Basic information

2006/0006(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Social security: implementing Regulation (EC) No 883/2004 on the coordination of the social security systems See also Regulation (EC) No 883/2004 1998/0360(COD) Amended by 2007/0152(COD) Amended by 2010/0380(COD) Amended by 2016/0397(COD) Amended by 2018/0064(COD) **Subject** 2.20 Free movement of persons 4.10.10 Social protection, social security	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
EMPL Employment and Social Affairs	LAMBERT Jean (Verts /ALE)	02/12/2008

Former committee responsible	Former rapporteur	Appointed
EMPL Employment and Social Affairs	LAMBERT Jean (Verts /ALE)	04/04/2006

Former committee for opinion	Former rapporteur for opinion	Appointed
FEMM Women's Rights and Gender Equality	ROITHOVÁ Zuzana (PPE-DE)	03/10/2007

Council of the European Union

Council configuration	Meetings	Date
General Affairs	2957	2009-07-27
Employment, Social Policy, Health and Consumer Affairs	2837	2007-12-05
Employment, Social Policy, Health and Consumer Affairs	2876	2008-06-06
Employment, Social Policy, Health and Consumer Affairs	2803	2007-05-30
Employment, Social Policy, Health and Consumer Affairs	2916	2008-12-16
Employment, Social Policy, Health and Consumer Affairs	2733	2006-06-01
Employment, Social Policy, Health and Consumer Affairs	2767	2006-11-30

European Commission	Commission DG	Commissioner
	Employment, Social Affairs and Inclusion	ŠPIDLA Vladimír

Key events

Date	Event	Reference	Summary
31/01/2006	Legislative proposal published	COM(2006)0016	Summary
16/02/2006	Committee referral announced in Parliament, 1st reading		
01/06/2006	Debate in Council		Summary
30/11/2006	Debate in Council		
30/05/2007	Debate in Council		Summary
05/12/2007	Debate in Council		
29/05/2008	Vote in committee, 1st reading		Summary
06/06/2008	Debate in Council		Summary
11/06/2008	Committee report tabled for plenary, 1st reading	A6-0251/2008	
09/07/2008	Decision by Parliament, 1st reading	T6-0348/2008	Summary
09/07/2008	Debate in Parliament		
15/10/2008	Modified legislative proposal published	COM(2008)0647	Summary
17/12/2008	Council position published	14516/4/2008	Summary
15/01/2009	Committee referral announced in Parliament, 2nd reading		
31/03/2009	Vote in committee, 2nd reading		Summary
02/04/2009	Committee recommendation tabled for plenary, 2nd reading	A6-0204/2009	
22/04/2009	Decision by Parliament, 2nd reading	T6-0223/2009	Summary
22/04/2009	Results of vote in Parliament		
27/07/2009	Act approved by Council, 2nd reading		
16/09/2009	Final act signed		
16/09/2009	End of procedure in Parliament		
30/10/2009	Final act published in Official Journal		

Technical information

Procedure reference	2006/0006(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation

Amendments and repeals	See also Regulation (EC) No 883/2004 1998/0360(COD) Amended by 2007/0152(COD) Amended by 2010/0380(COD) Amended by 2016/0397(COD) Amended by 2018/0064(COD)
Legal basis	EC Treaty (after Amsterdam) EC 308 EC Treaty (after Amsterdam) EC 042
Stage reached in procedure	Procedure completed
Committee dossier	EMPL/6/71621

