Joint Declaration from Belgium, Denmark, Germany, Cyprus, Luxembourg, Malta, Netherlands and Austria on the revision of the Unemployment Benefits Chapter in Regulations (EC) No 883/2004 and 987/2009

With this joint declaration Belgium, Denmark, Germany, Cyprus, Luxembourg, Malta, Netherlands and Austria wish to express our grave concerns regarding the general approach of the Council reached on EPSCO June 21, 2018 on the revision of the Unemployment Benefits Chapter in Regulations (EC) No 883/2004 and 987/2009, particularly regarding the aggregation of periods, cross-border and frontier workers and transitional periods. We find the agreed text unbalanced. The goal of fair burden sharing is in our opinion not achieved. Our unemployment benefit schemes are now less protected and the main purpose of unemployment schemes to get unemployed persons as quickly as possible back to work could be endangered.

We believe that a closer connection with the Member State of last activity should exist in the aggregation situation, and that it is essential that the mobile worker has established a genuine link with the labour market of the Member State of last activity before receiving unemployment benefits. We believe that the proposal for increasing the period of prior affiliation with the Member State of last activity has not been adequately addressed. The European Commission's proposal on the requirement of a minimum qualifying period of an uninterrupted period of at least three months' insurance, employment or self-employment in the Member State of last activity has been reduced to one month thus creating greater disparity between the positions of the different Member States. A period of one month of insurance, employment or self-employment is not sufficient to establish a genuine connection to the labour market in the Member State of last activity. In the spirit of compromise a period of 3 months may be considered a step in the right direction. The Member State of last insurance should have the right to forego the 3 months condition, and apply aggregation for the unemployed person and provide unemployment benefits in accordance with its national legislation.

As regards cross-border and frontier workers, we would like to stress that the unemployment benefit is not a regular wage loss benefit. In principle, it provides a replacement income, with the emphasis on getting the unemployed person back to work as quickly as possible. We are of the opinion that the employment services in the Member State of residence have better prerequisites for and possibilities of assisting the unemployed in finding a new job and of ensuring that the conditions for receiving unemployment benefits are actually complied with. For the system to work, the incentives must be in the right place: payment of the benefit and control and activation measures should go hand in hand. While changes in the unemployment chapter should focus on improving the existing regulatory framework by stimulating cross-border cooperation between Member States to achieve work resumption, the Presidency's proposal switches the competence for the payment of the benefit from the Member State of residence to the Member State of last employment. The proposal thereby insufficiently reflects the special nature of unemployment benefits and ignores the fact that work resumption is a key issue that needs to be addressed.

On this basis, the Member States signing this declaration are of the opinion that the competence for cross-border and frontier workers should remain unchanged, namely that the Member State of residence should remain the competent Member State to provide unemployment benefits. If the existing reimbursement mechanism is perceived as a problem by some Member States, then work should focus on reimbursement to achieve a better solution.

Furthermore, a shift of competence regarding cross-border and frontier workers will trigger disproportionate administrative burdens and have significant financial impacts on national systems, as

entire processes and work-streams would have to be fundamentally overhauled. It is also essential to stress notable differences in the cross-border components of their labour markets.

For these reasons, we cannot agree to the modifications proposed by the Presidency. Our compromise proposals have not been accepted. In addition, we are of the opinion that these modifications require significant and lengthy preparatory work at the level of national administrations. This would mean that the transitional period for the unemployment benefits chapter has to allow for sufficient time to account for the implementation of appropriate processes. We find that seven years is an appropriate period to ensure a well-functioning implementation.