## Basic information

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|---|---|
| **2007/0152(COD)**<br><br>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation | Procedure completed |
| Social security: nationals of third countries not covered due to their nationality<br><br>Repealing Regulation (EC) No 859/2003 2002/0039(CNS)<br>Amending Regulation (EC) No 883/2004 1998/0360(COD)<br>Amending Regulation (EC) No 987/2009 2006/0006(COD)<br><br>**Subject**<br><br>4.10.10 Social protection, social security<br>7.10 Free movement and integration of third-country nationals | |

## Key players

### European Parliament

| Committee responsible | Rapporteur | Appointed |
|---|---|---|
| EMPL Employment and Social Affairs | LAMBERT Jean (Verts/ALE) | 11/09/2007 |

| Former committee responsible | Former rapporteur | Appointed |
|---|---|---|
| EMPL Employment and Social Affairs | LAMBERT Jean (Verts/ALE) | 11/09/2007 |

| Former committee for opinion | Former rapporteur for opinion | Appointed |
|---|---|---|
| LIBE Civil Liberties, Justice and Home Affairs | The committee decided not to give an opinion. | |

### Council of the European Union

| Council configuration | Meetings | Date |
|---|---|---|
| General Affairs | 3028 | 2010-07-26 |
| Employment, Social Policy, Health and Consumer Affairs | 3019 | 2010-06-07 |
| Employment, Social Policy, Health and Consumer Affairs | 2876 | 2008-06-09 |
| Employment, Social Policy, Health and Consumer Affairs | 2947 | 2009-06-08 |

### European Commission

| Commission DG | Commissioner |
|---|---|
| Employment, Social Affairs and Inclusion | ANDOR László |

## Key events

| Date | Event | Reference | Summary |
|---|---|---|---|
| 23/07/2007 | Legislative proposal published | COM(2007)0439 | Summary |
| 24/09/2007 | Committee referral announced in Parliament, 1st reading | | |
| 29/05/2008 | Vote in committee, 1st reading | | Summary |
| 02/06/2008 | Committee report tabled for plenary, 1st reading | A6-0209/2008 | |
| 09/06/2008 | Debate in Council | | Summary |
| 09/07/2008 | Decision by Parliament, 1st reading | T6-0350/2008 | Summary |
| 09/07/2008 | Results of vote in Parliament | | |
| 09/07/2008 | Debate in Parliament | | |
| 08/06/2009 | Debate in Council | | Summary |
| 02/12/2009 | Additional information | | Summary |
| 19/07/2010 | Council position published | 11160/4/2010 | Summary |
| 09/09/2010 | Committee referral announced in Parliament, 2nd reading | | |
| 30/09/2010 | Vote in committee, 2nd reading | | Summary |
| 01/10/2010 | Committee recommendation tabled for plenary, 2nd reading | A7-0261/2010 | |
| 07/10/2010 | Decision by Parliament, 2nd reading | T7-0342/2010 | Summary |
| 24/11/2010 | Final act signed | | |
| 24/11/2010 | End of procedure in Parliament | | |
| 29/12/2010 | Final act published in Official Journal | | |

## Technical information

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| **Procedure reference** | 2007/0152(COD) |
| **Procedure type** | COD - Ordinary legislative procedure (ex-codecision procedure) |
| **Procedure subtype** | Legislation |
| **Legislative instrument** | Regulation |
| **Amendments and repeals** | Repealing Regulation (EC) No 859/2003 2002/0039(CNS)<br>Amending Regulation (EC) No 883/2004 1998/0360(COD)<br>Amending Regulation (EC) No 987/2009 2006/0006(COD) |
| **Legal basis** | Treaty on the Functioning of the European Union TFEU 079-p2 |
| **Stage reached in procedure** | Procedure completed |
| **Committee dossier** | EMPL/7/03367 |

## Documentation gateway

**European Parliament**

| Document type | Committee | Reference | Date | Summary |
|---|---|---|---|---|

| | | | | |
|---|---|---|---|---|
| Committee draft report | | PE402.935 | 13/03/2008 | |
| Amendments tabled in committee | | PE404.789 | 15/04/2008 | |
| Committee report tabled for plenary, 1st reading/single reading | | A6-0209/2008 | 02/06/2008 | |
| Text adopted by Parliament, 1st reading/single reading | | T6-0350/2008 | 09/07/2008 | Summary |
| Committee draft report | | PE448.861 | 14/09/2010 | |
| Committee recommendation tabled for plenary, 2nd reading | | A7-0261/2010 | 01/10/2010 | |
| Text adopted by Parliament, 2nd reading | | T7-0342/2010 | 07/10/2010 | Summary |

