

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

1998/0360(COD) - 27/01/2004 - Commission communication on Council's position

The Commission approves the common position as a whole, as it broadly meets the aims of the Commission proposal. Moreover, it takes into account most of Parliament's amendments. At the end of long negotiations, although greater simplification in some areas would have been preferable, it constitutes a balanced and positive overall compromise for insured persons over all chapters. The Commission regrets however that the text of the common position was not able to make more significant progress in the following areas: - with regard to transport costs for the victim of an industrial accident or occupational disease (Title III- Chapter 2), the common position provides for the principle of bearing the costs on condition that the institution has agreed in advance to such transport, taking due account of the elements used to justify it. The Commission considers that this problem deserved a bolder solution. It points out that this question may be examined at a later stage within the framework of the implementing Regulation; - invalidity benefits : Title III - Chapter 4 : the Commission had proposed replacing the current "dual" system of coordination with a single coordination system, so that invalidity benefits are always calculated in accordance with the provisions of the chapter on "pensions". The current system lays down that, if a person has been insured exclusively under legislation where the amount of invalidity benefit is independent of the length of insurance periods ("A" systems), that person is entitled to a single benefit, granted by the Member State where the person was insured at the time the invalidity occurred ("single pension" system). If the person was insured either exclusively under legislation where the amount depends on the length of the insurance period ("B" systems) or under both types of insurance, he is entitled to benefits calculated in accordance with the chapter on "pensions" ("pro rata" system). The common position makes provision for maintaining the "dual" system, but only for those Member States which have an "A" system and have opted for this approach by means of an entry in an annex. For the Commission, this is an acceptable compromise. While regretting the fact that this simplification could not take place, the Commission notes that the current system does not appear to cause any major difficulties; - unemployment : Title III - Chapter 6 : the Commission proposal introduced two basic amendments to the chapter: - extending from 3 months to 6 the period during which the unemployed person may seek work in another Member State without losing entitlement to unemployment benefits; ending the current system whereby the unemployed cross-border worker receives unemployment benefits from the State of residence rather than the competent State (the State where he was last employed). The Council was unable to reach agreement on these two points. In order to reach a compromise, two aspects have been singled out: the treatment of unemployed persons on the one hand and, on the other, the distribution of the financial burden of unemployment allowances between the State of last employment and the State of residence. The Commission can accept this position overall. Firstly, it points out that the conditions under which the unemployed person may seek employment in another Member State without losing unemployment allowances are improved with a view to facilitating job-seeking. In addition, the cross-border worker is in a better position to find employment since he can register to seek work both in the State of residence and in the State in which he formerly worked. These two elements, offering an unemployed person a better chance of finding employment, correspond to the Commission's aims and constitute an improvement over the current situation. On the other hand, the arrangements relating to the sharing of the financial burden of unemployment benefits between the Member States do not affect the unemployed person's entitlement to benefit; - family benefits : Title III - Chapter 8 : the Commission proposal aimed to restructure this chapter, laying down a single rule for all family benefits where entitlements exist in a number of Member States: the State laying down the highest amount pays the benefits, with the burden then being shared in proportion to the number of States concerned. The common position opts for a less ambitious solution, but one consisting of a single chapter and identical provisions for all categories of persons, putting an end to

the existing distinction between pensioners and orphans on the one hand and other categories of insured persons on the other. The common position lays down favourable provisions for orphans and greater cooperation between the Member States on the implementation of the priority rules. The Commission accepts this position, which clarifies and facilitates implementation of the provisions of this chapter and also maintains entitlement to the highest family benefits for insured persons. In contrast, the Council decided to exclude advances on maintenance payments from the scope of the Regulation. It has also maintained the exclusion for special birth and adoption benefits currently in Regulation 1408/71/EEC, owing to their close link with the socio-economic environment of the State concerned. Nevertheless, bearing in mind the balanced overall nature of this chapter, with regard to the extension of benefits to non-active persons, the Commission can accept the Council's position.