

Social security: implementing Regulation (EC) No 883/2004 on the coordination of the social security systems

2006/0006(COD) - 16/09/2009 - Final act

PURPOSE : to reform and modernise the rules for applying Regulation (EC) No 883/2004 on the coordination of social security systems and to delete Regulation 574/72/EEC.

LEGISLATIVE ACT : Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.

CONTEXT : Community provisions on the coordination of social security systems date back to the early years of the European Economic Community and were introduced in place of harmonising Member States' legislation on social security systems. The rules on the coordination of national social security systems were coordinated by Regulation (EEC) No 1408/71 and its implementing regulation, Regulation (EEC) No 574/72. [Regulation \(EC\) No 883/2004](#) is intended to replace Regulation (EEC) No 1408/71. However, the new rules on coordination in Regulation (EC) No 883/2004 cannot be applied until the corresponding implementing regulation has been adopted to replace Regulation (EEC) No 574/72. This is the objective of this Regulation which modernises and simplifies the rules.

CONTENT : following agreement at second reading with the European Parliament, the Council adopted two regulations modernising and simplifying the coordination of Member States' social security systems. The two regulations are this one and the parallel Regulation (EC) No 883/2004 determining the content of its annexes, in particular in order to take into account the requirements of Member States which have acceded to the EU since the regulation was adopted (29 April 2004).

The adoption of the two new regulations will allow the new EU social security coordination rules (i.e. Regulation (EC) No 883/2004 and the implementing Regulation) to be applied **from 1 March 2010**. The new EU social security coordination rules are designed to make it easier for citizens to exercise their right to move freely in the EU, whether for study, leisure or for professional reasons, by guaranteeing that they are not disadvantaged in terms of social security.

Main principles and objectives of the reform: this Regulation is intended to simplify and modernise the provisions of Regulation (EEC) No 574/72 by strengthening cooperation between social security institutions and improving the methods of data exchange between social security institutions.

Extension of scope: the new rules extend the material and personal scope of the current provisions on the coordination of social security systems, and reinforce cooperation obligations between the competent authorities of Member States.

In addition to the traditional branches of social security (e.g. sickness, maternity, invalidity, retirement, accidents at work, unemployment, family benefits), the new rules also cover pre-retirement schemes.

Personal scope: the new regulations apply to all EU citizens who are or who have been covered by the social security legislation of one of the Member States (as well as their family members and survivors). This means that in addition to employees, self-employed persons, civil servants, students and pensioners "non-active persons" (e.g. persons who are in a social security system covering all residents but who do

not exercise a paid activity, such as persons taking care of the home) will also be protected by the coordination rules.

Retention of basic rules: the basic principles of the current Regulation (EC) No 1408/71, are maintained. These include:

-single applicable legislation (a person is subject, in principle, to the social security law of one country only, which is, as a general rule, the country where the person is working);

-equal treatment (in any Member State, anyone covered by the rules has the same rights and obligations as the nationals of that Member State);

-the export of benefits (a person cannot lose their right to a social security benefit merely by living in the territory of another Member State);

-the totalisation of periods (insurance periods are added together).

Introduction of new rules on good administration : Regulation (EC) No 883/04 also introduces the principle of good administration, obliging the institutions of Member States to increase cooperation and mutual assistance, in order to avoid a citizen being sent endlessly from pillar to post between one institution and another. The institutions responsible are also obliged to respond to any request within a reasonable period of time and to communicate to the persons concerned all the information required to safeguard their rights. In return, the persons concerned should inform the institutions about any change in their situation which may affect their claim to benefit.

The transmission of data between the institutions or the liaison bodies must be carried out by electronic means through the access points under a common secure framework that can guarantee the confidentiality and protection of exchanges of data.

Main improvements to the existing rules : the Regulation makes the following improvements to the rules on social security :

Administrative arrangements: Member States, their competent authorities and the social security institutions will have the option of agreeing among themselves on simplified procedures and administrative arrangements which they consider to be more effective and better suited to the circumstances of their respective social security systems.

Identification of competent authority : to determine the competent institution, namely the one whose legislation applies or which is liable for the payment of certain benefits, the circumstances of the insured person and those of the family members must be examined by the institutions of more than one Member State. To ensure that the person concerned is protected for the duration of the necessary communication between institutions, provision will be made for provisional membership of a social security system.

Determination of place of residence: Member States are required to cooperate in determining the place of residence of persons to whom this Regulation and Regulation (EC) No 883/2004 apply and, in the event of a dispute, take into consideration all relevant criteria to resolve the matter, such as those set out in the Regulation.

Mobility of employees and unemployed persons: the Regulation provides for measures and procedures to promote the mobility of employees and unemployed persons. Frontier workers who have become wholly unemployed may make themselves available to the employment services in both their country of residence and the Member State where they were last employed. However, they will be entitled to benefits only from their Member State of residence;

Better information for persons concerned: informing the persons concerned of their rights and obligations is a crucial component of a relationship of trust with the competent authorities and the Member States' institutions. Information must include guidance on administrative procedures. The persons concerned may include, depending on the situation, the insured persons, their family members and /or their survivors or other persons.

Provisions on cost: certain procedures also reflect the need for a balanced sharing of costs between Member States. In particular in the area of sickness, such procedures will take account of the position of Member States which bear the costs of allowing insured persons access to their healthcare system and the position of Member States whose institutions bear the cost of benefits in kind received by their insured persons in a Member State other than that in which they are resident.

Reimbursement of sickness benefits: the Regulation clarifies the conditions for meeting the costs of sickness benefits in kind as part of scheduled treatments, namely treatments for which an insured person goes to a Member State other than that in which he is insured or resident. It specifies the obligations of the insured person with regard to the application for prior authorisation, and the institution's obligations towards the patient with regard to the conditions of authorisation. The consequences for the chargeability of the costs of care received in another Member State on the basis of an authorisation are also clarified.

The Regulation also introduces certain new provisions in the following areas:

- **Recovery procedures:** there are provisions for strengthening procedures between institutions for mutual assistance in recovery of social security claims in order to ensure more effective recovery and smooth functioning of the coordination rules. Effective recovery is also a means of preventing and tackling abuses and fraud and a way of ensuring the sustainability of social security schemes. This involves the adoption of new procedures. At Parliament's request, these new recovery procedures will be reviewed in the light of the experience after five years of implementation and adjusted if necessary, in particular to ensure they are fully operable.
- **Time limits:** the persons covered by this Regulation must receive from the competent institution a timely response to their requests. The response should be provided at the latest within the time-limits prescribed by the social security legislation of the Member State in question, where such time-limits exist. It would be desirable for Member States whose social security legislation does not make provision for such time-limits to consider adopting them and making them available to the persons concerned as necessary

ENTRY INTO FORCE: the Regulation will enter into force on 1 May 2010, on which date Regulation (EEC) No 574/72 is repealed.