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*****I**

REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of Annex XI (COM(2006)0007 – C6-0029/2006 – 2006/0008(COD))

Committee on Employment and Social Affairs

Rapporteur: Emine Bozkurt

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of Annex XI (COM(2006)0007 – C6-0029/2006 – 2006/0008(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2006)0007),
 - having regard to the Commission proposal to the European Parliament and the Council (COM(2007)0376),
 - having regard to Article 251(2) and Articles 42 and 308 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0029/2006),
 - having regard to Rules 42 and 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs (A6-0229/2008),
1. Approves the Commission proposal COM(2006)0007 as amended;
 2. Considers procedure 2007/0129(COD) to have lapsed as a result of the incorporation into procedure 2006/0008(COD) of the contents of the Commission proposal COM(2007)0376;
 3. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposals substantially or replace them with other texts;
 4. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a regulation – amending act

Title

Text proposed by the Commission

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of *Annex XI*

Amendment

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of *its annexes*

Justification

New title due to the merging of COM(2006)007 and COM(2007)376

Amendment 2

Proposal for a regulation – amending act
Recital -1 (new)

Text proposed by the Commission

Amendment

(–1) Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems provides that the content of Annexes II, X and XI to that Regulation will be determined before the date of its application.

Justification

New recital due to the merging of COM(2006)007 and COM(2007)376

Amendment 3

Proposal for a regulation – amending act
Recital -1 a (new)

Text proposed by the Commission

Amendment

(–1a) Annexes I, III, IV, VI, VII, VIII and IX to Regulation (EC) No 883/2004 should be adapted to take into account both the requirements of the Member States that have acceded to the European Union since that Regulation was adopted and recent developments in other Member States.

Justification

New recital due to the merging of COM(2006)007 and COM(2007)376

Amendment 4

Proposal for a regulation – amending act Recital 1

Text proposed by the Commission

(1) **Articles 51(3), 56(1) and 83** of Regulation (EC) No 883/2004 **of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems** provide for special provisions concerning the application of the legislation of the Member States to be set out in Annex XI to that Regulation. Annex XI is intended to take account of the particularities of the various social security systems of Member States in order to facilitate the application of the rules on coordination.

Amendment

(1) **Articles 56(1) and 83** of Regulation (EC) No 883/2004 provide for special provisions concerning the application of the legislation of the Member States to be set out in Annex XI to that Regulation. Annex XI is intended to take account of the particularities of the various social security systems of Member States in order to facilitate the application of the rules on coordination.

Justification

Article 51(3) has been modified and reference to Annex XI is no longer applicable

Amendment 5

Proposal for a regulation – amending act Article 1 – point -1 (new) Regulation (EC) No 883/2004 Recital 5 a (new)

Text proposed by the Commission

Amendment

-1) The following recital shall be inserted after Recital 5:

"(5a) Some Member States' entries in Annex VI of Regulation (EEC) No 1408/71 are now covered in Regulation (EC) No 883/2004 by certain general provisions. For example, under the title equal treatment of benefits, income, facts or events, Article 5 of Regulation (EC) No 883/2004 provides that where, under the legislation of the competent Member State, legal effects are attributed to the occurrence of certain facts or events, such

legal effects must be accorded to equivalent facts or events occurring in another Member State. Consequently, a number of entries in Annex VI of Regulation (EEC) No 1408/71 have become superfluous."

Amendment 6

Proposal for a regulation – amending act

Article 1 – point -1 a (new)

Regulation (EC) No 883/2004

Recital 8 a (new)

Text proposed by the Commission

Amendment

-1a) The following recital shall be inserted after Recital 8:

"(8a) The family members of former frontier workers should benefit from the possibility to continue medical treatment in the former country of employment of the insured person after his or her retirement."

Amendment 7

Proposal for a regulation – amending act

Article 1 – point -1 b (new)

Regulation (EC) No 883/2004

Recital 17 a (new)

Text proposed by the Commission

Amendment

-1c) The following recital shall be inserted after Recital 17:

"(17a) Once legislation becomes applicable to a person under Title II of the Regulation, the conditions for affiliation and entitlement to benefits should be defined by the legislation of the competent Member State, while respecting Community law."

Amendment 8

Proposal for a regulation – amending act

Article 1 – point -1 c (new)

Regulation (EC) No 883/2004

Recital 18 a (new)

Text proposed by the Commission

Amendment

-1c) The following recital shall be inserted after Recital 18:

“(18a) The principle of unity of the applicable legislation is of great importance and should be enhanced. This should not mean, however, that the grant of a benefit alone, in accordance with the Regulation and comprising the payment of insurance contributions or insurance coverage for the beneficiary, renders the legislation of the Member State whose institution has granted that benefit the applicable legislation for that person¹.

¹ cf. Joined cases C-502/01 and C-31/02, Gaumain-Cerri and Barth, ECR [2004] I-6483.”

Amendment 9

Proposal for a regulation – amending act

Article 1 – point -1 d (new)

Regulation (EC) No 883/2004

Article 1 – point v a (new)

Text proposed by the Commission

Amendment

-1d) In Article 1, the following point shall be inserted:

(va) “benefits in kind” shall mean those benefits in kind provided for under the legislation of a Member State that are intended to supply, make available, pay directly or reimburse the cost of medical care or products and services ancillary to such care, including long-term care benefits in kind.”.

Amendment 10

Proposal for a regulation – amending act

Article 1 – point -1 e (new)

Regulation (EC) No 883/2004

Article 3 – paragraph 5

Text proposed by the Commission

Amendment

-1e) Article 3(5) shall be replaced by the following:

"5. This Regulation shall not apply:

(a) to social and medical assistance or

(b) to benefits in regard to which a Member State assumes the liability for damages to persons and provides compensation, as for victims of war and military actions or their consequences; victims of crime, assassination or terrorist acts; victims of damage occasioned by agents of the Member State in the course of their duties; or victims who have suffered a disadvantage for political or religious reasons or reasons of descent."

Amendment 11

Proposal for a regulation – amending act

Article 1 – point 1 a (new)

Regulation (EC) No 883/2004

Article 18 – paragraph 2

Text proposed by the Commission

Amendment

1a) Article 18(2) shall be replaced by the following:

"2. The members of the family of a frontier worker shall be entitled to benefits in kind during their stay in the competent Member State. However, for as long as Annex III is in force, when the competent Member State is listed in Annex III [...], the members of the family of a frontier worker who reside in the same Member State as the frontier

worker shall be entitled to benefits in kind in the competent Member State only under the conditions laid down in Article 19(1)."

