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

1998/0360(COD) - 09/10/2003 - Modified legislative proposal

The Commission accepts most of the Parliament's amendments as they stand. Two were accepted in part and four were rejected. The key amendments accepted by the Commission include: - the scope of the Regulation is limited to nationals of EU Member States, stateless persons and refugees; - paternity benefits are included in the scope of the Regulation; - the condition regarding residence in the territory of a Member State, which is currently required for the provision on equal treatment to be applied, is removed; - Member States may conclude conventions with each other; - the provision to limit the combination of benefits of the same kind for one and the same insurance period is acceptable; - persons staying in a Member State other than the competent State are entitled to benefits in kind which become medically necessary (without constituting an emergency). This amendment is favourable to insured persons, as it removes the requirement that benefits in kind are to be provided during a stay in another Member State only in an emergency; - a recital emphasising the need to provide for coordinating rules for contractual provisions which complement or replace social security legislation in order to allow aggregation of periods of insurance and the waiving of residence clauses; - the principle of equal treatment is of particular importance for frontier workers, who reside in a Member State other than the competent State; - the members of a frontier worker's family are entitled to benefits in kind in the competent State; - the amendment reflecting the Court of Justice's case law. On the one hand, it is consistent with the Court's interpretation that direct assumption by the competent insurance institution of the cost of out-patient treatment provided in a Member State other than that in which a person is insured should not be subject to prior authorisation. On the other hand, the Court has ruled that prior authorisation may be imposed, subject to certain conditions, for in-patient treatment. The amendment also requires the patient's medical condition to be taken into account when deciding whether or not to authorize travel to another Member State to receive treatment; - retired frontier workers can obtain health care in their Member State of residence or in the Member State where they were last employed; - the Commission's proposal is that unemployed frontier workers should receive unemployment benefits from the State where they were last employed rather than, as at present, their State of residence. Luxembourg has a very large number of frontier workers who live in Belgium, Germany or France. A sudden change to the present rule could have substantial financial consequences for Luxembourg. The introduction of a transitional period for Luxembourg, as proposed in this amendment, is therefore very reasonable. Amendments that are not accepted include the following: - the delegation of additional tasks in terms of coordination of social security systems to the Administrative Commission; - the amendments stating that, in order to be eligible for cash benefits, frontier workers must submit to examination and reintegration measures in accordance with the legislation of the competent State; - a clause obliging institutions to exchange information on proposed changes to legislation, including taxation legislation.