



**MEMORANDUM ON A PROPOSAL FOR A COUNCIL DECISION ON THE
POSITION TO BE TAKEN BY THE COMMUNITY WITHIN THE
ASSOCIATION COUNCIL CREATED BY THE EURO-MEDITERRANEAN
AGREEMENT ESTABLISHING AN ASSOCIATION BETWEEN THE
EUROPEAN COMMUNITIES AND THEIR MEMBER STATES, OF THE ONE
PART, AND THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA, OF
THE OTHER PART, WITH REGARD TO THE ADOPTION OF PROVISIONS
ON THE COORDINATION OF SOCIAL SECURITY SYSTEMS (COM (2007)
790 FINAL)**

Implementing Ministry	Ministry for the Family and Social Solidarity (MFSS)	
Participating Ministries	Ministry of Health, the Elderly and Community Care (MHEC)	
Originating Department / Entity	Social Security Division, MFSS	
Approvals	Cabinet (28 January 2008)	Inter-Ministerial Committee for European Union Affairs (18 January 2008)
Copy	Permanent Representative to the EU	Permanent Secretary, MFSS
	Permanent Secretary, MHEC	
	Director EU Affairs, MFSS	Director EU Affairs, MHEC
Reference Documents	COM (2007) 790 final	
DMS Reference Number	ESH SOCIALG 180108	
Signature	Minister for the Family and Social Solidarity	

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1 Background

- 1.1 Article 70 of the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the People's Democratic Republic of Algeria, of the other part, lays down that the Association Council shall adopt provisions to implement the principles on the co-ordination of social security systems set out in Article 68 of this Agreement before the end of the first year following its entry into force.
- 1.2 At Community level, Member States' social security systems are coordinated by Regulation (EEC) No 1408/71 and its implementing Regulation (EEC) No 574/72. Articles 68-71 of the Agreement with Algeria contain provisions for limited co-ordination between the social security systems of Member States and Algeria. A Decision of the Association Council established by the Agreement is required in order that the principles set out in Article 68 can take effect. In order to establish the position to be taken by the Community in this Association Council, a Council Decision is necessary. Council Regulation (EC) 859/2003 extends the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) 574/72 to nationals of third countries who are not already covered by those provisions solely on the grounds of their nationality. This Regulation already covers the principle of aggregation of insurance periods acquired by Algerian workers in the various Member States regarding entitlement to certain benefits, as set out in Article 68 (2) of the Agreement with Algeria.
- 1.3 The proposed Decision of the Association Council fulfils the requirement of Article 70 of the Agreement with Algeria for such a Decision, in order to put in place the social security principles contained in Article 68. The Decision therefore contains implementing provisions with regard to those provisions of Article 68 of the Agreement with Algeria which are not already covered by Regulation (EC) 859/2003 or declared by the Court to be directly applicable, such as the non-discrimination clause contained in Article 68(1).
- 1.4 Moreover, the proposed Decision of the Association Council ensures that the provisions on the export of benefits and the granting of family benefits also apply, by way of reciprocity, to EU workers legally employed in Algeria and to their family members legally resident in Algeria.

2 Legal basis

2.1 Basic Treaties

- 2.1.1 Articles 300(2) and 310 of the EC Treaty.

2.2 European Parliament's involvement in decision-making procedure

- 2.2.1 Consultation procedure: The European Parliament is consulted and gives an opinion. The Council, however, takes the final decision on the Proposal.

2.3 Majority required in Council

- 2.3.1 Unanimity.

3 Malta's position

3.1 *Malta's position on the dossier in concrete terms*

The following is the consolidated position of the Ministries concerned (Implementing: Ministry for the Family and Social Solidarity; Participating: Ministry of Health, the Elderly and Community Care) with regard to the Proposal for a Council Decision on the position to be taken by the Community within the Association Council created by the Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the Republic of Algeria, of the other part, with regard to the adoption of provisions on the co-ordination of the social security systems.

- 3.1.1 Article 68 of the Association Agreement which the EU has with Algeria specifies that workers from the Republic of Algeria and members of their families living with them shall enjoy, in the field of social security, treatment free from any discrimination based on nationality relative to nationals of the Member States in which they are employed. This also applies, by way of reciprocity, to EU nationals working in the Republic of Algeria. However, the proposed Decision limits the benefits which may be exported to Algeria to pensions in respect of old-age, survivor status, industrial accidents or occupational disease, or of invalidity resulting from an industrial accident or occupational disease (except special non-contributory benefits).
- 3.1.2 From Article 68(1) of the Association Agreements, it is evident that the proposed Decision will not impose the aggregation principles on Member States, that is, if an Algerian worker worked in Malta, another EU Member State and Algeria, the aggregation principle only applies in the case of Malta and the other EU Member State. Malta does not think that there will be any added burdens as a direct result of the proposal as an Algerian national who is legally residing and working (and paying social security contributions) in Malta will be automatically covered by the national social security system and will receive any benefits included under the Social Security Act (Cap.318) due to him. Furthermore, if the worker is accompanied with his family during his employment in Malta, he will be eligible to apply for family benefits. On the other hand, if a Maltese worker happens to work in Algeria he will have some extra social cover with this Decision.
- 3.1.3 The proposed Decision contains implementing provisions for the coordination of the social security systems contained in Article 6e of the EU- Algeria Association Agreement which are not already covered by Regulation 859/2003/EC (extending the provisions of Regulation 1408/71/EEC and Regulation 574/72/EEC to nationals of third countries who are not already covered by those provisions solely on the grounds of their nationality) or declared by the Court to be directly applicable. The proposed Decision contains provisions for limited co-ordination (no aggregation, limited exports) between the social security systems of Member States and Algeria, which Malta can accept.
- #### 3.2 *Economic and financial repercussions of the dossier*
- 3.2.1 There might be some financial implications for national social security institutions resulting from the application of these proposals, since they have to provide, for example, the benefits as described in Article 68 of the Agreement with Algeria. However, this Article only concerns

persons who are or have been contributing to the national social security system of the country concerned, as provided for under its national legislation. In any case, it may be difficult to gauge the precise impact of these proposals on the national social security systems at this stage although this expected to be minimal.

4 National Context

4.1 Internal Consultations

4.1.1 Internal Consultations were carried out with the Ministry of Health, the Elderly and Community Care.

4.2 External Consultations

4.2.1 N/A

4.3 Related national legislation

4.3.1 Social Security Act (Cap.318)

4.4 Changes required in national legislation

4.4.1 No changes required.