Basic information

2003/0184(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Social security: employed, self employed persons and families (amend. Regulations (EEC) No 1408/71 and (EEC) No 574/72) **Subject** 4.10.10 Social protection, social security	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
EMPL Employment and Social Affairs	DE ROSSA Proinsias (PSE)	16/11/2004

Former committee responsible	Former rapporteur	Appointed
EMPL Employment and Social Affairs	GILLIG Marie-Hélène (PSE)	24/09/2003

Former committee for opinion	Former rapporteur for opinion	Appointed
JURI Legal Affairs and Internal Market		

Council of the European Union

Council configuration	Meetings	Date
Employment, Social Policy, Health and Consumer Affairs	2586	2004-06-01
Education, Youth, Culture and Sport	2616	2004-11-15

European Commission

Commission DG	Commissioner
Employment, Social Affairs and Inclusion	

Key events

Date	Event	Reference	Summary
31/07/2003	Legislative proposal published	COM(2003)0468	Summary

01/09/2003	Committee referral announced in Parliament, 1st reading		
17/02/2004	Vote in committee, 1st reading		Summary
17/02/2004	Committee report tabled for plenary, 1st reading	A5-0058/2004	
11/03/2004	Decision by Parliament, 1st reading	T5-0175/2004	Summary
11/03/2004	Debate in Parliament		
22/04/2004	Modified legislative proposal published	COM(2004)0314	Summary
15/11/2004	Council position published	12062/3/2004	Summary
18/11/2004	Committee referral announced in Parliament, 2nd reading		
18/01/2005	Vote in committee, 2nd reading		Summary
24/01/2005	Committee recommendation tabled for plenary, 2nd reading	A6-0003/2005	
07/03/2005	Debate in Parliament		
08/03/2005	Results of vote in Parliament		
08/03/2005	Decision by Parliament, 2nd reading	T6-0062/2005	
13/04/2005	Final act signed		
13/04/2005	End of procedure in Parliament		

Technical information

Procedure reference	2003/0184(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 042 EC Treaty (after Amsterdam) EC 308
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/6/24995

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee report tabled for plenary, 1st reading/single reading		A5-0058/2004	17/02/2004	
Text adopted by Parliament, 1st reading/single reading		T5-0175/2004 OJ C 102 28.04.2004, p. 0650-0804 E	11/03/2004	Summary
Committee recommendation tabled for plenary, 2nd reading		A6-0003/2005	24/01/2005	
		T6-0062/2005		

Text adopted by Parliament, 2nd reading		OJ C 320 15.12.2005, p. 0014-0049 E	08/03/2005	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	13940/2004	05/11/2004	
Council position	12062/3/2004 OJ C 038 15.02.2005, p. 0021-0036 E	15/11/2004	Summary
Draft final act	03609/0/2005	13/04/2005	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2003)0468	31/07/2003	Summary
Modified legislative proposal	COM(2004)0314	22/04/2004	Summary
Commission communication on Council's position	COM(2004)0752	15/11/2004	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1617/2003 OJ C 080 30.03.2004, p. 0118-0119	10/11/2003	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2005/0647
OJ L 117 04.05.2005, p. 0001-0013 Summary

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

2003/0184(COD) - 13/04/2005 - Final act

PURPOSE : adoption of a Regulation amending Regulation 1408/71/EEC on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation 574/72/EEC laying down the procedure for implementing Regulation 1408/71/EEC.

LEGISLATIVE ACT: Regulation 647/2005 (EC) of the European Parliament and of the Council.

CONTENT : Regulations Nos 1408/71/EEC and 574/72/EEC were updated by Regulation 118/971/EEC and most recently amended by Commission Regulation 89/2001/EC and Regulation 1386/2001/EC of the European Parliament and of the Council.

This Regulation updates these Community Regulations to take account of changes in national legislation, clarify the legal situation with regard to certain Articles of the Regulations and take account of recent developments in the case law of the Court of Justice of the European Communities.

ENTRY INTO FORCE: 05/05/2005.

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

2003/0184(COD) - 31/07/2003 - Legislative proposal

PURPOSE : to present a proposal for a Regulation of the European Parliament and of the Council amending Regulation 1408/71/EEC on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Regulation 574/72/EEC laying down the procedure for implementing Regulation 1408/71/EEC. CONTENT : Regulations Nos 1408/71/EEC and 574 /72/EEC were updated by Regulation 118/971/EEC and most recently amended by Commission Regulation 89/2001/EC and Regulation 1386/2001/EC of the European Parliament and of the Council. This proposal is intended to update these Community Regulations to take account of changes in national legislation, clarify the legal situation with regard to certain Articles of the Regulations and take account of recent developments in the case law of the Court of Justice of the European Communities.