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE400.661	13/03/2008	
Amendments tabled in committee		PE402.506	15/04/2008	
Committee opinion	FEMM	PE404.562	27/05/2008	
Committee report tabled for plenary, 1st reading/single reading		A6-0251/2008	11/06/2008	
Text adopted by Parliament, 1st reading/single reading		T6-0348/2008	09/07/2008	Summary
Committee draft report		PE418.291	26/01/2009	
Amendments tabled in committee		PE420.195	19/02/2009	
Committee recommendation tabled for plenary, 2nd reading		A6-0204/2009	02/04/2009	
Text adopted by Parliament, 2nd reading		T6-0223/2009	22/04/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	16554/2008	04/12/2008	
Council position	14516/4/2008	17/12/2008	Summary
Draft final act	03646/2009/LEX	16/09/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2006)0016	31/01/2006	Summary
Modified legislative proposal	COM(2008)0647	15/10/2008	Summary
Commission communication on Council's position	COM(2008)0896	07/01/2009	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2009)0264	05/06/2009	Summary

Commission response to text adopted in plenary	SP(2009)3507	25/06/2009	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1371/2006	26/10/2006	
EDPS	Document attached to the procedure	N6-0006/2007 OJ C 091 26.04.2007, p. 0015	06/03/2007	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Regulation 2009/0987
OJ L 284 30.10.2009, p. 0001 Summary

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 of 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 of 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 is 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 month is provided for the entry into force of the new provisions on Community co-ordination and social security systems.

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

2006/0006(COD) - 01/06/2006

Pending the European Parliament's opinion at first reading, the Council reached a partialgeneral approach on a draft Regulation aimed at implementing Regulation 883/2004/ECon the coordination of social security systems.

Regulation 883/2004/EC was the first step in a process aimed at modernising and simplifying EU rules on the coordination of national social security systems, which are intended to allow EU citizens to move freely within Europe, while maintaining their rights to social security benefits (health, pensions, unemployment benefits, etc.). This process must be completed with the adoption of an implementing regulation, to replace Regulation 574/72 /EEC and for which a proposal is now under examination.

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

2006/0006(COD) - 30/05/2007

Pending the European Parliament's opinion at first reading, the Council reached a partial general approach on a draft Regulation aimed at implementing Regulation (EC) No 883/2004 on the coordination of social security systems. The agreed text covers Chapter I of Title III (sickness, maternity and equivalent paternity benefits) and Chapter I of Title IV (financial provisions) of the Commission proposal.

Regulation (EC) No 883/2004 was the first step of a process aimed at modernising and simplifying EU rules on the coordination of the national social security systems. Such rules are intended to allow EU citizens to move freely within Europe, while maintaining their social rights and expectations (health, pensions, unemployment protection, etc.).

The process must be completed with the adoption of an implementing Regulation, for which a proposal is now under examination. The Regulation will replace Regulation (EEC) No 574/723, with provisions designed to strengthen cooperation between national institutions and improve the methods of data exchange.

In accordance with the approach already taken for the adoption of Regulation (EC) No 883/2004, it has been decided to aim for the Council's agreement on a chapter-by-chapter basis. On 1 June 2006, the Council reached a partial general approach on Titles I and II of the proposal. On 1 December 2006, the Council reached a partial general approach on Chapter 4 of Title III. The examination of the Commission proposal will continue under the forthcoming Portuguese Presidency.

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

2006/0006(COD) - 07/01/2009 - Commission communication on Council's position

The Council common position keeps many of the amendments proposed by the Parliament and incorporated in the Commissions amended proposal (see the summary of the amended proposal on these points, dated 15/10/2008).

The Commission’s positive assessment of the Council common position is based on a close

monitoring of the provisions in the light of the four underlying principles of the

Commission’s proposal:

1. organising more effective and closer cooperation between social security institutions to enable all stakeholders to benefit from the modernisation of Regulation 883/04;
2. simplifying the implementing Regulation;
3. improving the transparency of the financial procedures between the institutions and in respect of persons covered by the Regulation;
4. flexibility and effectiveness in setting the rules.

Overall, the Commission considers that the vast majority of the modifications made by the Council contribute to improving the processes and procedures in order to provide the benefits in a speedier and more efficient way. The changes also usefully clarify further the roles and responsibilities of the various parties (for example on posting of workers, on scheduled treatment, on unemployment benefits and medical examinations and administrative checks).