Amendment 12

Proposal for a regulation – amending act

Article 1 – point 1 b (new)

Regulation (EC) No 883/2004

Article 28 – paragraph 1

Text proposed by the Commission

Amendment

1b) Article 28(1) shall be replaced by the following:

"1. A frontier worker who has retired because of old age or invalidity is entitled in case of sickness to continue to receive benefits in kind in the Member State where he/she last pursued his/her activity as an employed or self-employed person, in so far as this is a continuation of treatment which began in that Member State. The term 'continuation of treatment' means the continued investigation, diagnosis and treatment of an illness for its entire duration.

The first subparagraph shall apply mutatis mutandis to the members of the family of the retired frontier worker."

Amendment 13

Proposal for a regulation – amending act

Article 1 – point 2

Regulation (EC) No 883/2004

Article 51 – paragraph 3

Text proposed by the Commission

Amendment

2. In Article 51(3), before the words "in accordance with the procedures provided for in Annex XI", the words "where

2) Article 51(3) shall be replaced by the following:

necessary” are inserted.

"3. Where the legislation or specific scheme of a Member State makes the acquisition, retention or recovery of the right to benefits conditional upon the person concerned being insured at the time of the materialisation of the risk, this condition shall be regarded as having been satisfied if that person has been previously insured under the legislation or specific scheme of that Member State and is, at the time of the materialisation of the risk, insured under the legislation of another Member State for the same risk or, failing that, a benefit is due under the legislation of another Member State for the same risk. The latter condition shall, however, be deemed to be fulfilled in the cases referred to in Article 57."

Amendment 14

Proposal for a regulation – amending act

Article 1 – point 3

Regulation (EC) No 883/2004

Article 52 – paragraph 4

Text proposed by the Commission

Amendment

4 *The competent institution may waive the pro rata calculation:*

4. Where the calculation pursuant to paragraph 1(a) in one Member State invariably results in the independent benefit being equal to or higher than the pro rata benefit, calculated in accordance with paragraph 1(b), *the competent institution shall waive the pro rata calculation, on condition that:*

(a) where the calculation pursuant to paragraph (1)(a) in one Member State invariably results in the independent benefit being equal to or higher than the pro rata benefit calculated in accordance with paragraph (1)(b);

(a) *such a situation is set out in part 1 of Annex VIII;*

(b) *where the pension is based on a*

(b) *no legislation containing rules against*

defined contribution scheme.

The cases referred to in points (a) and (b) are set out in Annex VIII.

overlapping, referred to in Articles 54 and 55, is applicable unless the conditions laid down in Article 55(2) are fulfilled; and

(c) Article 57 is not applicable in relation to periods completed under the legislation of another Member State in the circumstances set out in this specific case.

Amendment 15

Proposal for a regulation – amending act

Article 1 – point 3 a (new)

Regulation (EC) No 883/2004

Article 52 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

3a) In Article 52, the following paragraph shall be added:

"4a. Notwithstanding the provisions of subparagraphs 1, 2 and 3, the pro rata calculation shall not apply to schemes providing benefits in respect of which periods of time are of no relevance to the calculation, subject to such schemes being listed in part 2 of Annex VIII. In such cases, the person concerned shall be entitled to the benefit calculated in accordance with the legislation of the Member State concerned."

Amendment 16

Proposal for a regulation – amending act

Article 1 – point 4 a (new)

Regulation (EC) No 883/2004

Article 56 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

4a) In Article 56, the following paragraph shall be inserted:

"1a. In the event that paragraph 1(c) is not applicable because the legislation of a

Member State provides that the benefit is to be calculated on the basis of elements other than periods of insurance or residence which are not linked to time, the competent institution shall take into account, in respect of each period of insurance or residence completed under the legislation of any other Member State, the amount of the capital accrued, the capital which is considered as having been accrued or any other element for the calculation under the legislation it administers divided by the corresponding units of periods in the pension scheme concerned.”.

Amendment 17

Proposal for a regulation – amending act

Article 1 – point 4 b (new)

Regulation (EC) No 883/2004

Article 57 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

4b) In Article 57, the following paragraph shall be added:

“3a. This Article shall not apply to schemes listed in part 2 of Annex VIII. ”.

Amendment 18

Proposal for a regulation – amending act

Article 1 – point 4 c (new)

Regulation (EC) No 883/2004

Article 62 – paragraph 3

Text proposed by the Commission

Amendment

4c) Article 62(3) shall be replaced by the following:

“3. By way of derogation from paragraphs 1 and 2, as far as the unemployed persons covered by Article 65(5)(a) are concerned, the institution of

the place of residence shall take into account the salary or professional income received by the person concerned in the Member State to whose legislation he/she was subject during his/her last activity as an employed or self-employed person, in accordance with the Implementing Regulation.”.

Justification

Text identical to Art. 62(3) of Reg. (EC) No 883/2004 but now the term "frontier workers" is replaced with the term "unemployed persons"

Amendment 19

Proposal for a regulation – amending act

Article 1 – point 4 d (new)

Regulation (EC) No 883/2004

Article 68 a (new)

Text proposed by the Commission

Amendment

4d) The following article shall be inserted after Article 68:

"Article 68a

Provision of benefits

In the event that family benefits are not used by the person to whom they should be provided for the maintenance of the members of the family, the competent institution shall discharge its legal obligations by providing the said benefits to the natural or legal person in fact maintaining the members of the family, at the request and through the agency of the institution in their Member State of residence or of the designated institution or body appointed for that purpose by the competent authority of their Member State of residence."

Amendment 20

Proposal for a regulation – amending act
Article 1 – point 4 e (new)
Regulation (EC) No 883/2004
Article 87 – paragraph 10 a (new)

Text proposed by the Commission

Amendment

4e) In Article 87, the following paragraph shall be inserted:

"10a. Annex III shall be repealed 5 years after the date of application of the Regulation."

Amendment 21

Proposal for a regulation – amending act
Annex – point -1 a (new)
Regulation (EC) No 883/2004
Annex I – part I

Text proposed by the Commission

Amendment

-1a) Annex I, Part I shall be amended as follows:

(a) After the entry under the heading "A. BELGIUM" the following entry shall be inserted:

"Aa. BULGARIA

Maintenance payments made by the state under Article 92 of the Family Code";

(b) After the entry "C. GERMANY" the following entries shall be inserted:

"Ca. ESTONIA

Maintenance allowances under the Maintenance Allowance Act of 21 February 2007

Cb. SPAIN

Advances of maintenance payments under the Royal Decree 1618/2007 of 7 December 2007";

(c) After the entry under the heading "D. FRANCE" the following entries shall be

inserted:

"Da. LITHUANIA

***Payments from the Children's
Maintenance Fund under the Law on
Children's Maintenance Fund***

Db. LUXEMBOURG

***Advances and recovery of maintenance
payments within the meaning of the Act of
26 July 1980";***

***(d) After the entry under the heading "I.
AUSTRIA" the following entry shall be
inserted:***

"Ia. POLAND

***Benefits from Alimony Fund under the
Act of Assistance to the Persons Entitled
to Alimony";***

***(e) After the entry under the heading "F.
PORTUGAL" the following entries shall
be inserted:***

"Fa. SLOVENIA

***Maintenance replacement in accordance
with the Act of Public Guarantee and
Maintenance Fund of the Republic of
Slovenia of 25 July 2006***

Fb. SLOVAKIA

***Substitute alimony benefit (substitute
maintenance payment) pursuant to the
Act No 452/2004 Coll. on substitute
alimony benefit as amended by later
regulations".***

(Wording of amendment similar to amendment 20 of PR 702068, PE400.316)

Amendment 22

Proposal for a regulation – amending act

Annex – point 1

Regulation (EC) No 883/2004

Annex I – part II

1. *In Annex I, section II, after the text under the heading “C. FRANCE” the following phrase is added:*

“, except when they are paid to a person who remains subject to French legislation pursuant to Article 12 or Article 16”.

