

# Procedure file

Basic information		
CNS - Consultation procedure Regulation	<a href="#">1995/0196(CNS)</a>	Procedure completed
Social security: employed persons, self-employed persons and their families (amend. Regul. 1408/71/EEC)		
Subject 4.10.10 Social protection, social security		

Key players			
European Parliament			
Council of the European Union			
Council configuration	Fisheries	Meeting	Date
		<a href="#">1899</a>	22/12/1995

Key events			
12/07/1995	Additional information		Summary
13/07/1995	Legislative proposal published	COM(1995)0352	Summary
18/09/1995	Committee referral announced in Parliament		
14/11/1995	Vote in committee		Summary
13/11/1995	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A4-0286/1995</a>	
29/11/1995	Decision by Parliament	T4-0575/1995	Summary
22/12/1995	Act adopted by Council after consultation of Parliament		
22/12/1995	End of procedure in Parliament		
30/12/1995	Final act published in Official Journal		

Technical information	
Procedure reference	1995/0196(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC before Amsterdam E 051; EC before Amsterdam E 235
Stage reached in procedure	Procedure completed

## Documentation gateway

Legislative proposal		<a href="#">COM(1995)0352</a> <a href="#">OJ C 260 05.10.1995, p. 0013</a>	14/07/1995	EC	Summary
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A4-0286/1995</a> <a href="#">OJ C 339 18.12.1995, p. 0003</a>	14/11/1995	EP	
Economic and Social Committee: opinion, report		<a href="#">CES1301/1995</a> <a href="#">OJ C 039 12.02.1996, p. 0030</a>	22/11/1995	ESC	Summary
Text adopted by Parliament, 1st reading/single reading		T4-0575/1995 <a href="#">OJ C 339 18.12.1995, p. 0011-0015</a>	29/11/1995	EP	Summary

## Additional information

European Commission	<a href="#">EUR-Lex</a>
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## Final act

<a href="#">Regulation 1995/3096</a> <a href="#">OJ L 335 30.12.1995, p. 0010</a> Summary
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## Social security: employed persons, self-employed persons and their families (amend. Regul. 1408/71/EEC)

1. Category of referral: Proposal for amendment of Regulations (EEC) Nos 1408/71 and 574/72. 2. Expected date of referral: January 1996 3. Committee responsible: Committee on Social Affairs and Employment 4. Previous Community legislation: Regulation (EEC) 1408/71 and its implementing Regulation (EEC) 574/72 lay down rules coordinating the different national social security schemes. This coordination system is designed to remove the adverse effects in social security coverage when employed and self-employed persons move within the Community. The system does not seek to harmonize the legislations on social protection in force in the Member States. The Commission's proposal relates to Articles 69 and 71, concerning unemployment benefits. Article 69 of Regulation 1408/71 concerns the right for unemployed persons to look for work in a Member State other than the one in which they were last employed, while maintaining the right to employment benefits. The provision subjects the right to export unemployment benefits to a number of conditions, and states that the employment benefits may be granted for a maximum period of three months. Beyond this time-limit an unemployed person intending to remain in the other Member State will forfeit his right to benefits under the Community Regulation cf. Article 69 (2). Article 71 (1)(a)(ii) provides that frontier workers who are wholly unemployed receive benefits under the legislation of the Member State where they reside. They cannot, like seasonal workers, choose to register with the employment services of the country of employment and receive benefits from that State, cf. Case 1/85 Miethé, judgment of 12 June 1986. 5. Previous position of EP: In 1980 the Commission proposed (OJ C 189/80, p. 22) amendments similar to the present proposal. According to the 1980 proposal, which was never adopted by the Council, an unemployed person in search of employment should be entitled to transfer their place of residence to a Member State with which they have closer ties without forfeiting their entitlement to unemployment benefits. The EP approved the Commission's proposal in the Resolution of 19 December 1980 (OJ C 346/80, p. 103). The EP later repeated its view in the Resolution of 13 September 1990, (Part III, point f), (OJ C 260/90, p. 167), and in EP Resolution of 8 July 1992, (OJ C 241/92, p. 51), where it referred to the Resolution of 13 September 1990. The EP has also given the opinion that a frontier worker should be entitled to unemployment benefits in the State where he is seeking employment i.e. either in the State where he was last employed, or in the State of residence, cf. EP Resolution of 13 June 1995, (OJ C 166/95, p. 24). 6. Situation in the Member States: Not relevant 7.