The Commission also considers that the text of the Council common position maintains the delicate balance between the rights and obligations of individuals compared with the prerogatives of the social security institutions and competent authorities.

Main differences between the Commission’s amended proposal and the Council common position:

- **Electronic exchange of data**: the Council has clarified in a new provision (Article 96) the possibility for a transitional period for electronic data exchanges between institutions of the Member States and has set out their limits. The Commission supports this point as it responds to the needs of some Member States to prepare themselves whilst ensuring that reaping the benefits of the electronic exchange would not be deferred beyond a date agreed by all Member States;
-

- **Conversion of insurance periods**: Article 13 contains a detailed provision allowing the Member States to convert the period of insurance expressed in different units for the purposes of aggregation. The Commission's proposal aimed to simplify this provision derived from Regulation 574/72. It was based on the assumption that only 5-day weeks were used. The discussion in Council showed that this was not the case as some Member States' legislation still prescribes calculation (at least for some schemes) on the basis of a 6 or 7 day week (e.g. in the case of self-employed persons). The Commission therefore agrees to include this provision in the text for the time being;
- **Deadlines for the introduction and settlement of claims between Member States**: the Council considered it necessary to extend the deadlines proposed by the Parliament and the Commission for the introduction and settlement of claims and for the settlement of disputes (12 months for the introduction of claims, 18 months for the settlement of claims and 36 months for the settlement of disputes). Some Member States were of the opinion that any reduction of those deadlines could only be introduced in the light of both experience and technological progress. The Commission shares this approach to a certain extent. The procedure has been improved and broken down into stages. The Commission acknowledges the lack of experience with this new procedure. Furthermore, the Commission accepts the review clause introduced in Article 87 because the work currently carried out by the Audit Board, which assists the Administrative Commission for the Coordination of Social Security Systems, has already produced positive results;
- **the costs of travel and stay of a person accompanying a person with disabilities**: the Commission, in agreement with the European Parliament' s option, recalls that, in accordance with the European Court of Justice case law and taking into account the limits of a Regulation which aims to coordinate and not harmonise social security legislation, this issue is a matter for national legislation. The position of the Council is in accordance with the current state of law concerning travel costs that are inseparable from the medical treatment of the insured person. The Commission therefore accepts the Council common position on this point. The situation of disabled patients and accompanying persons (and also persons accompanying children as regards their travel and accommodation costs) could be dealt with through another legislative instrument with a legal basis aimed at approximating national legislations.

In conclusion: the Commission has been careful to ensure that individual rights are maintained, for instance in the fields of occupational diseases, accidents at work and family benefits. It recognises the difficulty of this task given the diversity and specificities of the national social security legislation of the 27 Member States. The Commission agrees that a certain degree of flexibility is necessary in the procedures, for instance with regard to time limits.

The Commission considers that the Council common position improves some of the measures contained in the Commission's proposal. In particular, it clarifies certain criteria with the result that some of the key concepts set out in the basic Regulation will be implemented in a more homogenous way, such as determination of the legislation applicable or posting of workers. The Commission also notes that the Council common position largely takes account of the position of the European Parliament. Lastly, the Commission considers the compromise reached by the Council on the most sensitive issues as the start of a dynamic process to allow all Member States to align themselves with the position of the European Parliament. It therefore gives overall support to the Council common position.

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

2006/0006(COD) - 06/06/2008

The Council reached a unanimous **partial general approach** regarding part of a regulation aimed at implementing Regulation (EC) No 883/20041 on the coordination of social security systems and covering **chapter III of title IV (financial provisions - recovery of benefits provided but not due, recovery of provisional payments and contributions, offsetting and assistance with recovery**) (see *Council doc. 9988/08 + ADD1*).

Regulation (EC) No 883/2004 was the first step in a process aimed at modernising and simplifying EU rules on the coordination of national social security systems. Such rules are intended to allow EU citizens to move freely within Europe, while maintaining their social rights and expectations (health, pensions, unemployment protection, etc.).