1) Annex I, Part II shall be amended as follows:

(a) After the entry under the heading “A. BELGIUM” the following entries shall be inserted:

“Aa. BULGARIA

Maternity lump sum allowance (Law on Family Allowances for Children)

Ab. CZECH REPUBLIC

Childbirth allowance

Ac. ESTONIA

Childbirth allowance

Adoption allowance”;

(b) The heading “B. SPAIN” shall be amended as follows:

“B. SPAIN

Single payment birth and adoption grants”;

(c) Under the heading “C. FRANCE” the following words shall be added after the text:

“, except when they are paid to a person who remains subject to French legislation pursuant to Article 12 or Article 16”.

(d) After the entry under the heading “C. FRANCE” the following entries shall be inserted:

“Ca. LATVIA

Childbirth grant

Adoption allowance

Cb. LITHUANIA

Child lump sum grant”;

(e) After the entry under the heading “D. LUXEMBOURG” the following entries shall be inserted:

“Da. HUNGARY

Maternity grant

Db. POLAND

***Single payment birth grant (Act on
Family Benefits)***

Dc. ROMANIA

Childbirth allowance

Layettes for new born children

Dd. SLOVENIA

Childbirth grant

De. SLOVAKIA

Childbirth allowance

Supplement to childbirth allowance”;

(Wording of amendment similar to amendment 21 of PR 702068, PE400.316)

Amendment 23

Proposal for a regulation – amending act

Annex – point 1 a (new)

Regulation (EC) No 883/2004

Annex II

Text proposed by the Commission

Amendment

***1a) Annex II shall be replaced by the
following:***

“ANNEX II

***PROVISIONS OF CONVENTIONS
WHICH REMAIN IN FORCE AND
WHICH, WHERE APPLICABLE, ARE
RESTRICTED TO THE PERSONS
COVERED THEREBY***

General comments

***It is to be noted that the provisions of
bilateral conventions which do not fall
within the scope of the Regulation and
which remain in force between Member
States are not listed in this Annex. This
includes obligations between Member***

States arising from conventions providing, for example, for provisions regarding aggregation of insurance periods fulfilled in a third country.

(Article 8(1))

Provisions of social security conventions remaining applicable

1. BELGIUM-GERMANY

Articles 3 and 4 of the Final Protocol of 7 December 1957 to the General Convention of that date, as in the Complementary Protocol of 10 November 1960 (reckoning of insurance periods completed in some border regions before, during and after the Second World War).

2. BELGIUM-LUXEMBOURG

Convention of 24 March 1994 on social security for frontier workers (relating to the complementary flat rate reimbursement).

3. BULGARIA-GERMANY

Article 28(1)(b) of the Convention on Social Security of 17 December 1997 (maintenance of conventions concluded between Bulgaria and the former German Democratic Republic for persons who already received a pension before 1996).

4. BULGARIA-AUSTRIA

Article 38(3) of the Convention on Social Security of 14 April 2005 (reckoning of periods of insurance completed before 27 November 1961); the application of this point is restricted to the persons covered by that Convention.

5. BULGARIA-SLOVENIA

Article 32(2) of the Convention on Social Security of 18 December 1957 (reckoning of periods of insurance completed until 31 December 1957).

6. CZECH REPUBLIC-GERMANY

Article 39(1)(b) and (c) of the Agreement on Social Security of 27 July 2001

(maintenance of the convention concluded between the former Czechoslovak Republic and the former German Democratic Republic for persons who already received a pension before 1996; reckoning of periods of insurance completed in one of the contracting states for persons who already received a pension for these periods on 1 September 2002 from the other contracting state, while residing in its territory).

7. CZECH REPUBLIC-CYPRUS

Article 32(4) of the Convention on Social Security of 19 January 1999 (determining competence for the calculation of periods of employment completed under the relevant Convention of 1976); the application of this provision is restricted to the persons covered by it.

8. CZECH REPUBLIC-LUXEMBOURG

Article 52(8) of the Convention of 17 November 2000 (reckoning of pension insurance periods for political refugees).

9. CZECH REPUBLIC-AUSTRIA

Article 32(3) of the Convention on Social Security of 20 July 1999 (reckoning of periods of insurance completed before 27 November 1961); the application of this point is restricted to the persons covered by that Convention.

10. CZECH REPUBLIC-SLOVAKIA

Articles 12, 20 and 33 of the Convention on Social Security of 29 October 1992 (Article 12 determines competence for a grant of survivor's benefits; Article 20 determines competence for calculation of insurance periods completed until the day of dissolution of the Czech and Slovak Federal Republic; Article 33 determines competence for payment of pensions awarded before to the day of the dissolution of the Czech and Slovak Federal Republic).

11. DENMARK-FINLAND

Article 7 of the Nordic Convention on Social Security of 18 August 2003, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making more expensive return travel to the country of residence necessary.

12. DENMARK-SWEDEN

Article 7 of the Nordic Convention on Social Security of 18 August 2003, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making more expensive return travel to the country of residence necessary.

13. GERMANY-SPAIN

Article 45(2) of the Convention on Social Security of 4 December 1973 (representation by diplomatic and consular authorities).

14. GERMANY-FRANCE

(a) Complementary Agreement No 4 of 10 July 1950 to the General Convention of the same date, as in Supplementary Agreement No 2 of 18 June 1955 (reckoning of periods of insurance completed between 1 July 1940 and 30 June 1950);

(b) Title I of the said Supplementary Agreement No 2 (reckoning of periods of insurance completed before 8 May 1945);

(c) points 6, 7 and 8 of the General Protocol of 10 July 1950 to the General Convention of the same date (administrative arrangements);

(d) Titles II, III and IV of the Agreement of 20 December 1963 (social security in the Saar).

15. GERMANY-LUXEMBOURG

Articles 4 to 7 of the Convention of 11 July 1959 (reckoning of insurance periods completed between September 1940 and

June 1946).

