

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

2006/0006(COD) - 06/03/2007 - Document attached to the procedure

Opinion of the European Data Protection Supervisor on the Proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.

The EDPS welcomes this proposal to the extent that it aims at favouring the free movement of citizens and improving the standard of living and conditions of employment of EU citizens moving within the Union. Indeed, coordination of social security systems could not exist without the processing and the transmission of different kinds of personal data, in many cases of a sensitive nature. However, it is also essential that this increased exchange of personal data between national administrations of Member States, while providing better conditions for free movement of people, also ensures a high level of protection of personal data, thereby guaranteeing one of the EU fundamental rights.

The Proposal will rely on the harmonised data protection framework laid down by Community provisions on protection of personal data, and in particular by Directive 95/46/EC and national implementing laws. The EDPS is glad that the applicability of this data protection framework is recalled by both the basic Regulation 883/2004 and by the Proposal. However, specific issues relating to the application of data protection principles in the framework of coordination of social security systems should be further and explicitly addressed.

- **Purpose limitation principle:** the EDPS considers that the Proposal respects the basic data protection provisions on purpose limitation. Furthermore, the EDPS notes that the prohibition to use personal data for purposes other than social security is not explicitly laid down in the Proposal but arises from the applicable data protection legislation, which would allow for exceptions to this general principle only in specific circumstances and under strict conditions. In this context, the legislator might consider whether to specifically refer in the Proposal to the conditions under which social security data may be processed for a different purpose.
- **Proportionality in data processed:** competent bodies and storage periods, the EDPS highlights that in such a complex system, whereby personal data are processed and further transmitted through an asymmetric network of bodies, special attention should be paid to ensure that personal data are processed by the competent authorities, for a proportionate period of time, and that duplications of databases are avoided. In this context, further clarifications on the modalities of transmitting and storing the data could be added to the Proposal.
- **Legal grounds for processing personal data:** the EDPS, without entering into the details of the various specific mechanisms laid down by the Proposal, recommends the EU legislator to ensure that each and every proposed mechanism of processing and transmission of personal data is clearly based on a specific legal obligation directly laid down by the Proposal or on other legitimate grounds for processing pursuant to Articles 7 and 8 of the Directive.
- **Information to insured persons:** the EDPS recommends adding an explicit reference in the Proposal to the need to provide concerned persons with specific and adequate information on processing of their personal data.
- **Data subjects' rights:** the EDPS warmly welcomes Article 3.2 of the Proposal and suggests supplementing this provision with a broader reference to all data subjects' rights, including the right to and the safeguards concerning automated individual decisions. Furthermore, the EDPS

invites the legislator to facilitate the effective exercise of data subjects' rights in a trans-border context by providing that the competent authority which is in direct contact with the insured person should act as a one-stop shop not only with regard to social security benefits, but also with regard to all data processed in connection with those benefits.

- **Security measures:** the EDPS recommends that the 'common secure framework' for the transmission of data laid down by Article 4 of the Proposal duly take into account relevant recommendations on data protection and security of processing. In this context, expert advisers in data protection and security should be duly involved in the relevant works of the competent Administrative Commission.