Content of the planned legislation: The Commission notes, in a briefing paper, that the current provisions were adopted at a time when virtually all the Member States had a very low level of unemployment, with the possibility for unemployed persons to find a job within a reasonable period of time. However, since then the situation has changed substantially; the present high level of unemployment in the Community has reduced the opportunities for finding a new job within a short period of time. It is, therefore, suggested that the provisions of Regulation 1408/71 be amended so as to enable an unemployed person to retain, under certain conditions, the right to unemployment benefits beyond the fixed period of three months. According to the Commission's paper, it may also be necessary to adopt provisions relating to other social security benefits to the extent that they apply to this category of unemployed persons. Furthermore, in order to limit the risk of abuse, it is suggested that a set of minimum provisions should be laid down for administrative checks on unemployed persons as well as provisions for benefit rates and benefit periods. With regard to frontier workers it is proposed that they, like seasonal workers, should enjoy a right of choice of registering with the employment service of the State in whose territory they have worked or that of the State in whose territory they reside. Position of ETUC: Encourages the Commission to proceed with its proposal. (ETUC's letter of 17 October 1995, addressed to the European Commission, DG V). Position of UNICE: Cannot support the Commission's proposal. UNICE points out that, in all countries, the payment of unemployment benefits is linked to strict conditions i.e. that the person is actively seeking a job and is genuinely unemployed. The Member State where the person is seeking employment has no direct incentive to provide such strict control since it is another Member State which is paying the benefit. There is a risk, therefore, that massive and costly fraud could result if the proposal is adopted. Moreover, UNICE notes that the new Community Eures-system has been established so that unemployed persons can find a job more easily before going abroad. (UNICE position paper, dated 10 November 1995) 8. Legal basis proposed by the European Commission: 9. Documentation and sources: a) Social Europe, 3/92, "Social security for persons moving within the Community", published by the Commission of the European Communities,

## Social security: employed persons, self-employed persons and their families (amend. Regul. 1408/71/EEC)

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- OBJECTIVE: the present proposal for a regulation seeks to update Community Regulations (EEC) No 1408/71 and 574/72 to bring them into line with certain changes in structure, content and administrative procedure which have been adopted by the national legislations, to take account of certain bilateral agreements which have been concluded between Member States and to improve the system for coordinating the social security schemes of the Member States. - SUBSTANCE: The amendments relate in particular to the following points: . the specific exclusion of "adoption benefits", which are put in the same category as "special birth-related benefits" and "family allowances" in the sense of the Regulation, . allowing transferred workers and accompanying family members to have access to all necessary health care provisions during periods of professional residence (including self-employed persons and seafarers), . to delete Article 32 of Regulation (EEC) No 1408/71, in order to simplify and unify the rules of management, . to amend Part II of Annex I (heading "B.DENMARK") in order to clarify the concept of "family members", which is not defined in Danish legislation on sickness insurance (all persons resident in the country are automatically entitled to receive benefits in kind), . to amend Part II of Annex II (special birth-related benefits which are excluded from the scope of the regulation), heading "A.BELGIUM" and "E.FRANCE", in order to take account of the exclusion of adoption allowances, which are put in the same category as birth-related allowances in the regulation, . amendment of Annex IIA (special allowances of a non-contributory nature), heading "B.DENMARK": addition of housing benefits for retired persons, which correspond with the type of allowance paid in Denmark, . amendment of Annex III, Parts A and B, No "35.GERMANY-AUSTRIA", letter e), the existing text provides that certain of the more favourable rules of the bilateral agreement between the two countries should continue to apply, for a transitional period, to nationals from the countries concerned. The regulation guarantees this benefit in cases where an old-age pension is converted into a surviving spouse's pension, . amendment of Annex IV, Part C (renouncing the calculation of allowances), heading "O.UNITED KINGDOM", in order to allow the UK authorities to renounce the calculation of allowances in proportion to the pension, when this calculation does not provide a more favourable financial result for the beneficiaries, . amendment of Annex VI, heading "C.GERMANY", following the changes which this country has introduced in this area (new terminology), . amendment of Annex VI, heading "L.PORTUGAL", for retired public officials and their family members who may be receiving sickness and/or maternity benefits in kind in cases of immediate need during a period of residence in another Member State, where prior authorization has been given by the appropriate Portuguese institution, . inclusion of a new Article 19A in order to allow the administrative and financial implementation of the system for providing benefits in kind, in the case of periods of residence of the family members of a salaried employee or self-employed worker which are spent in a Member State other than that in which he/she resides, . to modify heading "K.AUSTRIA" of Annexes 1, 2 and 3 following an administrative reorganisation in that country, . to take account of various bilateral agreements concluded between a number of Member States (Belgium-Austria, Denmark-Austria, France-Italy, Italy-UK, Austria-UK). ?