16. GERMANY-HUNGARY

Article 40(1)(b) of the Convention on Social Security of 2 May 1998 (maintenance of the convention concluded between the former German Democratic Republic and Hungary for persons who already received a pension before 1996).

17. GERMANY-NETHERLANDS

Articles 2 and 3 of Complementary Agreement No 4 of 21 December 1956 to the Convention of 29 March 1951 (settlement of rights acquired under the German social insurance scheme by Dutch workers between 13 May 1940 and 1 September 1945).

18. GERMANY-AUSTRIA

(a) Article 1(5) and Article 8 of the Convention on Unemployment Insurance of 19 July 1978 and Article 10 of the Final Protocol to this Convention (granting of unemployment allowances to frontier workers by the previous State of employment) shall continue to apply to persons who have exercised an activity as a frontier worker on or before 1 January 2005 and become unemployed before 1 January 2011.

(b) Article 14(2)(g), (h), (i) and (j) of the Convention on Social Security of 4 October 1995 concerning the division of competencies between both countries with regard to past insurance cases and acquired insurance periods (determination of competencies between both countries with regard to former insurance cases and acquired insurance periods); the application of this point is restricted to the persons covered by that Convention.

19. GERMANY-POLAND

(a) Convention of 9 October 1975 on old-age and work-injury provisions, under the

conditions and the scope defined by Article 27(2), (3) and (4) of the Convention on Social Security of 8 December 1990 (maintenance of legal status, on the basis of the convention of 1975, of the persons who had established their residence in the territory of Germany or Poland before 1 January 1991 and who continue to reside there).

(b) Articles 27(5) and 28(2) of the Convention on Social Security of 8 December 1990 (maintenance of entitlement to a pension paid on the basis of the convention of 1957 concluded between the former German Democratic Republic and Poland; reckoning of periods of insurance completed by Polish employees under the convention of 1988 concluded between the former German Democratic Republic and Poland).

20. GERMANY-ROMANIA

Article 28(1)(b) of the Convention on Social Security of 8 April 2005 (maintenance of the convention concluded between the former German Democratic Republic and Romania for persons who already received a pension before 1996).

21. GERMANY-SLOVENIA

Article 42 of the Convention on Social Security of 24 September 1997 (settlement of rights acquired before 1 January 1956 under the social security scheme of the other contracting state); the application of this point is restricted to the persons covered by that Convention.

22. GERMANY-SLOVAKIA

The second and third subparagraphs of Article 29(1) of the Agreement of 12 September 2002 (maintenance of the convention concluded between the former Czechoslovak Republic and the former German Democratic Republic for persons who already received a pension before 1996; reckoning of periods of insurance

completed in one of the contracting states for persons who already received a pension for these periods on 1 December 2003 from the other contracting state, while residing in its territory).

23. GERMANY-UNITED KINGDOM

(a) Article 7(5) and (6) of the Convention on Social Security of 20 April 1960 (legislation applicable to civilians serving in the military forces);

(b) Article 5(5) and (6) of the Convention on Unemployment Insurance of 20 April 1960 (legislation applicable to civilians serving in the military forces).

24. IRELAND-UNITED KINGDOM

Article 19(2) of the Agreement on Social Security of 14 December 2004 (concerning the transfer and reckoning of certain disability credits).

25. SPAIN-PORTUGAL

Article 22 of the General Convention of 11 June 1969 (export of unemployment benefits). This entry will remain valid for two years from the date of application of Regulation (EC) No 883/2004.

26. ITALY-SLOVENIA

(a) Agreement on Regulation of Mutual Obligations in Social Insurance with reference to paragraph 7 of Annex XIV to the Peace Treaty (concluded by exchange of notes on 5 February 1959) (reckoning of periods of insurance completed before 18 December 1954); the application of this point is restricted to the persons covered by that Agreement.

(b) Article 45(3) of the Convention on Social Security of 7 July 1997 concerning ex-Zone B of the Free Territory of Trieste (reckoning of periods of insurance completed before 5 October 1956); the application of this point is restricted to the persons covered by that Convention.

27. LUXEMBOURG-PORTUGAL

Agreement of 10 March 1997 (on the recognition of decisions by institutions in one contracting party concerning the state of invalidity of applicants for pensions from institutions in the other contracting party).

28. LUXEMBOURG-SLOVAKIA

Article 50(5) of the Convention on Social Security of 23 May 2002 (reckoning of pension insurance periods for political refugees).

29. HUNGARY-AUSTRIA

Article 36(3) of the Convention on social security of 31 March 1999 (reckoning of periods of insurance completed before 27 November 1961); the application of this point is restricted to the persons covered by that Convention.

30. HUNGARY-SLOVENIA

Article 31 of the Convention on Social Security of 7 October 1957 (reckoning of periods of insurance completed before 29 May 1956); the application of this point is restricted to the persons covered by that Convention.

31. HUNGARY-SLOVAKIA

Article 34(1) of the Convention on social security of 30 January 1959 (Article 34(1) of the Convention provides that the insurance periods awarded before the day of signing the Convention are the insurance periods of the contracting State on which territory the entitled person had a residence); the application of this point is restricted to the persons covered by that Convention.

32. AUSTRIA-POLAND

Article 33(3) of the Convention on Social Security of 7 September 1998 (reckoning of periods of insurance completed before 27 November 1961); the application of this point is restricted to the persons covered by that Convention.

33. AUSTRIA-ROMANIA

Article 37(3) of the Convention on Social Security of 28 October 2005 (reckoning of periods of insurance completed before 27 November 1961); the application of this point is restricted to the persons covered by that Convention.

34. AUSTRIA-SLOVENIA

Article 37 of the Convention on Social Security of 10 March 1997 (reckoning of periods of insurance completed before 1 January 1956); the application of this point is restricted to the persons covered by that Convention.

35. AUSTRIA-SLOVAKIA

Article 34(3) of the Convention on Social Security of 21 December 2001 (reckoning of periods of insurance completed before 27 November 1961); the application of this point is restricted to the persons covered by that Convention.

36. PORTUGAL-UNITED KINGDOM

Article 2(1) of the Protocol on medical treatment of 15 November 1978.

37. FINLAND-SWEDEN

Article 7 of the Nordic Convention on Social Security of 18 August 2003, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making more expensive return travel to the country of residence necessary."

(Wording of amendment similar to amendment 22 of PR 702068, PE400.316)

Amendment 24

Proposal for a regulation – amending act

Annex – point 1 b (new)

Regulation (EC) No 883/2004

Annex III

Text proposed by the Commission

Amendment

1b) Annex III shall be amended as follows:

1. After the entry “DENMARK”, the entry “ESTONIA” shall be inserted.

2. After the entry “IRELAND”, the following entries shall be inserted:

"LITHUANIA

HUNGARY”.

