Social security: employed, self employed persons and families

2005/0258(COD) - 21/12/2005 - Legislative proposal

PURPOSE : to amend Council Regulation 1408/71/EEC and Council Regulation 574/72/EEC laying down the procedure for implementing Regulation 1408/71/EEC.

PROPOSED ACT : Regulation of the European Parliament and of the Council.

CONTENT : this proposal is intended to update some of the annexes to Regulation 1408/71/EEC to reflect changes in Member States' national social security legislation. It will therefore facilitate application of the Community legislation coordinating social security schemes by ensuring that it correctly reflects the national legislation in force.

Member States frequently amend their national social security legislation. As a consequence, the references made to national legislation in EU legislation coordinating social security schemes become outdated and create legal uncertainty. This is to the detriment of EU citizens moving within the EU, because they are not properly informed about their rights and makes it more difficult for the national social security institutions properly to apply EU provisions coordinating social security. The references in EU coordinating legislation, in particular in Regulations 1408/71 and 574/72, therefore need to be updated to reflect national legislation correctly. EU Regulations can be updated only by a Regulation.

It is in the interest of the citizens concerned that the Community Regulations are updated soon after the changes to national legislation. Especially in view of the fundamental pension reforms in Sweden and Finland as well as the reform of the Netherlands health care insurance scheme, Regulation 1408/71 needs to be updated as soon as possible, despite the entry into force, on 20 May 2004, of Regulation 883/2004 replacing it: this new Regulation will not apply until the implementing Regulation has entered into force, which will probably not be before 2007.

As the new Health Care Insurance Act in the Netherlands applies from 1 January 2006, the amendments regarding the Netherlands in Annexes I and VI need to apply from 1 January 2006.

The main changes are as follows:

Amendment of Annex I:

- The wording in the section on Sweden is brought into line with the new Social Insurance Act (1999:799) and a reference to the Social Insurance Contributions Act is added to identify self-employed persons;

- The wording in the section on the Netherlands is brought into line with the new Health Care Insurance Act.

Amendment of Annex IIa:

- Annex IIa lists special non contributory benefits granted to the persons concerned exclusively in the territory of the Member State in which they reside, under Article 10a of Regulation 1408/71. The amendments proposed reflect changes made to legislation in Lithuania and Slovakia.

Amendment of Annex III, Part A:

- Annex III lists the provisions of existing bilateral agreements which were in force prior to the application of the Regulation in the Member States concerned. Part A lists the provisions of bilateral agreements which continue to apply, despite the fact that the provisions of bilateral agreements are generally replaced by Regulation 1408/71. The amendment proposed will delete the provision of the General Convention of 28 October 1952 between Italy and the Netherlands listed in Annex III, Part A;

Amendment of Annex IV:

- Annex IV, Part A lists the legislations under which the amount of invalidity benefits is independent of the length of periods of insurance. The proposed amendments concern the legislation in the Slovak Republic. The Spanish law currently listed in Annex IV, Part B has been amended, and the relevant section has been updated;

- Changes to Annex IV, Part C concern the survivor's pension in Slovakia, and the guarantee pension in Sweden;

- Amendments to Annex IV, Part D reflect changes in the new Swedish pension legislation, and the bilateral agreement on social security between Finland and Luxembourg, which entered into force on 1 February 2002.

Amendment of Annex VI:

- Annex VI sets out special procedures for applying the legislation of certain Member States. Proposed amendments reflect changes in the law in Estonia and the new health care reform in the Netherlands, and the reform of the Finnish employment pension legislation. Changes are also made to reflect new legislation regarding coverage under Swedish social security legislation and the reform of the Swedish pension legislation.