

Social security: implementing Regulation (EC) No 883/2004 on the coordination of the social security systems

2006/0006(COD) - 31/01/2006 - Legislative proposal

PURPOSE: to lay down the procedure for implementing Regulation 883/2004 on the co-ordination of social security systems.

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

BACKGROUND: currently, the coordination of social security systems is governed by two complementary Regulations: Regulation 1408/71/EEC and its implementing Regulation 574/72/EEC. Two years ago, Regulation 883/2004/EC was adopted in order to replace and update Regulation 1408/71. For a summary of Regulation 883/2004 please refer to COD/1998/0360. However, this Regulation can not be applied until a new implementing Regulation has been adopted. This is the precise purpose of this proposal, which:

- in terms of form, corresponds to that which is currently in place (i.e. Regulation 574/72);
- in terms of content, will modernise and simplify existing rules.

CONTENT: to recall, the main objective of Regulation 883/2004 is to simplify and modernize the coordination of social security systems so that citizens may better exercise their right to free movement within the EU, whether for studies, leisure, or for professional reasons, without losing the rights and protection to which they are entitled under social security. The scope of the new Regulation has been extended to include all insured people regardless of whether they have been working or not – i.e. mothers who have been bringing up children. The proposal for an implementing Regulation is essentially intended to define the procedures needed to implement the principles of the basic Regulation.

General Principles: this proposal is being based on a principle of simplification. This refers to the simplification of administrative procedures whether they apply to national administrations or to private individuals. Amongst one of the major innovations are provisions on the use of electronic means for the exchange of data. Processing such data electronically should help speed up procedures for everyone. In addition, the use of electronic systems, combined with smooth co-operation between the various social security institutions, will avoid insured persons bearing the brunt of the administrative burden when applying for compensation.

By nature this Regulation is intended to define only those measures deemed necessary for persons travelling, staying or residing in another Member State without losing their social security entitlements. To ensure that these rights are safeguarded, the Regulation provides for different procedures to meet the specific needs of the various branches of social security. The Member States are expected to abide by these procedures whilst retaining their right to define, organise and finance their national social security systems.

Scope/Objectives: The aim of the proposal is to complete the process of modernisation and simplification deemed crucial to the free movement of people. The specific objective of the proposal is to define what

the precise procedures are for implementing the rules set out in Regulation 883/2004. Enhanced cooperation between social security institutions plays a key role in allowing persons covered by Regulation 883/2004/EC to access their rights as quickly as possible.

The Regulation will apply to all EU citizens who move within the EU regardless of their reasons for doing so. The Act, upon adoption, will become a central plank in the free movement of peoples and will cover: insured persons, the social security institutions and the Member States. As a reminder, Regulation 883/2004 extended its scope to encompass all insured persons - including the non-working population (including, for example, mothers who bring up their children). This group need new rules and procedures in order to define the legislation applicable to take account of periods in which these people have never been employed or are self-employed.

Main provisions: the structure of the proposed Regulation reflects that of Regulation 883/2004 and is made up of five Titles:

- General Provisions, which contains, for example, a list of definitions;
- Determination of the legislation applicable;
- Special provisions for various categories of benefits, such as sickness, maternity/paternity benefits; benefits in respect of accidents at work and occupational diseases; death grants; invalidity benefits; old-age and pensions rights for survivors; unemployment benefits and family benefits.
- Financial Provisions, which includes rules on reimbursements between the Member States based on either actual expenditure or based on a lump-sum basis; reimbursement of unemployment benefits; Recovery of benefits paid in excess, recovery of provisional payments, compensation and assistance with recovery.
- Miscellaneous, transitional and final provisions.

Simplification and clarification of existing provisions: Amongst some of the new provisions being proposed are procedures that reflect a balanced sharing of costs between the Member States. These procedures take account of Member States' positions, which bear the cost of allowing insured persons to access, for example, their health care. The proposal has, in addition, clarified the conditions for meeting the costs of sickness benefits in kind as part of scheduled treatments – namely treatments for which an insured person goes to a Member State other than that in which he/she is resident. Proposed clarifications on chargeability on the basis of an authorisation are also outlined.

Within the context of Regulation 883/2004, the proposed implementing Regulation creates improved procedures that avoid any delay in payments of a cross-border nature. The improved procedures apply to the various different social security branches including:

- sickness;
- accidents at work;
- occupational diseases;
- invalidity;
- pension;
- unemployment; and

- family benefits.

Data exchange: in order to achieve the objective of simplification, particular attention has been given to the use of modern methods for the exchange of data. Electronic exchange of information between the various institutions involved in social security are deemed essential to the smooth running of the proposed procedures as well as to enhanced co-operation. This is particularly the case for determining the calculation of costs to be paid out to insured persons.

Entry into force: it is this proposed implementing Regulation which will enable EU citizens to benefit from progress made in Regulation 883/2004. It is not until the legislative framework consisting of the basic Regulation and its implementing Regulation, is adopted that the new rules will have an effect in terms of modernising, simplifying and improving citizens' rights. Regulation 1408/71 and 574/72 will, as a result, be replaced by Regulation 883/2004 and its implementing Regulation. Given the need to provide all parties concerned with enough information, and in order not to cause difficulties in terms of the institutions' balance of accounts, a minimum period of six months is provided for the entry into force of the new provisions on Community co-ordination and social security systems.