposal for a Council Recommendation on access to social protection for workers and the self-employed was launched by the Commission in March 2018 and was adopted by the Council at the meeting of the [Education, Youth, Culture and Sport Council](#) on 8th November 2019 (see [Report for July to December 2018](#) for further details).

[Council Recommendation \(2019/C 387/01\)](#) aims to encourage Member States to –

- close formal coverage gaps by allowing all workers and the self-employed to adhere to social protection schemes, and
- foster adequate effective coverage by taking measures to allow all workers and the self-employed to build up and take up social benefits as members of a scheme and facilitating the transfer of social protection benefits between schemes.

The Recommendation applies to the social protection branches for unemployment, sickness and healthcare, maternity and paternity, invalidity, old age and survivors' benefits and accidents at work and occupational diseases.

Irish Position

Ireland is broadly supportive of this Recommendation. As provided for in Budget 2019, Jobseeker's Benefit was extended to the self-employed from 1st November 2019 and the new Parent's Benefit, which was introduced from 1st November 2019, also applies to the self-employed.

4.3 Electronic Exchange of Social Security Information (EESSI)

The EU provides [common rules](#) to protect a person's social security rights when moving within Europe. These rules, which are set out in EU Regulation No. 883/2004 and EU Regulation No. 987/2009 on the Coordination of Social Security Systems, provide that a person moving within Europe is only liable to pay social security contributions in one country. In addition, where a person has moved to work in another country, previous periods of insurance or work are taken into account, if necessary. In order to support these rules it is necessary for the social security institutions in the different EU countries to cooperate closely and to exchange relevant information.

At the moment most exchanges are paper-based and this can result in long delays and information being sent to the wrong institution, particularly where there are large numbers of social security institutions operating in a Member State. In order to provide for a faster and more efficient exchange between the social security institutions, a new IT system is being developed in partnership between the European Commission and EU countries.

The [Electronic Exchange of Social Security Information](#) (EESSI) will enable institutions to exchange information electronically and this will speed up exchanges between national social security institutions. EESSI will allow institutions to handle individual cases more quickly and will facilitate a faster calculation and payment of benefits. The electronic exchange of information will also introduce safeguards to ensure that the data is exchanged securely between institutions and that this data is correct and complete.

Work on implementing EESSI in Ireland is at an advanced stage and the electronic exchange of information relating to family benefits and to old age, survivors and invalidity pensions began during 2019. Implementation of EESSI to the other areas of social security is continuing on a phased basis, with the aim of fully implementing EESSI in Ireland during the second half of 2020.

5. Oireachtas Scrutiny of Relevant Proposals during July to December 2019

COM Number	Subject	Date Examined by Oireachtas Committee	Current update on Proposal
COM (2019) 620	Proposal for a Decision of the European Parliament and of the Council amending Decision No 573/2014/EU on enhanced cooperation between Public Employment Services (PES)	The proposal was scrutinised by the Joint Committee on Employment Affairs and Social Protection its meeting of 24 th October 2019 and the Committee agreed that it did not require further scrutiny.	This proposal was published by the Commission on 11 th September 2019. It is currently being considered by the Council's Social Questions Working Party.

6. Significant Developments Anticipated during the period from January to June 2020

In the legislative area, the [Croatian Presidency](#) will be progressing the Decision on Enhanced Cooperation between Public Employment Services and will be examining how best to progress the negotiations with the European Parliament on the revision of the EU Regulations on the coordination of social security systems.

The [European Commission's Work Programme for 2020](#) includes a number of initiatives in relation to social protection and employment policy matters. In the first half of the year, under the umbrella of a "Strong Social Europe for Just Transitions", the Commission is planning to launch initiatives relating to minimum wages and reinforcing the [Youth Guarantee](#) and to develop an action plan for the implementation of the [European Pillar of Social Rights](#).

Following the ratification of the Withdrawal Agreement by the UK and the European Parliament and the UK's subsequent withdrawal from the EU on 31st January 2020, the UK has entered a transition period lasting until at least 31st December 2020 during which the EU acquis will continue to apply. Following the end of this transition period, the [Convention on Social Security](#) between Ireland and the UK will be given effect as required.

The EU will develop a mandate to form the basis for negotiating the future relationship with the UK, drawing on the principles contained within the Political Declaration. In addition preparatory measures relating to the implementation of the Withdrawal Agreement will be undertaken, including measures relating to citizens rights. The Department of Employment Affairs and Social Protection will continue to contribute to and monitor all developments in the EU/UK social security coordinating arrangements concerning the future relationship negotiations and the implementation of the Withdrawal Agreement provisions. The Department will continue to participate in interdepartmental groups and cross Government planning.

7. Some Useful Websites

Links to a number of relevant websites where further information may be obtained –

<p>Department of Employment Affairs and Social Protection:</p> <ul style="list-style-type: none"> - General Information - Information on moving to or from Ireland - Information on Brexit - Previous 6-monthly reports to Oireachtas 	<p>http://www.welfare.ie/en/Pages/home.aspx</p> <p>http://www.welfare.ie/en/Pages/Moving-to-or-from-Ireland.aspx</p> <p>https://www.gov.ie/en/organisation-information/96847e-brexit-update-deasp/</p> <p>http://www.welfare.ie/en/Pages/EU-Policy.aspx</p>
Department of Business, Enterprise and Innovation	https://dbei.gov.ie/en/
Department of Justice and Equality	http://www.justice.ie/
Department of Education and Skills	https://www.education.ie/en/
Department of Health	https://www.gov.ie/en/organisation/department-of-health/?referrer=/
Employment and Social Affairs Committee of the European Parliament	http://www.europarl.europa.eu/committees/en/empl/home.html
Employment, Social Policy, Health and Consumer Affairs Council (EPSCO)	http://www.consilium.europa.eu/en/council-eu/configurations/epsco/
European Commissioner for Jobs and Social Rights	https://ec.europa.eu/commission/commissioners/2019-2024/schmit_en
European Commission Directorate for Employment, Social Affairs and Inclusion	http://ec.europa.eu/social/home.jsp?langId=en
European Labour Authority	https://ela.europa.eu/
Government Brexit Information	https://www.dfa.ie/brexit/
<p>Presidency of the European Union:</p> <ul style="list-style-type: none"> - Croatian Presidency - Finnish Presidency - Romanian Presidency 	<p>https://eu2020.hr/</p> <p>https://eu2019.fi/en/frontpage</p> <p>https://www.romania2019.eu/home/</p>

