

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

2006/0006(COD) - 09/07/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 678 votes to 27 with 8 abstentions, a legislative resolution under the codecision procedure, amending 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 report had been tabled for consideration in plenary by Jean **LAMBERT** (Greens/EFA) on behalf of the Committee on Employment and Social Affairs. Parliament 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 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.

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. Parliament 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. Parliament 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. It stated that the institutions shall provide or exchange, within the deadlines prescribed by the social security legislation of the Member State in question, all data necessary for establishing and determining the rights and obligations of persons to whom the basic Regulation applies. Such data shall be transferred between Member States directly by the institutions themselves or indirectly via the liaison bodies. 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: Parliament 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. The list and details of the personal data protection officers appointed in each Member State in accordance with Article 18 of Directive 95/46/EC dealing with data related to social security legislation covered under the basic Regulation shall constitute part of Annex 4 to the implementing Regulation.

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. Parliament considered 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.

Addition of periods: the periods of insurance, employment, self-employment or residence completed under the legislation of a Member State shall be added to the periods of insurance, employment, self-employment or residence completed under the legislation of any other Member State provided that these periods do not overlap.

Reimbursement of claims: in a series of EPP-ED amendments approved in plenary, the Parliament made additional clarifications to the procedure on the reimbursement of claims from one Member State to another. Parliament is of the opinion that the claims of fixed amounts for a calendar year shall be introduced to the liaison body of the debtor Member State within the 6-month period (and not 12 months as was proposed by the committee responsible) following the month during which the average costs for the year concerned were published in the Official Journal of the European Union. The claims shall be paid to the liaison body of the creditor Member State by the debtor institution within 6 months (and not 18 months as was proposed by the committee responsible) of the end of the month during which they were introduced to the liaison body of the debtor Member State. This does not apply to the claims which the debtor institution has rejected for a relevant reason within that period. Any disputes concerning a claim shall be settled, at the latest, within 36 months following the month in which the claim was introduced. Other amendments were introduced to reduce the delay of reimbursement from one member State to another as regards the reimbursement of unemployment benefits.

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. Parliament 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.