

Coordination of social security systems: amending Annexes

2006/0008(COD) - 17/12/2008 - Council position

The Council unanimously adopted its common position with a view to the adoption by the European Parliament and the Council of a Regulation amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the contents of its annexes. This common position incorporates, as desired by the European Parliament following an agreement concluded with the Council on this issue, the content of a parallel proposal (which is now obsolete) also aiming to amend the annexes to Regulation (EC) No 883/2004 on the coordination of social security systems (former procedure COD /2007/0129). The common position therefore focuses on the two initial proposals merged in a single text.

Regarding the amendments adopted by the European Parliament at first reading (which were all accepted by the Commission in its amended proposal), the Council decided to follow the Commission in accepting, in part or in full, 70 of the 77 amendments adopted at first reading, and in rejecting 7 amendments for the following reasons:

(1) the right of the members of the family of a frontier worker to receive health care in the Member State where the worker is employed on the same conditions as those which are applicable to him/her : Article 18(2) of the basic Regulation provides that "the members of the family of a frontier worker shall be entitled to benefits in kind during their stay in the competent Member State, unless this Member State is listed in Annex III". Annex III of the basic Regulation lists the seven Member States which apply restrictions of the rights to benefits in kind for members of the family of a frontier worker. The amendment of the European Parliament (to which three amendments closely relate) states that a new paragraph 10a should be inserted into Article 87 of the basic Regulation which would provide that "Annex III shall be repealed 5 years after the date of application of the Regulation." After several debates between delegations (some of which were opposed to this amendment), a compromise solution was eventually reached, in view of the importance of this issue for the European Parliament. The solution, which was reached unanimously by the delegations, can be summarised as follows:

- Articles 18(2) and 28(1) of the basic Regulation would be amended to provide that Annex III would be reviewed 5 years after its application; and
- a new paragraph (10a) would be added to Article 87 of the basic Regulation to provide that the period of validity of some Member States' entries in Annex III would be limited to 4 years.

(2) Annex II to the basic Regulation on bilateral conventions: in point 36 of this Annex, under the Portugal-United Kingdom entry, Parliament includes a reference to Article 2(1) of the Protocol on medical treatment of 15 November 1978 which is already covered by Annex III of Council Regulation (EEC) No 1408/71. This Protocol does not appear in Annex II in the Council's common position as the two Member States concerned have indicated that they have decided not to apply Article 2(1) of this Protocol as from 1 September 2008.

(3) maintain the entry "Italy" in Annex IV of the basic Regulation: a European Parliament amendment aims, inter alia, to maintain the entry "Italy" in Annex IV of the basic Regulation which provides that the Member States listed in this Annex will provide more rights for pensioners returning to the competent Member State (Article 27(2) of the basic Regulation). This amendment was not acceptable to the Council acting on the basis of unanimity. The Italian competent authorities reassessed their position,

preferring not to grant, for the time being, additional rights for pensioners. In the light of these new developments, the Commission proposed that the entry "Italy" be deleted from Annex IV. The Italian delegation could go along with the Commission's proposal.

Moreover, the Council introduced a series of additional technical changes, which include: (i) changes in relation to benefits for accidents at work or occupational diseases; (ii) details on the maximum time period during which a person will be subject to the legislation of a Member State other than the one determined in accordance with Title II of Council Regulation (EEC) No 1408/71.

General conclusions: the Council welcomes the spirit of cooperation which prevailed with the European Parliament during the first reading of the Regulation, which allowed the two institutions already to reduce the scope of potential disagreement to a very large extent. It considers that its common position goes largely in the direction of the concerns voiced by Parliament and looks forward to pursuing this constructive discussion with the European Parliament, with a view to reaching final agreement on this complementary legislation as soon as possible.