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

2003/0184(COD) - 22/04/2004 - Modified legislative proposal

The European Commission accepts all four of the amendments proposed by the European Parliament at first reading. The amendments accepted concern the following issues : - inviting Member States to take measures to ensure that the prejudicial effects of certain amendments made to the list of benefits in Annex II a, specifically when a benefit becomes non-exportable due to its inclusion in the Annex are mitigated with regard to persons who previously received these benefits, by introducing a transition period; - inserting into the list of special non-contributory cash benefits contained in Annex II a to Regulation 1408/71/EEC, a benefit provided for by Spanish legislation: "mobility allowance to cover transport costs"; - inserting into the list of special non-contributory cash benefits contained in Annex II a to Regulation 1408/71/EEC, a benefit provided for by Irish legislation "mobility allowance"; - inserting into the list of special non-contributory cash benefits contained in Annex II a to Regulation 1408/71/EEC, a benefit provided for by UK legislation "income support".

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 - Council position

The Council accepted in full the following three amendments:

- the insertion into the list of special non-contributory cash benefits, as contained in Annex IIa to Regulation 1408/71/EC, a benefit provided by Spanish legislation: "mobility allowance to cover transport costs". This benefit meets the revised criteria laid down in the Common Position (i.e., it must be "intended to provide solely specific protection for the disabled, closely linked to the said

person's social environment in the Member State concerned");

- the insertion into the same list a benefit provided for by Irish legislation: "mobility allowance". This also meets the revised criteria laid down in the Common Position;

- the insertion into the same list of a benefit provided by UK legislation: "income support".

The Council also accepted, subject to redrafting, the principle underlying the amendment of the Parliament which seeks to invite Member States to take measures to ensure that the prejudicial effects of certain amendments made to the list of benefits in Annex IIa (in particular when a benefit becomes non-exportable due to its inclusion in the Annex) are mitigated, with regard to persons who previously received these benefits, through transitional arrangements or bilateral solutions.

In addition:

- the Council decided not to incorporate in the common position the part of the original proposal specifying that the deduction of sickness and maternity contributions may be carried out on all pensions paid to pensioners if national legislation so provides. The Council awaits the entry into force of Regulation 883/2004/EC;

- unanimous agreement could not be reached on the Commission's proposal to remove certain specific entries from Annex IIa. Certain Member States did not accept that the criteria proposed should be used to define benefits which were appropriate for listing in Annex IIa. These Member States wanted to maintain their entries in the Annex as they regarded them as fulfilling the requirements of Article 4(2a) and they considered that current European Court of Justice jurisprudence did not justify their removal from the Annex.

In order to allow for the adoption of the Regulation in view of the significant progress made overall, the Council agreed to maintain these entries in Annex IIa pending future ECJ jurisprudence which could clarify the relevant criteria and subsequently entail revision of the Annex.

In this context, the Commission made a statement to the Council's minutes stressing that the list of entries might need to be revised on the basis of new jurisprudence from the ECJ, in particular in relation to the benefits concerned. The Commission stated that it reserved the right to seize the Court and to present a proposal, if necessary, to revise the list of entries in Annex IIa, based on the findings of the Court.

The Commission places the following statements in the Council minutes:

"The Commission envisages including some measures in the implementing Regulation to deal with the practical consequences of Article 30."

Commission Statement ad Annex IIa:

"The Commission has proposed to revise the list of entries in Annex IIa (in particular the following group of benefits: Child care allowance (Finland); Disability Allowance and care allowance for disabled children (Sweden); Disability Living Allowance; Attendance Allowance; Carer's Allowance (United Kingdom)) and continues to consider that this will be necessary in order to meet the criteria of the jurisprudence of the Court and the criteria agreed in the Council's Common Position on the Miscellaneous Amendments proposal of 2003. It entirely reserves therefore its right to seize the Court and to present a proposal, if necessary, to revise the list of entries in Annex IIa, based on the findings of the Court."

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

2003/0184(COD) - 11/03/2004 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the report drafted by Marie-Hélène GILLIG (PES, F) and made some technical amendments to the proposal. (Please see the summary of 17/02/04.)

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

2003/0184(COD) - 08/03/2005 - Text adopted by Parliament, 2nd reading

In adopting the resolution by Proinsias DE ROSSA (PES, IE), the European Parliament approved the Council’s common position. In its resolution, the Parliament also accepts by 336 votes for, 247 against and 30 abstentions, the Commission’s declaration concerning Annex II a (please refer to the summary on the Council’s common position dated 15/11/2004).

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.