**Council of the EU**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Council position | 11160/4/2010 | 19/07/2010 | Summary |
| Draft final act | 00058/2010/LEX | 24/11/2010 | |

**European Commission**

| Document type | Reference | Date | Summary |
|---|---|---|---|
| Legislative proposal | COM(2007)0439 | 23/07/2007 | Summary |
| Commission response to text adopted in plenary | SP(2008)4891 | 27/08/2008 | |
| Commission communication on Council's position | COM(2010)0448 | 02/09/2010 | Summary |

**Additional information**

| Source | Document | Date |
|---|---|---|
| National parliaments | IPEX | |
| European Commission | EUR-Lex | |

**Final act**

Regulation 2010/1231
OJ L 344 29.12.2010, p. 0001 Summary

# Social security: nationals of third countries not covered due to their nationality

2007/0152(COD) - 24/11/2010 - Final act

PURPOSE: to extend provisions on the co-ordination of social security systems to third country nationals.

LEGISLATIVE ACT: Regulation (EU) No 1231/2010 of the European Parliament and of the Council extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality.

CONTENT: the Council adopted its position at first reading on a draft regulation aimed at extending the application of regulation 883/2004 on the coordination of social security systems and its implementing regulation 987/2009 to nationals of third countries. The German, Austrian and Bulgarian delegations voted against, and the Czech delegation abstained.

The application of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by those Regulations solely on the ground of their nationality must not give them any entitlement to enter, to stay or to reside in a Member State or to have access to its labour market. Accordingly, the application of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 should be without prejudice to the right of the Member States to refuse to grant, to withdraw or to refuse to renew a permit to enter, to stay, to reside or to work in the Member State concerned, in accordance with the law of the Union.

In addition, the condition of residing legally in the territory of a Member State should not affect the rights deriving from the application of Regulation (EC) No 883/2004 concerning invalidity, old age or survivors' pensions, on behalf of one or more Member States, for a third-country national who has previously fulfilled the conditions of this present Regulation, or the survivors of such third-country national, insofar as they derive their rights from a worker, when residing in a third country.

Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. The same applies to the United Kingdom.

Ireland has notified its wish to take part in the adoption and application of this Regulation.

ENTRY INTO FORCE: 01/01/2011.

# Social security: nationals of third countries not covered due to their nationality

2007/0152(COD) - 19/07/2010 - Council position

The Council adopted its position at first reading by qualified majority on the Proposal for a Council Regulation extending the provisions of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality provides for a balanced approach to ensure equal treatment and non-discrimination with respect to the nationals of third countries who are legally resident on the territory of the European Union.

The proposal for a Regulation pursues the same objectives as Regulation (EC) No 859/2003, which is to extend the scope of the Community provisions in force in the field of the coordination of social security schemes to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality.

The European Parliament adopted two amendments to the Commission's proposal with a view to introducing two new recitals in the Preamble to emphasise the importance of equality of treatment. The Commission indicated that it could accept these amendments.

The Council also accepts these two amendments.

New elements introduced by the Council:

- **Deletion of transitional provisions**: the Council deleted Article 2 and the associated recital 12 in the original proposal, which contained transitional provisions for the entry into force of the proposed Regulation. The Council agreed that no particular transitional provisions for the entry into force of this proposal are necessary, since the appropriate transitional provisions are already contained in Regulation (EC) No 883 /2004.
- **Addition of recitals for Ireland and the United Kingdom**: the Council added a recital to indicate that Ireland is taking part in the proposal and anothing indicating that the United Kingdom is not taking part.
- **Repeal of the old Regulation:** the Council has clarified the parameters for the repeal of Regulation (EC) No 859/2003 in the new Article 2 of the proposal. Given that the United Kingdom will not take part in this proposal but will continue to apply Regulation (EC) No 859/2003, it is not possible to repeal the latter completely.
- **Determination of legal residence**: Regulations (EC) No 883/2004 and (EC) No 987/2009 apply to nationals of third countries who are legally resident on the territory of a Member State. However, determination of legal residence falls entirely outside the remit of the Coordination Regulations and Member States retain the right to determine, in accordance with Union law, whether a person is entitled to enter, remain, reside or work on its territory. The extra sentence added to recital 10 by the Council underlines this division of powers between the Union and its Member States.
- **Clarification of application of the criterion of 'legal residence' in case of invalidity, old-age and survivors' pensions**: the Council added a recital to clarify that the condition of legal residence on the territory of the Member State does not apply at the point in time when a person who has been subject to the Regulation, or a person deriving rights from such a person, applies for a pension based on rights given by the Regulation.