The process must be completed by adoption of the implementing regulation, the proposal for which is now under examination. The regulation will replace Regulation (EEC) No 574/72, with provisions designed to strengthen cooperation between national institutions and improve the methods of data exchange.

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

2006/0006(COD) - 17/12/2008 - Council position

In its common position, the Council could accept 145 of the 162 amendments, as either wholly or partially incorporated into the Commission's amended proposal. It also accepted, subject to redrafting, a dozen other amendments while sometimes only keeping certain parts of the text proposed by the European Parliament at first reading. That is the case for the following amendments:

- **exchange of personal data between national administrations competent for social security**: the Council could only accept part of this amendment as it felt that the detailed provisions suggested by Parliament in the other parts of this amendment might interfere with the internal organisation of the Member States in this area, which is in any case already covered by Directive 95/46/EC on data protection;
- **certificate indicating the wages stated by the employer**: the Council considers that this amendment goes further than the information needed for social security purposes and therefore goes beyond the objectives of the Regulation.

However, the Council did not deem it advisable to take up, among others, the following amendments:

- **the costs of travel and stay of a person accompanying a person with disabilities**: the Council was of the view that the costs of travel and stay that are inseparable from the treatment of the insured person should be assumed by the competent institution provided that the national legislation of this institution so provides and that an authorisation has been granted. Furthermore, the Council could not accept the last part of the amendment concerning the reimbursement of travel and stay costs for a person accompanying a person with disabilities. It considered that this would go beyond the scope of the coordination of social security systems, at this would result into an obligation for the Member State to provide a new benefit in the field of sickness insurance;
- **deadlines for the introduction and settlement of claims**: the Council considered it necessary to extend the deadlines proposed by the Commission for the introduction and settlement of claims as well as for the settlement of disputes (12 months for the introduction of claims, 18 months for the settlement of claims and 36 months for the settlement of disputes). The Council could not therefore accept the amendments which aim to maintain the deadlines proposed by the Commission, as most Member States were of the opinion that any such deadlines could only be introduced in the light of experience and of the technological progress which is likely to make the exchanges between institutions faster. However, bearing in mind the importance of this issue for the European Parliament, the Council agreed on the principle that the time limits for the payments of claims should be reviewed four years after the entry into force of the Regulation, on the basis of the report on the implementing Regulation, with the aim of reducing the time limits in a significant way.

The Council also made several modifications to the text of the original proposal, so as to clarify it or facilitate its application. The main modifications to the text include the following:

- **provisional payment or advance payment of benefit**: a payment is considered provisional if the process of investigating the claim is under way and its outcome could affect the amount of the benefit to be awarded. An advance payment is paid by the institution of the Member State under whose legislation the person concerned will have a right to a pro-rata pension. While in agreement with the substance in Article 51(2), the Council felt that some amendments should be made and, in particular, that the term "immediately" should be replaced by "without delay";
- **unemployment benefits**: the Council considered that some amendments were necessary to provide that the competent institution of the place of residence, which will grant the benefits, has the leading role. Thus, when the unemployed person decides to make himself also available to the employment services of the Member State where he pursued his last professional activity by registering there as a person seeking work, he should inform the competent institution of the Member State of residence;
- **transitional provisions**: the Council felt that Article 87(8) of the basic Regulation should be amended to provide that, if a person is subject to the legislation of a Member State other than the one determined in accordance with Title II of Regulation (EEC) No 1408/71, that legislation should continue to apply as long as the relevant situation remains unchanged and, in any case, for a maximum period of **10 years** from the date of implementation of this Regulation, unless the person concerned requests that he/she be subject to the legislation applicable under this Regulation. This is a transitional provision which is in the interests of the person concerned as it aims to avoid the transitional treatment of his /her situation lasting for an excessively long period.

