

**Question for written answer E-001050/2014
to the Commission**

Rule 117

Sergio Gutiérrez Prieto (S&D) and Alejandro Cercas (S&D)

Subject: Loss of the right to Spanish healthcare assistance following periods spent abroad lasting over 90 days

Through Law 22/2013 of 23 December 2013, the Spanish Government has reformed its legislation on the right to healthcare assistance, amending the criteria for maintaining this assistance in the event of the recipients leaving Spain. Specifically, it introduces a new condition vis-à-vis the concept of residence whereby the right to assistance will be revoked following periods spent abroad lasting over 90 days over the course of a calendar year. Beyond this period, Spanish social security will no longer cover healthcare dispensed in the territory of the other EU Member State.

We view this new regulation as an attack on the free movement of workers and persons within the EU, and an extremely serious threat given that those who are going to suffer most are young Spanish people who have left the country to look for work in other Member States.

This Spanish legislation is a clear contravention of the concept of habitual residence established in Article 11 of Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, which states that residence may be defined by other criteria, which are listed in said Article, and never on the basis of a fixed period of days. Commissioner Borg reiterated this in his reply to Parliamentary question E-012596/2013: 'a person may [...] be temporarily absent for a period exceeding 90 days and still maintain his/her habitual residence [...] this depends on an overall assessment of the person's situation, taking into account various factors which determine his/her real centre of interest'. That same directive cites a ruling from established CJEU case-law (*inter alia* CJEU Case C-76/76), and it is vital that this is maintained, because if the Spanish legislation is passed, all EU citizens whose right to healthcare assistance hinges on the criterion of residence could lose that right if the Spanish legislation were reproduced in other Member States.

Therefore, and because we believe that the Spanish Government has violated Community law and the principle of free movement, and that this Spanish legislation must be revoked, we would like to ask the following:

Is the Commission going to start infringement proceedings against the Spanish Government pursuant to Article 258 TFEU on account of the final provision 4.7 of Law 22/2013, which clashes with the Regulations on the coordination of social security systems and with CJEU case-law?