Social security: employed, self employed persons and families (amend. Regulations (EEC) No 1408 /71 and (EEC) No 574/72)

2003/0184(COD) - 15/11/2004 - Commission communication on Council's position

The Commission deals in detail with the new provisions introduced by the Council and the Commission's position on them.

The Council has agreed on the list of non-contributory cash benefits to be included in Annex IIa on the basis of the criteria laid down in Article 4(2) of the Regulation. However, some Member States (United Kingdom, Sweden and Finland) felt that their benefits should be retained in Annex IIa owing to their special characteristics distinguishing them from the other benefits deleted from the Annex. As a compromise, the Council has agreed to retain these benefits in the Annex pending the Court of Justice's findings on the question of the special characteristics of these benefits compared with those already examined by the Court and in the light of the criteria laid down in Article 4(2) of the Regulation.

In a statement for the Council minutes, the Commission continues to consider, having regard to Court of Justice case law and the criteria laid down in Article 4(2) of the Regulation, that the benefits concerned should not be included in Annex IIa. It therefore reserves the right to refer the matter to the Court of Justice and to present a proposal, if necessary, to revise the list of entries in Annex IIa, based on the findings of the Court.

Luxembourg's "Income for the seriously disabled" and Finland's "Special assistance for immigrants" have also been added to the Annex. These entries are justified in that both these benefits are intended to guarantee the persons concerned a subsistance income and therefore meet the criteria laid down in Article 4(2) of Regulation 1408/71/EC.

On the matter of deductions of contributions, the Commission pointed out that the Council feels it is preferable to await the entry into force of the new simplified Regulation 883/2004/EC. On the basis of Article 5 (assimilation of facts) and Article 30 (contributions by pensioners), this will make it possible to deduct contributions on the basis of all the pensions paid to a pensioner, but necessitates implementing provisions in the future implementing regulation. In a statement for the minutes, the Commission reaffirms its intention to include provisions implementing Article 30 of the new Regulation No 883/2004 /EC in the new implementing regulation. The Council's position on this point is therefore fully acceptable to the Commission.