

Social security coordination

2016/0397(COD) - 13/12/2016 - Legislative proposal

PURPOSE: to bring up to date the Union rules on coordination of social security.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides, in accordance with the ordinary legislative procedure and on an equal footing with Council.

BACKGROUND: the Commission recalls that the right of EU citizens and their families to move freely and reside in any EU country is one of the four fundamental freedoms enshrined in the EU Treaties.

Free movement of persons would not be possible unless the social security rights of mobile

Europeans and their family members were protected. In all, it is estimated that:

- 3.7 million of Europeans are economically inactive mobile citizens;
- nearly 80 000 mobile citizens are entitled to long-term care benefits, totalling EUR 793 million (0.4% of the total EU expenditure on long-term care benefits);
- some 27 300 persons within the EU export their unemployment benefit to another Member State;
- there are 91 700 unemployed cross-border workers per year, 53 500 of whom are frontier workers.

This initiative is part of the European Commission's labour mobility package of 2016. Its objective is to continue the process of modernisation of the EU law on social security coordination set out in Regulations [\(EC\) No 883/2004](#) and [No 987/2009](#), by further facilitating the exercise of citizens' rights while ensuring legal clarity, a fair and equitable distribution of the financial burden among the Member States and administrative simplicity and enforceability of the rules.

IMPACT ASSESSMENT : the Commission's preferred options include the following:

- to amend the current equal treatment provisions with regard to the access of economically inactive citizens to social benefits;
- the establishment of a coherent regime for long-term care benefits;
- new arrangements for the coordination of unemployment benefits in cross-border cases (aggregation of periods of insurance; the export of unemployment benefits; paying unemployment benefits to frontier workers);
- the coordination of family benefits intended to replace income during child-raising periods.

CONTENT: the proposal focuses on four areas of coordination where improvements are required: (i) economically inactive citizens' access to social benefits, (ii) long-term care benefits, (iii) unemployment benefits and (iv) family benefits. Each Member State is free to determine the features of its own social security system - which benefits are provided, the conditions for eligibility, how these benefits are calculated and what contributions should be paid, and for all social security branches (old age, unemployment and family benefits), provided that such national provisions respect the principles of EU law in particular concerning equal treatment and non-discrimination.

Access to social benefits claimed by economically inactive EU mobile citizens: further to recent case-law of the Court of Justice of the European Union, the proposal specifies that access to social security benefits for economically inactive mobile citizens in the host Member State, may be made conditional upon that citizen holding a legal right of residence in that Member State in accordance with [Directive 2004/38/EC](#) of the European Parliament and of the Council.

The proposal clearly distinguishes an economically inactive citizen from a jobseeker whose right of residence is conferred directly by Article 45 of the Treaty on the Functioning of the European Union.

Long-term care benefits: the proposed revision aims to establish a coherent regime for the coordination of long-term care benefits (currently dealt with under the sickness chapter) by introducing a separate Chapter for their coordination in Regulation (EC) No 883/2004, by including a definition and providing for a list of those benefits.

Unemployment benefits: the proposal sets out new arrangements for the coordination of unemployment benefits in cross-border cases. The proposal:

- requires a minimum qualifying period of three months insurance in the Member State of most recent activity before a right to aggregate past periods of insurance arises (while requiring the Member State of previous activity to provide benefits when this condition is not fulfilled);
- extends the minimum period for an export of unemployment benefits from three to six months while providing for the possibility of exporting the benefit for the whole period of entitlement. The aim is to improve the opportunities for unemployed persons moving to another Member State to look for work and their chances for reintegration into the labour market and to address skills mismatches across borders;
- makes the Member State of most recent employment responsible for the payment of unemployment benefits when the frontier worker has worked there for at least 12 months and otherwise attributing the responsibility to the Member State of residence.

Child benefits: the proposal aims to change the current coordination provisions so that child-raising allowances are considered individual and personal rights and to permit an optional right for the secondary competent Member State to pay the benefit in full.

Posted workers: the proposal clarifies the rules on applicable legislation and the relationship between the Regulations on coordination and [Directive 96/71/EC](#) of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services. It strengthens the administrative rules on social security coordination in the fields of information exchange and verification of the

social security status of such workers in order to prevent potentially unfair practices or abuse.

Technical amendments: the proposed amendments concern: (i) the prioritisation of derived rights to sickness benefits; (ii) the reimbursement of costs for medical examination; (iii) the calculation of the annual average costs in the field of sickness benefits; and (iv) the introduction of measures to facilitate identification of fraud or error in the application of the Regulations, including the introduction of a permissive ground for Member States to periodically exchange personal data.

Furthermore, the procedures for recovery of unduly paid social security benefits have been revised to align them with the equivalent procedures in Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.