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

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The Committee on Employment and Social Affairs adopted a report drafted by Jean **LAMBERT** (Greens /EFA) and made some amendments to the proposal for a regulation 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. The Committee notes that "the basic Regulation" means Regulation (EC) No 883/2004. This Regulation is called the implementing Regulation.

The principal points are as follows:

Clarification: many of the amendments have resulted from the deliberations of Council and the Social Questions Working Party. Generally, these have clarified and simplified the Commission's original proposals and work in the interests of the citizen. This includes the non-exhaustive list of factors to be taken into account when determining residence in Article 11.

Improved procedures: towards improved public service: several amendments relate to procedures for implementing the basic Regulation and generally aim to ensure faster and fairer granting of social security benefits to EU citizens. The committee stipulates that for the purposes of the implementing Regulation, the exchanges between Member States' authorities and institutions and the persons covered by the basic Regulation must be based on the principles of public service, objectivity, cooperation, active assistance, efficiency, accessibility for disabled people and rapid delivery.

Quicker responses: there is recognition within this implementing Regulation of the need for efficiency and prompt responses. The Committee considered that a reasonable delay, defined at national level according to the principle of subsidiarity, should be respected by all institutions, in order to avoid excessively long waiting periods for the citizens. The procedure on the posting of workers is addressed in the amendments, as is the determination of the competent authority for those who work in more than one Member State. Members have taken into account elements of certain ECJ rulings

Data processing and data protection: the committee inserted some clauses which aim to strengthen the data protection rights of EU citizens. Personal data must not be used for purposes other than those of social security except where expressly so authorised by the person concerned. Persons concerned should be provided, upon request, with specific and adequate information on the processing of their personal data requested for the purposes of this Regulation. Moreover, the persons concerned shall be able to exercise their data subject's rights in the areas covered by this Regulation through the competent institution, irrespective of the origin of the data.

Frontier workers: frontier workers who have become completely unemployed may make themselves available to the employment services in both the country of residence and the Member State where they were last employed. In both cases they should be entitled to benefits only from their Member State of residence.

Cross-border health care: the question of the procedures involved in determining prior-authorisation and reimbursement of costs for scheduled cross-border healthcare are also included in the amendments and stress medical need as the basis for decision. Members inserted a new article on procedures to be followed

regarding long-term care benefits in cash in the event of stay or residence in a Member State other than the competent Member State . It provides, inter alia, for the covering of costs for a person accompanying the person requiring treatment. Article 33 on scheduled treatments was deleted. The committee stated that the principle of prior authorisation is already set out in Article 20(1) of the basic Regulation and the procedure is covered under the Commission proposal for the implementing Regulation. Whether there should be particular provision in the case of those affected by accidents at work and occupational diseases is an issue of principle and thus better suited to the basic Regulation itself.

Database: the public database referred to in Article 4 shall be established and managed by the Commission. Member States shall, however, be responsible for the input of their own national contact information into this database. Moreover, Member States shall ensure the accuracy of the input of the national contact information.

Provisional regime: where there is a difference of views between the institutions or authorities of two or more Member States about the identification of the applicable legislation, the person concerned shall be made provisionally subject to the legislation of one of these Member State . The committee sets out the order of priority, the first one being the legislation of the Member State where the person actually pursues his/her employment or self-employment if the employment or self-employment is pursued in only one Member State. Benefits in kind granted provisionally by an institution shall be reimbursed by the competent institution.

Report: no later than five years after the entry into force of the Regulation, the Administrative Commission shall present a specific report on the application of the article on the calculation method of the monthly fixed amounts and the total fixed amount, and in particular on the reductions. On the basis of that report, the Administrative Commission may present a proposal containing any amendments necessary in order to ensure that the calculation of fixed amounts comes as close as possible to the actual expenditure incurred and the reductions referred to do not result in unbalanced payments or double payments for the Member States.