Conclusion: the Council welcomes the spirit of cooperation which prevailed with the European Parliament during the first reading of this major piece of draft legislation and which allowed the two institutions already to reduce the scope of potential disagreement to a very large extent. It considers that its Common Position goes largely in the direction of the concerns voiced by Parliament that the reform of the coordination of social security systems should ensure that the new rules will improve and simplify procedures for both employers (in particular the SMEs), and insured persons (both employees and self-employed workers), as well as for EU citizens in general, on the one hand, and social security institutions on the other.

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

2006/0006(COD) - 16/09/2009 - Final act

PURPOSE : to reform and modernise the rules for applying Regulation (EC) No 883/2004 on the coordination of social security systems and to delete Regulation 574/72/EEC.

LEGISLATIVE ACT : Regulation (EC) No 987/2009 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.

CONTEXT : Community provisions on the coordination of social security systems date back to the early years of the European Economic Community and were introduced in place of harmonising Member States' legislation on social security systems. The rules on the coordination of national social security systems were coordinated by Regulation (EEC) No 1408/71 and its implementing regulation, Regulation (EEC) No 574/72. Regulation (EC) No 883/2004 is intended to replace Regulation (EEC) No 1408/71. However, the new rules on coordination in Regulation (EC) No 883/2004 cannot be applied until the corresponding implementing regulation has been adopted to replace Regulation (EEC) No 574/72. This is the objective of this Regulation which modernises and simplifies the rules.

CONTENT : following agreement at second reading with the European Parliament, the Council adopted two regulations modernising and simplifying the coordination of Member States' social security systems. The two regulations are this one and the parallel Regulation (EC) No 883/2004 determining the content of its annexes, in particular in order to take into account the requirements of Member States which have acceded to the EU since the regulation was adopted (29 April 2004).

The adoption of the two new regulations will allow the new EU social security coordination rules (i.e. Regulation (EC) No 883/2004 and the implementing Regulation) to be applied **from 1 March 2010**. The new EU social security coordination rules are designed to make it easier for citizens to exercise their right to move freely in the EU, whether for study, leisure or for professional reasons, by guaranteeing that they are not disadvantaged in terms of social security.

Main principles and objectives of the reform: this Regulation is intended to simplify and modernise the provisions of Regulation (EEC) No 574/72 by strengthening cooperation between social security institutions and improving the methods of data exchange between social security institutions.

Extension of scope: the new rules extend the material and personal scope of the current provisions on the coordination of social security systems, and reinforce cooperation obligations between the competent authorities of Member States.

In addition to the traditional branches of social security (e.g. sickness, maternity, invalidity, retirement, accidents at work, unemployment, family benefits), the new rules also cover pre-retirement schemes.

Personal scope: the new regulations apply to all EU citizens who are or who have been covered by the social security legislation of one of the Member States (as well as their family members and survivors). This means that in addition to employees, self-employed persons, civil servants, students and pensioners "non-active persons" (e.g. persons who are in a social security system covering all residents but who do not exercise a paid activity, such as persons taking care of the home) will also be protected by the coordination rules.

Retention of basic rules: the basic principles of the current Regulation (EC) No 1408/71, are maintained. These include:

-single applicable legislation (a person is subject, in principle, to the social security law of one country only, which is, as a general rule, the country where the person is working);

-equal treatment (in any Member State, anyone covered by the rules has the same rights and obligations as the nationals of that Member State);

-the export of benefits (a person cannot lose their right to a social security benefit merely by living in the territory of another Member State);

-the totalisation of periods (insurance periods are added together).

Introduction of new rules on good administration : Regulation (EC) No 883/04 also introduces the principle of good administration, obliging the institutions of Member States to increase cooperation and mutual assistance, in order to avoid a citizen being sent endlessly from pillar to post between one institution and another. The institutions responsible are also obliged to respond to any request within a reasonable period of time and to communicate to the persons concerned all the information required to safeguard their rights. In return, the persons concerned should inform the institutions about any change in their situation which may affect their claim to benefit.