(Wording of amendment almost identical to ANNEX, point (3), of COM(2007)376)

Amendment 25

Proposal for a regulation – amending act

Annex – point 1 c (new)

Regulation (EC) No 883/2004

Annex IV

Text proposed by the Commission

Amendment

1c) Annex IV is amended as follows:

1. After the entry “BELGIUM”, the following entries shall be inserted:

“BULGARIA

CZECH REPUBLIC”.

2. After the entry “FRANCE”, the entry “CYPRUS” shall be inserted.

3. After the entry “LUXEMBOURG”, the entry “HUNGARY” shall be inserted.

4. After the entry “AUSTRIA”, the following entries shall be inserted:

“POLAND

SLOVENIA”.

(Wording of amendment almost identical to ANNEX, point (4), of COM(2007)376)

Amendment 26

Proposal for a regulation – amending act
Annex – point 1 d (new)
Regulation (EC) No 883/2004
Annex VI

Text proposed by the Commission

Amendment

1d) Annex VI is amended as follows:

1. The following entries shall be inserted:

“-A. CZECH REPUBLIC

Full disability pension for persons whose total disability arose before reaching eighteen years of age and who were not insured for the required period (Section 42 of the Pension Insurance Act No 155/1995 Coll.).

-Aa. ESTONIA

(a) Invalidity pensions granted before 1 April 2000 under the State Allowances Act and which are retained under the State Pension Insurance Act.

(b) National pensions granted on the basis of invalidity according to the State Pension Insurance Act.

(c) Invalidity pensions granted according to the Defence Forces Service Act, Police Service Act, Prosecutor's Office Act, Status of Judges Act, Members of the Riigikogu Salaries, Pensions and Other Social Guarantees Act and President of the Republic Official Benefits Act.”.

2. The headings and entries under “A. GREECE” and B. IRELAND shall be placed in reverse sequence to become “A. IRELAND” and “B. GREECE”.

3. The entry under the heading “B. IRELAND” shall be replaced by the following:

“Part II, Chapter 17 of the Social Welfare Consolidation Act 2005”

4. After the entry under the heading “B.

GREECE”, the following entry shall be inserted:

“Ba. LATVIA

Invalidity pensions (third group) under Article 16(1)(2) of the Law on State Pensions of 1 January 1996.”.

5. The entries under the heading “C. FINLAND” shall be amended as follows:

"National Pensions to persons who are born disabled or become disabled at an early age (the National Pension Act, 568/2007);

Invalidity pensions determined according to transitional rules and awarded prior to the 1 January 1994 (Act on Enforcement of the National Pensions Act, 569/2007).".

(Wording of amendment similar to ANNEX, point (5), of COM(2007)376)

Amendment 27

Proposal for a regulation – amending act

Annex – point 1 e (new)

Regulation (EC) No 883/2004

Annex VII

Text proposed by the Commission

Amendment

1e) Annex VII shall be amended as follows:

1. In the tables headed “BELGIUM” and “FRANCE”, the rows relating to Luxembourg shall be deleted.

2. The table headed “LUXEMBOURG” shall be deleted.

(Wording of amendment identical to ANNEX, point (6), of COM(2007)376)

Amendment 28

Proposal for a regulation – amending act
Annex – point 2
Regulation (EC) No 883/2004
Annex VIII

Text proposed by the Commission

2. Annex VIII is **amended as follows**:

(a) the title of the Annex is replaced by the following:

“CASES IN WHICH THE PRO RATA CALCULATION MAY BE WAIVED”;

(b) after the entry under the heading “A. DENMARK” the following entry is added:

“AA. GERMANY

Benefits of a Berufsständische Versorgungseinrichtung für die kammerfähigen Berufe (welfare institution for professions that have set up their own chambers).”;

(c) after the entry under the heading “B. FRANCE” the following entry is added:

“Basic or supplementary schemes in which old-age benefits are calculated on the basis of retirement points.”;

(d) after the entry under the heading “D. NETHERLANDS” the following entries are added:

“DA. AUSTRIA

Benefits or parts of benefits of a Versorgungseinrichtung der Kammern der Freien Berufe (Welfare Institution of the Chambers for Liberal Professions), which are financed exclusively by a capital-funded pension scheme or which

Amendment

2) Annex VIII shall be **replaced by the following**:

“ANNEX VIII

CASES IN WHICH THE PRO RATA CALCULATION IS WAIVED OR DOES NOT APPLY

(Article 52(4) and (5))

Part 1: Cases in which the pro rata calculation is waived pursuant to Article 52(4)

A. DENMARK

All applications for pensions referred to in the law on social pensions, except for pensions mentioned in Annex IX.

B. IRELAND

All applications for state pension (transition), state pension (contributory), widows’ (contributory) pension and widowers’ (contributory) pension.

C. CYPRUS

All applications for old age, invalidity, widows’ and widowers’ pensions.

are based on a pension account system.

DB. POLAND

Old age pensions under the scheme based on the defined contribution principle.”;

(e) after the entry under the heading “G. UNITED KINGDOM” the following entries are added:

“All applications for graduated retirement benefits paid pursuant to the National Insurance Act 1965, sections 36 and 37, and the National Insurance Act (Northern Ireland) 1966, sections 35 and 36.

All applications for additional pension pursuant to the Social Security Contributions and Benefits Act 1992, section 44, and the Social Security Contributions and Benefits (Northern Ireland) Act 1992, section 44.”.

D. LATVIA

(a) All applications for invalidity pensions (Law on State Pensions of 1 January 1996).

(b) All applications for survivors’ pensions (Law on State pensions of 1 January 1996; Law on State funded pensions of 1 July 2001).

E. LITHUANIA

All applications for State social insurance survivors’ pensions calculated on the basis of the basic amount of survivor’s pension (Law on State Social Insurance Pensions).

F. NETHERLANDS

All applications for old-age pensions under the law on general old-age insurance (AOW).

G. AUSTRIA

(a) All applications for benefits under the Federal Act of 9 September 1955 on General Social Insurance – ASVG, the Federal Act of 11 October 1978 on social insurance for self-employed persons engaged in trade and commerce (GSVG), the Federal Act of 11 October 1978 on social insurance for self-employed farmers (BSVG) and the Federal Act of 30 November 1978 on social insurance for the self-employed in the liberal professions (FSVG).

(b) All applications for invalidity pensions based on a pension account pursuant to the General Pensions Act (APG) of 18 November 2004.

(c) All applications for survivors’ pensions based on a pension account

pursuant to the General Pensions Act (APG) of 18 November 2004, if no increase in benefits is to be applied in respect of additional months of insurance pursuant to Article 7(2) of the General Pensions Act (APG).

(d) All applications for invalidity and survivors' pensions of the Austrian Provincial Chambers of Physicians - Landesärztekammer based on basic provision (basic and any supplementary benefit, or basic pension).

(e) All applications for permanent occupational invalidity support and survivors' support from the pension fund of the Austrian Chamber of Veterinary Surgeons.

