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

1998/0360(COD) - 21/12/1998 - Legislative proposal

OBJECTIVE: to revise and simplify the regulation on coordination of social security systems in the Community. CONTENT: the main objective of this proposal is to simplify regulation 1408/71/EEC in order to make social security legislation less complex and more manageable. It also provides an opportunity for integrating a number of proposed amendments to Regulation 1408/71/EEC which have been pending before the Council for several years into a single text. Finally, in addition to efforts at simplification, the proposal also rationalizes the concepts, rules and procedures applicable, even though the system of coordination, from the point of view of the guiding principles and its main elements, remains the same. Main amendments: 1) persons covered by the coordination rules: the proposed regulation will apply to all persons covered by social security legislation in a Member State (the term "person" will now replace the terms "salaried and non salaried workers", "members of their family" and "refugees"). This implies that the coordination system: - will cover persons who are not strictly speaking included in the active population (e.g. students) but who are nonetheless in a social security scheme (cf. CNS0876), - will extend to third-country nationals, provided that they are in a social security scheme in one of the Member States (cf. CNS97320); 2) matters covered by the coordination rules: the proposal: - extends the list of the social security branches which come under the coordination rules in order to include new types of benefits, such as pre-retirement benefits (cf. CNS96001). In addition, Community provisions will continue to apply to all the classic branches of social security (sickness and maternity, accidents at work, occupational diseases, invalidity benefits, death grants, unemployment benefits and family benefits), although the list is not exhaustive and new types of benefits may be added; - modifies a number of provisions relating to unemployment without, however, changing the basic structure of the system: at present, an unemployed person who travels to another Member State in search of work has the right to continue drawing benefits for three months. The proposal seeks to extend this period to six months under the same terms as those which currently apply, in order to reflect actual conditions on the current labour market more accurately. On the same subject, it is also proposed to grant unemployed persons the right to receive unemployment benefits (other than cash benefits) which aim to facilitate access to work; compliance with the conditions laid down by the Member State offering these benefits will be pre-requisite to maintaining the right to cash benefits from the Member State in question. Apart from these radical changes, the main basic principles of coordination have been maintained: - conflicting laws: Community provisions continue to be based on two main principles: a) the insured person is only subject to the legislation of one Member State at a time; b) the insured person is insured in the Member State in which he/she pursues a professional activity; for persons who are no longer active (e.g. pensioners) or who do not pursue a professional activity, the applicable law will be that of the State of residence. Special rules apply to posted workers and to persons working in several Member States; - basis for coordination: the proposal is founded on the principle of equal treatment (there must be a guarantee that a person resident on the territory of a Member State is subject to the same obligations and enjoys the same benefits as those offered to nationals of that Member State). This principle is reinforced by three elements: a) assimilation of the facts: situations which occur in other Member States are to be treated as if they had taken place in the Member State whose legislation applies; b) aggregation of periods: periods of insurance, employment or residence completed under the legislation of one Member State are taken into account for entitlement to benefits under the legislation of another Member State; c) retention of rights: benefits can be paid to persons residing in the territory of any Member State.