The transmission of data between the institutions or the liaison bodies must be carried out by electronic means through the access points under a common secure framework that can guarantee the confidentiality and protection of exchanges of data.

Main improvements to the existing rules : the Regulation makes the following improvements to the rules on social security :

Administrative arrangements: Member States, their competent authorities and the social security institutions will have the option of agreeing among themselves on simplified procedures and administrative arrangements which they consider to be more effective and better suited to the circumstances of their respective social security systems.

Identification of competent authority : to determine the competent institution, namely the one whose legislation applies or which is liable for the payment of certain benefits, the circumstances of the insured person and those of the family members must be examined by the institutions of more than one Member State. To ensure that the person concerned is protected for the duration of the necessary communication between institutions, provision will be made for provisional membership of a social security system.

Determination of place of residence: Member States are required to cooperate in determining the place of residence of persons to whom this Regulation and Regulation (EC) No 883/2004 apply and, in the event of a dispute, take into consideration all relevant criteria to resolve the matter, such as those set out in the Regulation.

Mobility of employees and unemployed persons: the Regulation provides for measures and procedures to promote the mobility of employees and unemployed persons. Frontier workers who have become wholly unemployed may make themselves available to the employment services in both their country of residence and the Member State where they were last employed. However, they will be entitled to benefits only from their Member State of residence;

Better information for persons concerned: informing the persons concerned of their rights and obligations is a crucial component of a relationship of trust with the competent authorities and the Member States' institutions. Information must include guidance on administrative procedures. The persons concerned may include, depending on the situation, the insured persons, their family members and/or their survivors or other persons.

Provisions on cost: certain procedures also reflect the need for a balanced sharing of costs between Member States. In particular in the area of sickness, such procedures will take account of the position of Member States which bear the costs of allowing insured persons access to their healthcare system and the position of Member States whose institutions bear the cost of benefits in kind received by their insured persons in a Member State other than that in which they are resident.

Reimbursement of sickness benefits: the Regulation clarifies 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 is insured or resident. It specifies the obligations of the insured person with regard to the application for prior authorisation, and the institution's obligations towards the patient with regard to the conditions of authorisation. The consequences for the chargeability of the costs of care received in another Member State on the basis of an authorisation are also clarified.

The Regulation also introduces certain new provisions in the following areas:

- **Recovery procedures**: there are provisions for strengthening procedures between institutions for mutual assistance in recovery of social security claims in order to ensure more effective recovery and smooth functioning of the coordination rules. Effective recovery is also a means of preventing and tackling abuses and fraud and a way of ensuring the sustainability of social security schemes. This involves the adoption of new procedures. At Parliament's request, these new recovery procedures will be reviewed in the light of the experience after five years of implementation and adjusted if necessary, in particular to ensure they are fully operable.
- **Time limits**: the persons covered by this Regulation must receive from the competent institution a timely response to their requests. The response should be provided at the latest within the time-limits prescribed by the social security legislation of the Member State in question, where such time-limits exist. It would be desirable for Member States whose social security legislation does not make provision for such time-limits to consider adopting them and making them available to the persons concerned as necessary

ENTRY INTO FORCE: the Regulation will enter into force on 1 May 2010, on which date Regulation (EEC) No 574/72 is repealed.

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

2006/0006(COD) - 05/06/2009 - Commission opinion on Parliament's position at 2nd reading

The Commission accepts all 8 amendments adopted by Parliament. The 8 amendments were agreed following informal contacts between Parliament and Council with a view to a second reading agreement. The amendments are of a technical nature, aiming, in particular, to ensure that the persons concerned receive a timely answer to their requests from the competent institution and appropriate information, including guidance on administrative procedures.

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

2006/0006(COD) - 09/07/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 678 votes to 27 with 8 abstentions, a legislative resolution under the codecision procedure, amending 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 report had been tabled for consideration in plenary by Jean **LAMBERT** (Greens/EFA) on behalf of the Committee on Employment and Social Affairs. Parliament notes that "the basic Regulation" means Regulation (EC) No 883/2004. This Regulation is called the implementing Regulation.