(f) All applications for benefits from occupational invalidity, widows and orphans pensions according to the statutes of the welfare institutions of the Austrian bar associations, Part A.

H. POLAND

All applications for disability pensions, old-age pensions under the defined benefits scheme and survivors' pensions.

I. PORTUGAL

All applications for invalidity, old-age and survivors' pension claims, except for the cases where the totalised periods of insurance completed under the legislation of more than one Member State are equal to or longer than 21 calendar years, the national periods of insurance are equal or inferior to 20 years, and the calculation is made under Article 11 of Decree-Law No. 35/2002, 19 February.

J. SLOVAKIA

(a) All applications for survivors' pension (widows', widowers' and orphans' pension) calculated according to the legislation in force before 1 January 2004 the amount of which is derived from a

pension formerly paid to the deceased.

(b) All applications for pensions calculated pursuant to Act No. 461/2003 Coll. on social security as amended.

K. SWEDEN

All applications for guarantee pension in the form of old-age pension (Act 1998:702) and old-age pension in the form of supplementary pension (Act 1998:674).

L. UNITED KINGDOM

All applications for retirement pension, widows' and bereavement benefits, with the exception of those for which:

(a) during a tax year beginning on or after 6 April 1975:

(i) the party concerned had completed periods of insurance, employment or residence under the legislation of the United Kingdom and another Member State; and

(ii) one (or more) of the tax years referred to in point (i) was not considered a qualifying year within the meaning of the legislation of the United Kingdom;

(b) the periods of insurance completed under the legislation in force in the United Kingdom for the periods prior to 5 July 1948 would be taken into account for the purposes of Article 52(1)(b) of the Regulation by application of the periods of insurance, employment or residence under the legislation of another Member State.

All applications for additional pension pursuant to the Social Security Contributions and Benefits Act 1992, section 44, and the Social Security Contributions and Benefits (Northern Ireland) Act 1992, section 44.

Part 2: Cases in which Article 52(5) applies

A. FRANCE

Basic or supplementary schemes in which old-age benefits are calculated on the basis of retirement points.

B. LATVIA

Old-age pensions (Law on State pensions of 1 January 1996. Law on State funded pensions of 1 July 2001).

C. HUNGARY

Pension benefits based on membership of private pension funds.

D. AUSTRIA

(a) Old-age pensions based on a pension account pursuant to the General Pensions Act (APG) of 18 November 2004.

(b) Compulsory allowances under Article 41 of the Federal Law of 28 December 2001, BGBl I Nr. 154 on the general salary fund of Austrian pharmacists (Pharmazeutische Gehaltskasse für Österreich).

(c) Retirement and early retirement pensions of the Austrian Provincial Chambers of Physicians based on basic provision (basic and any supplementary benefit, or basic pension), and all pension benefits of the Austrian Provincial Chambers of Physicians based on additional provision (additional or individual pension).

(d) Old-age support from the pension fund of the Austrian Chamber of Veterinary Surgeons.

(e) Benefits according to the statutes of the welfare institutions of the Austrian bar associations, Parts A and B, with the exception of applications for benefits from disability, widows and orphans pensions according to the statutes of the welfare institutions of the Austrian bar associations, Part A.

(f) Benefits by the welfare institutions of the Federal Chamber of Architects and

Consulting Engineers under the Austrian Civil Engineers' Chamber Act (Ziviltechnikerkammergesetz) 1993 and the statutes of the welfare institutions, with the exception of benefits on grounds of occupational invalidity and survivor's benefits deriving from the last-named benefits.

(g) Benefits according to the statute of the welfare institution of the Federal Chamber of Professional Accountants and Tax Advisors under the Austrian Professional Accountants and Tax Advisors' Act (Wirtschaftstreuhandberufsgesetz).

E. POLAND

Old-age pensions under the defined contribution scheme.

F. SLOVENIA

Pension from compulsory supplementary pension insurance.

G. SLOVAKIA

Mandatory old-age pension saving.

H. SWEDEN

Income-based pension and premium pension (Act 1998:674).

I. UNITED KINGDOM

Graduated retirement benefits paid pursuant to the National Insurance Act 1965, sections 36 and 37, and the National Insurance Act (Northern Ireland) 1966, sections 35 and 36.

J. BULGARIA

Old-age pensions from the Supplementary Compulsory Pension Insurance, under Part II, Title II, of the Social Insurance Code.

L. ESTONIA

Mandatory funded old-age pension scheme.”.

Amendment 29

Proposal for a regulation – amending act
Annex – point 2 a (new)
Regulation (EC) No 883/2004
Annex IX

Text proposed by the Commission

Amendment

2a) Annex IX shall be amended as follows:

1. Part I shall be amended as follows:

(a) After the entry under the heading “F. IRELAND ” the following entry shall be inserted:

“Fa. LATVIA

Invalidity pensions (third group) under Article 16(1)(2) of the Law on State Pensions of 1 January 1996”;

(b) Under the heading “G. NETHERLANDS”, the following words shall be added:

“The law of 10 November 2005 on work and income according to labour capacity (WIA)”;

(c) The entry under the heading “H. FINLAND” shall be replaced by the following

“National pensions to persons who are born disabled or become disabled at an early age (the National Pensions Act, 568/2007)

National pensions and spouses’ pensions determined according to the transitional rules and awarded prior to the 1 of January 1994 (Act on Enforcement of the National Pensions Act, 569/2007)

The additional amount of childrens’ pension when calculating independent benefit according to the National Pension Act (the National Pension Act, 568/2007)”.

(d) The entry under the heading “I.

SWEDEN” shall be replaced by the following:

“Swedish income-related sickness compensation and activity compensation (Act 1962:381)

Swedish guarantee pension and guaranteed compensation which replaced the full Swedish state pensions provided under the legislation on the state pension which applied before 1 January 1993, and the full state pension awarded under the transitional rules of the legislation applying from that date”.

2. Part II shall be amended as follows:

(a) After the entry under the heading “C. ITALY”, the following entries shall be inserted:

“Ca. LATVIA

Survivors’ pension calculated on the basis of assumed insurance periods (Article 23(8) of the Law on State Pensions of 1 January 1996)

Cb. LITHUANIA

(a) State social insurance work incapacity pensions, paid under the Law on State Social Insurance Pensions

(b) State social insurance survivors’ and orphans’ pensions, calculated on the basis of the work incapacity pension of the deceased under the Law on State Social Insurance Pensions”.

(c) After the entry under the heading “D. LUXEMBOURG,” the following entry shall be inserted:

“G. SLOVAKIA

(a) Slovak invalidity pension and survivors’ pension derived therefrom

(b) Invalidity pension for a person who became invalid as a dependent child and who is always deemed to have fulfilled the required period of insurance (Article 70(2), Article 72(3) and Article 73(3) and

(4) of Act No 461/2003 on social insurance, as amended)”;

3. In Part III, the entry “Nordic Convention of 15 June 1992 on social security” shall be replaced by the following:

“Nordic Convention on Social Security of 18 August 2003.”.

