Social security: coordination of the national systems to promote the free movement of persons (repeal. Regulation (EEC) No 1408/71)

1998/0360(COD) - 29/04/2004 - Final act

PURPOSE : to simplify and modernize the coordination of social security systems so that citizens may better exercise their right to free movement within the EU, whether for studies, leisure, or for professional reasons, without losing the rights and protection to which they are entitled under social security.

LEGISLATIVE ACT : Regulation 883/2004/EC of the European Parliament and of the Council on the coordination of social security systems

CONTENT : Regulation 1408/71/EC ensures the coordination of the social security schemes of the Member States in order to protect the rights of persons moving within the European Union. Since its adoption in 1971, that Regulation had undergone a considerable number of amendments designed to take account of changes in national legislations, improve certain provisions, fill in gaps or lay down rules covering the situation of certain specific categories of persons. In addition, some provisions need to be clarified in order to avoid difficulties of interpretation, as evidenced by a large number of judgments delivered by the Court of Justice. The aim of coordination should also be to complement the development of the European Union as a whole. The rules on coordination no longer have the sole aim of ensuring the free movement of workers, but are about protecting the social security entitlements of all persons moving within the European Union. Coordination must therefore be seen from the perspective of European citizenship and the building of a Social Europe.

While retaining the guiding principles and essential elements of the current Regulation 1408/71/EEC, the new Regulation will introduce a new legal framework through a streamlining of its provisions and the broadening of its material and personal scope.

The key principles of Regulation 1408/71/EC, such as the assimilation of facts or events, the aggregation of periods and the exportability of benefits have been maintained, while being given improved visibility.

In addition, the principle that each person is subject to the legislation of one Member State only enables this person to apply for social security benefits in a single Member State. This also facilitates the work of the national administrative bodies.

Moreover, the competence for almost all social security benefits being conferred on the basis of the place of activity of the person concerned, the link between the receipt of contributions and the payment of benefits is preserved.

Measures aimed at avoiding the overlapping of social security benefits acquired in one Member State with other benefits of the same kind acquired in another Member State will considerably limit the possibility of unfair advantages being derived from free movement within the Community, thus allowing for full application of the equal treatment principle.

The Regulation therefore consists in particular of the following essential elements:- the personal scope of the Regulation is extended to cover all nationals of Member States who are covered by the social security

legislation of a Member State. This means that not only employed workers, self-employed workers, civil servants, students and pensioners but also non-active persons are protected by the coordination rules. This simplifies and clarifies the rules determining the legislation applicable in cross-border situations;

- the material scope of the Regulation is extended to cover statutory pre-retirement schemes, which means that the beneficiaries of such schemes will have a guarantee that benefits will be paid, will be covered for health care and will receive family benefits even if they reside in another Member State;

- the principles of equal treatment and the assimilation of facts are strengthened;

- insured persons staying temporarily in another Member State will be able to benefit from health care judged to be medically necessary during that stay;

- there is provision for a greater obligation for cooperation and mutual assistance between the institutions of the Member States for the benefit of citizens.

It must be noted that the Council approved the two amendments made by Parliament at second reading. The first related to notification of agreements and the second brings the period to be completed by family members into line with that to be completed by former frontier workers themselves in order to be eligible for benefits in kind within the territory of the previous State of employment.

ENTRY INTO FORCE AND DATE OF APPLICATION : 20/05/2004.