The principal points are as follows:

Clarification: many amendments have resulted from the deliberations of Council and the Social Questions Working Party. Generally, these have clarified and simplified the Commission's original proposals and work in the interests of the citizen. This includes the non-exhaustive list of factors to be taken into account when determining residence in Article 11.

Towards improved public service: several amendments relate to procedures for implementing the basic Regulation and generally aim to ensure faster and fairer granting of social security benefits to EU citizens. Parliament stipulates that for the purposes of the implementing Regulation, the exchanges between Member States' authorities and institutions and the persons covered by the basic Regulation must be based on the principles of public service, objectivity, cooperation, active assistance, efficiency, accessibility for disabled people and rapid delivery.

Quicker responses: there is recognition within this implementing Regulation of the need for efficiency and prompt responses. Parliament considered that a reasonable delay, defined at national level according to the principle of subsidiarity, should be respected by all institutions, in order to avoid excessively long waiting periods for the citizens. It stated that the institutions shall provide or exchange, within the deadlines prescribed by the social security legislation of the Member State in question, all data necessary for establishing and determining the rights and obligations of persons to whom the basic Regulation applies. Such data shall be transferred between Member States directly by the institutions themselves or indirectly via the liaison bodies. The procedure on the posting of workers is addressed in the amendments, as is the determination of the competent authority for those who work in more than one Member State. Members have taken into account elements of certain ECJ rulings

Data processing and data protection: Parliament inserted some clauses which aim to strengthen the data protection rights of EU citizens. Personal data must not be used for purposes other than those of social security except where expressly so authorised by the person concerned. Persons concerned should be provided, upon request, with specific and adequate information on the processing of their personal data requested for the purposes of this Regulation. Moreover, the persons concerned shall be able to exercise their data subject's rights in the areas covered by this Regulation through the competent institution, irrespective of the origin of the data. The list and details of the personal data protection officers appointed in each Member State in accordance with Article 18 of Directive 95/46/EC dealing with data related to social security legislation covered under the basic Regulation shall constitute part of Annex 4 to the implementing Regulation.

Frontier workers: frontier workers who have become completely unemployed may make themselves available to the employment services in both the country of residence and the Member State where they were last employed. In both cases they should be entitled to benefits **only from their Member State of residence**.

Cross-border health care: the question of the procedures involved in determining prior-authorisation and reimbursement of costs for scheduled cross-border healthcare are also included in the amendments and stress medical need as the basis for decision. Members inserted a new article on

procedures to be followed regarding long-term care benefits in cash in the event of stay or residence in a Member State other than the competent Member State. It provides, inter alia, for the covering of costs for a person accompanying the person requiring treatment. Article 33 on scheduled treatments was deleted. Parliament considered that the principle of prior authorisation is already set out in Article 20(1) of the basic Regulation and the procedure is covered under the Commission proposal for the implementing Regulation. Whether there should be particular provision in the case of those affected by accidents at work and occupational diseases is an issue of principle and thus better suited to the basic Regulation itself.

Addition of periods: the periods of insurance, employment, self-employment or residence completed under the legislation of a Member State shall be added to the periods of insurance, employment, self-employment or residence completed under the legislation of any other Member State provided that these periods do not overlap.

Reimbursement of claims: in a series of EPP-ED amendments approved in plenary, the Parliament made additional clarifications to the procedure on the reimbursement of claims from one Member State to another. Parliament is of the opinion that the claims of fixed amounts for a calendar year shall be introduced to the liaison body of the debtor Member State within the 6-month period (and not 12 months as was proposed by the committee responsible) following the month during which the average costs for the year concerned were published in the Official Journal of the European Union. The claims shall be paid to the liaison body of the creditor Member State by the debtor institution within 6 months (and not 18 months as was proposed by the committee responsible) of the end of the month during which they were introduced to the liaison body of the debtor Member State . This does not apply to the claims which the debtor institution has rejected for a relevant reason within that period. Any disputes concerning a claim shall be settled, at the latest, within 36 months following the month in which the claim was introduced. Other amendments were introduced to reduce the delay of reimbursement from one member State to another as regards the reimbursement of unemployment benefits.