(Wording of amendment similar to ANNEX, point (8), of COM(2007)376)

Amendment 30

Proposal for a regulation – amending act

Annex – point 2 b (new)

Regulation (EC) No 883/2004

Annex X

Text proposed by the Commission

Amendment

2b) Annex X shall be replaced by the following:

“ANNEX X

***SPECIAL NON-CONTRIBUTORY
CASH BENEFITS***

(Article 70(2)(c))

A. BELGIUM

(a) Income replacement allowance (Law of 27 February 1987)

(b) Guaranteed income for elderly persons (Law of 22 March 2001)

B. BULGARIA

Social Pension for old age (Article 89 of the Social Security Code)

C. CZECH REPUBLIC

Social allowance (State Social Support Act No 117/1995 Sb)

D. DENMARK

Accommodation expenses for pensioners (Law on individual accommodation assistance, consolidated by Law No 204 of

29 March 1995)

E. GERMANY

Basic subsistence income for the elderly and for persons with reduced earning capacity under Chapter 4 of Book XII of the Social Code

Benefits to cover subsistence costs under the basic provision for jobseekers unless, with respect to these benefits, the eligibility requirements for a temporary supplement following receipt of unemployment benefit (Article 24 (1) of Book II of the Social Code) are fulfilled

F. ESTONIA

(a) Disabled adult allowance (Social Benefits for Disabled Persons Act of 27 January 1999)

(b) State unemployment allowance (Labour Market Services and Support Act of 29 September 2005)

G. IRELAND

(a) Jobseekers' allowance (Social Welfare Consolidation Act 2005, Part 3, Chapter 2)

(b) State pension (non-contributory) (Social Welfare Consolidation Act 2005, Part 3, Chapter 4)

(c) Widow's (non-contributory) pension and widower's (non-contributory) pension (Social Welfare Consolidation Act 2005, Part 3, Chapter 6)

(d) Disability allowance (Social Welfare Consolidation Act 2005, Part 3, Chapter 10)

(e) Mobility allowance (Health Act 1970, Section 61)

(f) Blind pension (Social Welfare Consolidation Act 2005, Part 3, Chapter 5)

H. GREECE

Special benefits for the elderly (Law

1296/82)

I. SPAIN

(a) Minimum income guarantee (Law No 13/82 of 7 April 1982)

(b) Cash benefits to assist the elderly and invalids unable to work (Royal Decree No 2620/81 of 24 July 1981)

(c) The following pension benefits:

(i) Non-contributory invalidity and retirement pensions as provided for in Article 38(1) of the Consolidated Text of the General Law on Social Security, approved by Royal Legislative Decree No 1/1994 of 20 June 1994 and

(ii) The benefits which supplement the above pensions, as provided for in the legislations of the Comunidades Autonomas, where such supplements guarantee a minimum subsistence income having regard to the economic and social situation in the Comunidades Autonomas concerned

(d) Allowances to promote mobility and to compensate for transport costs (Law No 13/1982 of 7 April 1982)

J. FRANCE

(a) Supplementary allowances of:

(i) the Special Invalidity Fund, and

(ii) the Old Age Solidarity Fund

in respect of acquired rights (Law of 30 June 1956, codified in Book VIII of the Social Security Code)

(b) Disabled adults' allowance (Law of 30 June 1975, codified in Book VIII of the Social Security Code)

(c) Special allowance (Law of 10 July 1952, codified in Book VIII of the Social Security Code) in respect of acquired rights

(d) Old-age solidarity allowance (ordinance of 24 June 2004, codified in

Book VIII of the Social Security Code) as of 1 January 2006

K. ITALY

(a) Social pensions for persons without means (Law No 153 of 30 April 1969)

(b) Pensions and allowances for the civilian disabled or invalids (Laws No 118 of 30 March 1974, No 18 of 11 February 1980 and No 508 of 23 November 1988)

(c) Pensions and allowances for the deaf and dumb (Laws No 381 of 26 May 1970 and No 508 of 23 November 1988)

(d) Pensions and allowances for the civilian blind (Laws No 382 of 27 May 1970 and No 508 of 23 November 1988)

(e) Benefits supplementing the minimum pensions (Laws No 218 of 4 April 1952, No 638 of 11 November 1983 and No 407 of 29 December 1990)

(f) Benefits supplementing disability allowances (Law No 222 of 12 June 1984)

(g) Social allowance (Law No 335 of 8 August 1995)

(h) Social increase (Article 1(1) and (12) of Law No 544 of 29 December 1988 and successive amendments)

L. CYPRUS

(a) Social Pension (Social Pension Law of 1995 (Law 25(I)/95), as amended)

(b) Severe motor disability allowance (Council of Ministers' Decisions Nos 38210 of 16 October 1992, 41370 of 1 August 1994, 46183 of 11 June 1997 and 53675 of 16 May 2001)

(c) Special grant to blind persons (Special Grants Law of 1996 (Law 77(I)/96), as amended)

M. LATVIA

(a) State Social Security Benefit (Law on State Social Benefits of 1 January 2003)

(b) Allowance for the compensation of transportation expenses for disabled persons with restricted mobility (Law on State Social Benefits of 1 January 2003)

N. LITHUANIA

(a) Social assistance pension (Law of 2005 on State Social Assistance Benefits, Article 5)

(b) Relief compensation (Law of 2005 on State Social Assistance Benefits, Article 15)

(c) Transport compensation for the disabled who have mobility problems (Law of 2000 on Transport Compensation, Article 7)

O. LUXEMBOURG

Income for the seriously disabled (Article 1(2), Law of 12 September 2003), with the exception of persons recognised as being disabled workers and employed on the mainstream labour market or in a sheltered environment

P. HUNGARY

(a) Invalidity annuity (Decree No 83/1987 (XII 27) of the Council of Ministers on Invalidity Annuity)

(b) Non-contributory old age allowance (Act III of 1993 on Social Administration and Social Benefits)

(c) Transport allowance (Government Decree No 164/1995 (XII 27) on Transport Allowances for Persons with Severe Physical Handicap)

Q. MALTA

(a) Supplementary allowance (Section 73 of the Social Security Act (Cap. 318) 1987)

(b) Age pension (Social Security Act (Cap. 318) 1987)

R. NETHERLANDS

(a) Disablement Assistance Act for

Handicapped Young Persons, of 24 April 1997 (Wajong)

(b) Supplementary Benefits Act of 6 November 1986 (TW)

S. AUSTRIA

Compensatory supplement (Federal Act of 9 September 1955 on General Social Insurance (ASVG), Federal Act of 11 October 1978 on Social insurance for persons engaged in trade and commerce (GSVG) and Federal Act of 11 October 1978 on Social insurance for farmers (BSVG)