# Social security: nationals of third countries not covered due to their nationality

2007/0152(COD) - 09/07/2008 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted, by 663 votes to 26 with 13 abstentions, a legislative resolution amending the proposal for a Council regulation extending the provisions of Regulation (EC) No 883/2004 and Regulation (EC) No […] to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality. The report had been tabled for consideration in plenary by Jean **LAMBERT** (PES, UK) on behalf of the Committee on Employment and Social Affairs.

The amendments – adopted under the consultation procedure – were as follows:

- a new recital states that Regulation respects the fundamental rights and observes the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union, notably Article 34(2) thereof ;

- a second new recital observes that promoting a high level of social protection and raising the standard of living and the quality of life in the Member States are objectives of the EU.

# Social security: nationals of third countries not covered due to their nationality

2007/0152(COD) - 02/09/2010 - Commission communication on Council's position

The Commission considers that the Council's position improves and refines certain aspects of the Commission's proposal. It provides **clarification on key practical legal issues**, such as repeal and transitional provisions. In addition, it provides for a clearer understanding, and hence better protection, of the acquired rights of nationals of third countries (and those who derive rights from them) when they are no longer resident in the EU. Inclusion, in full, of the **European Parliament's amendments provides a fuller context for the proposal**.

The Commission welcomes the agreement by the Council on this position, which is a major step towards attaining the objective of Article 34 of the Charter of Fundamental Rights of the European Union, namely that everyone residing and moving legally within the EU is entitled to social security benefits. It is also a vital step towards the completion of the legislative package of modernised EU social security rules. It guarantees that nationals of third countries can benefit from the same improved rights conferred by the modernised rules and simplifies processes for national social security administrations, which will be able to apply the same procedures regardless of whether the rights concern an EU national or a national of a third country.

In view of the foregoing, **the Commission fully supports the Council's position**.

# Social security: nationals of third countries not covered due to their nationality

2007/0152(COD) - 08/06/2009

Despite substantial progress, **ministers did not reach an agreement** on a draft Regulation designed to ensure that third-country nationals who are legally resident in the EU and who are in a cross-border situation are subject to the same rules coordinating social security entitlements as European citizens.

The last two outstanding issues concern the principle of equal treatment of third-country nationals and the possibility of exporting pensions to third countries.

# Social security: nationals of third countries not covered due to their nationality

2007/0152(COD) - 23/07/2007 - Legislative proposal

PURPOSE: to extend provisions on the co-ordination of social security systems to third country nationals.

PROPOSED ACT: Council Regulation.

CONTENT: the purpose of this proposal is to extend the provisions of Regulation (EC) No 883/2004 on the coordination of social security systems to nationals of third countries who are legally resident in a Member State and who are not already covered by these provisions. For a summary of this Regulation see: COD/1998/0360. It is being presented in order to simplify existing acts and can be viewed, essentially, as a recasting exercise.

This proposal aims to ensure that the same rules applied to European citizens for co-ordinating social security schemes are applied to nationals of third countries since Regulation (EC) No 883/2004 and its implementing Regulations have entered into force. It is a key extension to the co-ordination of social security systems, both in terms of equal treatment and non-discrimination with respect to the nationals of third countries and in terms of administrative simplification, the reduction of administrative costs and legal clarity for all parties involved (national administrations, social security institutions and the persons insured.)

The main elements of the proposal, in summary, are as follows:

**Article 1:** The purpose of this article to is to apply the provisions of Regulation (EC) No 883/04 and its implementing Regulations to nationals of third countries who are not already covered by this Regulation on the ground of their nationality. The nationals of third countries covered by this text must be legally resident on the territory of a Member State. To benefit from the Regulation in a second Member State, the third-country national does not have to satisfy the residency conditions. Instead they may simply move to the second country, in compliance with that country's national legislation on entry and residence.

**Article 2:** This article contains provisional rules designed to protect the persons covered by this Regulation, so that they do not lose their rights as a result of its entry into force.

# Social security: nationals of third countries not covered due to their nationality

2007/0152(COD) - 07/10/2010 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative procedure on the Council's position in first reading with a view to the adoption of a Regulation of the European Parliament and of the Council extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality.

The European Parliament adopted the Council's position unamended.

# Social security: nationals of third countries not covered due to their nationality

2007/0152(COD) - 09/06/2008

The Council reached a unanimous **partial general approach** regarding part of a regulation aimed at implementing Regulation (EC) No 883/2004 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).

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.

With regard to the Annexes to Regulation (EC) 883/2004, the Council has agreed on a general approach on a regulation amending Regulation (EC) No 883/2004 on the coordination of social security systems and determining the content of its Annexes. These Annexes are necessary in order to ensure that the particular characteristics of the various systems in the Member States are taken into account.