## Social security: employed persons, self-employed persons and their families (amend. Regul. 1408/71/EEC)

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The Committee adopted the report by Mr Josu IMAZ SAN MIGUEL (EPP, E) on the application of social security coverage to employees, self-employed persons and members of their families who are moving within the Member States of the Community. The report drawn up by Mr Josu IMAZ SAN MIGUEL (EPP, E), seeks to improve social security coverage for the different categories of Community citizen. It actually incorporates the report which was prepared by Mrs Ria OOMEN-RUIJTEN (EPPE, NL), which was adopted by Parliament on 13 June 1995. The present report seeks to extend social security benefits, in certain circumstances, to non-member country nationals who are resident in a Member State and to guarantee health care to frontier workers who are active and who have taken early retirement. The Committee took the unusual decision to represent its report in order to keep up the pressure on the Commission and the Council, so that the latter might take action in this area. The Commission agrees with Parliament on the measures required and a positive response is expected from the Council, at least as regards the arrangements which relate to non-member country nationals. ?

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The ESC welcomed the proposed amendments since they were a vital part of the updating procedure and helped further improve the coordination of social security systems in the European Union. It would nevertheless like to see the Commission make particular efforts to remove the remaining gaps and imperfections that continued to hinder the free movement of workers and members of their families.

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In adopting the report by Mr IMAZ SAN MIGUEL (EPP, E), Parliament approved the proposal for a regulation with the following amendments: - it reaffirmed its position, which primarily sought to include the following in the scope of the regulation: . early retirement schemes (which it re-defined), . protection for the rights of frontier workers (for which it described the type of benefits due and their method of allocation), . the guarantee of better coordination in the area of medical care, . the introduction of a European card for health care as from 01.01.1997; - it drew attention to the rights of frontier workers, who were employed in one of the Member States of the Community, in respect of retirement, early retirement, social security and unemployment benefits; - it called for the regulation of those cases involving retired persons who were entitled to pension payments from several Member States (the financial cost should be borne by the Member State to which the retired person was

liable for the longest period of time); - it also called for the Commission to propose a new text, by 30.06.1996, amending Regulation (EEC) No 574/72 removing all the obstacles to the free movement of workers. ?

## Social security: employed persons, self-employed persons and their families (amend. Regul. 1408/71/EEC)

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- OBJECTIVE: the Regulation seeks to update Community Regulations (EEC) No 1408/71 and 574/72 to bring them into line with certain changes in structure, content and administrative procedure which have been adopted by the national legislations, to take account of certain bilateral agreements which have been concluded between Member States and to improve the system for coordinating the social security schemes of the Member States. - COMMUNITY MEASURE: Council Regulation (EEC) No 3096/95 amending Regulation (EEC) No 1408/71 concerning the application of social security schemes to salaried employees, self-employed persons and members of their families who are moving within the Community, and Regulation (EEC) No 574/72 laying down the procedures for applying Regulation (EEC) No 1408/71. - SUBSTANCE: The main amendments relate to the following points: . the exclusion of "adoption benefits", which are put in the same category as "special birth-related benefits", and "family allowances" in the sense of Regulation (EEC) No 1408/71 (that is to say, benefits in kind or in cash intended to offset family expenses), . allowing transferred workers, salaried employees who work in different Member States, self-employed persons and seafarers who find themselves in similar situations, as well as accompanying family members, to have access to all necessary health care provisions during the period of their vocational residence; . permitting certain periods which have been accumulated under national schemes, whose conditions for entitlement to benefit have not been fulfilled, to be taken into account for calculating the benefits which are due, as soon as this means a higher level of benefits for the person concerned. The other amendments are exclusively of a technical nature and seek to take account of internal changes which have been adopted by certain Member States in the area of social security legislation, as well as of the effects of certain bilateral agreements concluded between Member States in this sector, with a view to completing the relative Community legislation. - ENTRY INTO FORCE: the Regulation shall take effect on 01.01.1996, apart from certain specific points for which the regulation shall apply retrospectively from 01.06.1992. ?