

Social security: coordination of social security systems and implementation

2010/0380(COD) - 22/05/2012 - Final act

PURPOSE: to amend Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 to take account of legal changes in certain Member States and to guarantee legal certainty for stakeholders.

LEGISLATIVE ACT: Regulation (EU) No 465/2012 of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004.

BACKGROUND: as of 1 of May 2010, two modernised [Regulations \(EC\) No 883/2004](#) and [\(EC\) No 987/2009](#) on the coordination of social security systems are applied in all EU Member States. Member States frequently amend their national social security legislation. As a consequence, the references made to national legislation in EU legislation coordinating social security systems can become outdated which will create legal uncertainty for stakeholders when applying the Regulations.

The references in Regulations (EC) No 883/2004 and (EC) No 987/2009 therefore need to be updated to correctly reflect legal changes at national level and changes in social reality correctly. The Regulations can be updated only by means of a Regulation.

This Regulation shall update the abovementioned Regulations. Other technical amendments are included to facilitate and ensure the legal security of these Regulations.

CONTENT: the Council adopted a regulation amending regulations 883/2004 and 987/2009 on the coordination of social security systems, following a first-reading agreement with the European Parliament.

Main amendments: the amendments are aimed inter alia at providing a satisfactory solution in the case of wholly unemployed, formerly self-employed, frontier workers who were insured in their country of activity against unemployment and who returned to their Member State of residence where no insurance against the risk of unemployment exists.

- **Unemployment benefits for self-employed frontier workers:** Regulation (EC) No 883/2004 is amended by inserting a new provision (Article 65a) that ensures that a self-employed frontier worker who becomes wholly unemployed receives benefits if he/she has completed periods of insurance as a self-employed person or periods of self-employment recognised for the purposes of granting unemployment benefits in the competent Member State and if no unemployment benefits system covering self-employed persons exists in the Member State of residence. That provision should be reviewed in the light of the experience after two years of implementation and, if necessary, it should be amended.

- **Provision of new measures for aircrew members:** Annex III to Council Regulation (EEC) No 3922/91 on the harmonisation of technical requirements and administrative procedures in the field of civil aviation defines the concept "**home base**" for aircrew members under Union law. In order to facilitate the application of Title II of the Regulation (EC) No 883/2004 for this group of persons, it is justified to create a special rule by using this notion of "home base" as the **criterion for determining the applicable legislation for aircrew members**. On the other hand, the applicable legislation for aircrew members should remain stable and the "home base" principle should not result in frequent changes of applicable legislation due to the industry's work patterns or seasonal demands.

Additional amendments are of a technical nature and concern the following:

- **Article 13(1) of Regulation (EC) No 883/2004** : in situations where a person is working in two or more Member States, it should be made clear that the condition of pursuing a "substantial part" of the activity within the meaning of Article 13(1) of Regulation (EC) No 883/2004 also applies to persons pursuing activities for various undertakings or employers.
- **Article 71(2) of Regulation (EC) No 883/2004** : clarification of the voting procedure by the Administrative Commission.
- **Article 14 (5) of Regulation (EC) No 987/2009** : clarification of the definition of marginal activities.
- **New Article 14(5a)** : introduction of a new Article 14 (5a) in close cooperation with the new definition of "home base" for the crew, for the application of Regulation (EC) No 883/2004.
- **Article 56(1) and (2)** : replacement of paragraphs to reflect changes made in Article 65 (5) of Regulation (EC) No 883/2004.
- **Annexes** : technical modifications made to the Annexes of Regulation (EC) No 883/2004.

ENTRY INTO FORCE: 28.06.2012.