Database: the public database referred to in Article 4 shall be established and managed by the Commission. Member States shall, however, be responsible for the input of their own national contact information into this database. Moreover, Member States shall ensure the accuracy of the input of the national contact information.

Provisional regime: where there is a difference of views between the institutions or authorities of two or more Member States about the identification of the applicable legislation, the person concerned shall be made provisionally subject to the legislation of one of these Member State . Parliament sets out the order of priority, the first one being the legislation of the Member State where the person actually pursues his/her employment or self-employment if the employment or self-employment is pursued in only one Member State. Benefits in kind granted provisionally by an institution shall be reimbursed by the competent institution.

Report: no later than five years after the entry into force of the Regulation, the Administrative Commission shall present a specific report on the application of the article on the calculation method of the monthly fixed amounts and the total fixed amount, and in particular on the reductions. On the basis of that report, the Administrative Commission may present a proposal containing any amendments necessary in order to ensure that the calculation of fixed amounts comes as close as possible to the actual expenditure incurred and the reductions referred to do not result in unbalanced payments or double payments for the Member States.

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

2006/0006(COD) - 22/04/2009 - Text adopted by Parliament, 2nd reading

The European Parliament adopted by 645 votes to 13, with 18 abstentions, a legislative resolution modifying, under the second reading of the codecision procedure, the Council’s common position for adopting 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 main amendments relate to **information to be communicated to the persons concerned by the Regulation**. The Parliament considers that those persons should be better informed about their rights and obligations (including administrative procedures) **without delay and in any case within any time limits specified under the legislation of the Member State in question**. Persons concerned may include, depending on the situation, the insured persons, their family members and/or their survivors or other persons.

Lastly, MEPs call for a **comparative report** on the implementation of certain points of the implementing regulation.

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

2006/0006(COD) - 15/10/2008 - Modified legislative proposal

In its amendment proposal following the European Parliament’s opinion at 1st reading on 9 July 2008, the Commission adapts a certain number of points in its original proposal based on the Parliament’s suggestions. The Commission can accept the vast majority of the amendments (159 out of 162) as they are in line with the objectives of its proposal. These amendments relate to procedures for implementing Regulation (EC) No 883/2004 and generally aim to ensure that social security benefits are granted quickly and efficiently to EU citizens (cutting red tape).

Many of these amendments are identical or similar to the changes made by the Council as a result of the work of the Council Working Group on Social Security. Other amendments are of a linguistic nature or spell out the procedure more clearly.

Amendment which the Commission can accept in part:

- **Amendment 15** which reflects the opinion of the European Data Protection Supervisor and changes agreed by the Council. It focuses on the exchange of personal data between national administrations and the protection of such data in so far as they relate to social security benefits. The amendment introduces a reference into Directive 95/46/EC on processing of personal data and affects the content of Annex IV to Regulation (EC) No 883/2004. This may interfere with the competence and internal organisation of the Member States in this area, which are already covered by Directive 95/46/EC.

The Commission cannot accept the following:

- **Amendment 26**: the purpose being to clarify the provisions on reimbursement of benefits paid provisionally in cash and in kind by the competent institution. The new Council wording of the first subparagraph of Article 6(4), negotiated as part of the partial general approach, is more accurate. It reflects the progress made by the Council Working Party on Social Security specifically in Chapter III, Title IV (Financial provisions).
- **Amendment 55**: according to this amendment, a certificate determining the legislation applicable (e.g. in cases of posting) will always be issued to the person concerned and will indicate the wages stated by the employer. This amendment goes further than the information needed for social security purposes in cases of posting (determination of legislation applicable) and the objectives of the Regulation.

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.