T. POLAND

Social pension (Act of 27 June 2003 on social pensions)

U. PORTUGAL

(a) Non-contributory State old-age and invalidity pension (Decree-Law No 464/80 of 13 October 1980)

(b) Non-contributory widowhood pension (Regulatory Decree No 52/81 of 11 November 1981)

(c) Solidarity supplement for the elderly (Decree-Law No 232/2005 of 29 December 2005, amended by Decree Law No 236/2006 of 11 December 2006)

W. SLOVENIA

(a) State pension (Pension and Disability Insurance Act of 23 December 1999)

(b) Income support for pensioners (Pension and Disability Insurance Act of 23 December 1999)

(c) Maintenance allowance (Pension and Disability Insurance Act of 23 December 1999)

X. SLOVAKIA

(a) Adjustment awarded before 1 January 2004 to pensions constituting the sole source of income

(b) Social pension which has been awarded before 1 January 2004

Y. FINLAND

(a) Housing Allowance for pensioners (Act concerning the Housing Allowance for pensioners, 571/2007)

(b) Labour market support (Act on Unemployment Benefits 1290/2002)

(c) Special assistance for immigrants (Act on Special Assistance for Immigrants, 1192/2002)

Z. SWEDEN

(a) Housing supplements for persons receiving a pension (Law 2001: 761)

(b) Financial support for the elderly (Law 2001: 853)

AA. UNITED KINGDOM

(a) State Pension credit (State Pension Credit Act 2002 and State Pension Credit Act (Northern Ireland) 2002)

(b) Income-based allowances for jobseekers (Jobseekers Act 1995 and Jobseekers (Northern Ireland) Order 1995)

(c) Income Support (Social Security Contributions and Benefits Act 1992 and Social Security Contributions and Benefits (Northern Ireland) Act 1992)

(d) Disability Living Allowance mobility component (Social Security Contributions and Benefits Act 1992 and Social Security Contributions and Benefits (Northern Ireland) Act 1992)".

(Wording of amendment similar to amendment 29 of PR 702068, PE400.316)

Amendment 31

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Aa. BULGARIA (new)

Text proposed by the Commission

Amendment

Aa. BULGARIA

Article 33(1) of the Bulgarian Health Insurance Act shall apply to all persons for whom Bulgaria is the competent Member State under Chapter 1 of Title III of the Regulation.

(Wording of amendment similar to ANNEX, point (10), paragraph 1 of COM(2007)376)

Amendment 32

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading C. DENMARK – point 1

Text proposed by the Commission

Amendment

1. Persons who, pursuant to Chapter 1 of Title III of the Regulation, are entitled to benefits in kind during a period of stay in Denmark shall be entitled to such benefits on the same terms as persons who, under the lov om offentlig sygesikring (National Health Security Act), come within Group 1.

deleted

Amendment 33

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading C. DENMARK – point 2 – point a – subparagraph 1

Text proposed by the Commission

Amendment

(a) For the purpose of calculating the pension under the lov om social pension (Social Pension Act), periods of activity as an employed or self-employed person completed ***in Denmark*** by a frontier worker or a worker who has gone to Denmark to do work of a seasonal nature

(a) For the purpose of calculating the pension under the lov om social pension (Social Pension Act), periods of activity as an employed or self-employed person completed ***under Danish legislation*** by a frontier worker or a worker who has gone to Denmark to do work of a seasonal

are regarded as periods of residence completed in Denmark by the surviving spouse insofar as, during those periods, the surviving spouse was linked to the above-mentioned worker by marriage without separation from bed and board or de facto separation on grounds of incompatibility and provided that during those periods the spouse resided in the territory of another Member State.

nature are regarded as periods of residence completed in Denmark by the surviving spouse insofar as, during those periods, the surviving spouse was linked to the above-mentioned worker by marriage without separation from bed and board or de facto separation on grounds of incompatibility and provided that during those periods the spouse resided in the territory of another Member State.

Amendment 34

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading C. DENMARK – point 2 – point b

Text proposed by the Commission

(b) For the purpose of calculating the pension under the lov om social pension (Social Pension Act), periods of activity as an employed or self-employed person completed **in Denmark** before 1 January 1984 by a person to whom paragraph 2(a) does not apply shall be regarded as periods of residence completed in Denmark by the surviving spouse, insofar as, during those periods, the surviving spouse was linked to the person by marriage without separation from bed and board or de facto separation on grounds of incompatibility, and provided that, during those periods, the spouse resided in the territory of another Member State.

Amendment

(b) For the purpose of calculating the pension under the lov om social pension (Social Pension Act), periods of activity as an employed or self-employed person completed **under Danish legislation** before 1 January 1984 by a person to whom paragraph 2(a) does not apply shall be regarded as periods of residence completed in Denmark by the surviving spouse, insofar as, during those periods, the surviving spouse was linked to the person by marriage without separation from bed and board or de facto separation on grounds of incompatibility, and provided that, during those periods, the spouse resided in the territory of another Member State.

Amendment 35

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 1

Text proposed by the Commission

Amendment

1. Notwithstanding Article 5(a), pensions which are paid by the institution of another Member State are subject to compulsory insurance with the sickness insurance scheme for pensioners to the extent determined by German legislation alone.

deleted

Amendment 36

Proposal for a regulation – amending act Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 2

Text proposed by the Commission

Amendment

2. A person in receipt of a pension under German legislation and a pension under the legislation of another Member State shall be deemed, for the purpose of applying Article 23, to be entitled to sickness and maternity benefits in kind if, under Article 8(1), point 4, of the Sozialgesetzbuch V (Volume V of the Social Code), that person is exempted from compulsory sickness insurance.

deleted

Amendment 37

Proposal for a regulation – amending act Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 3

Text proposed by the Commission

Amendment

3. Notwithstanding Article 5(a), the provisions under Article 5(4), point 1, of the Sozialgesetzbuch VI (Volume VI of the Social Code) do not apply to a person entitled to a full old-age pension under the legislation of another Member State if that

3. Notwithstanding Article 5(a) of the Regulation and Article 5 (4) point 1 of the Sozialgesetzbuch VI (Volume VI of the Social Code), a person who receives a full old-age pension under the legislation of another Member State may request to be

person requests compulsory affiliation.

compulsorily insured under the German pension insurance scheme.

Amendment 38

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 4

Text proposed by the Commission

4. Notwithstanding Article 5(a) of *this* Regulation and **Article 7(3)** of the Sozialgesetzbuch VI (Volume VI of the Social Code), a person who is compulsorily insured in another Member State or receives an old-age pension under the legislation of another Member State may join the voluntary insurance scheme in Germany.

Amendment

4. Notwithstanding Article 5(a) of *the* Regulation and **Article 7(1) and (3)** of the Sozialgesetzbuch VI (Volume VI of the Social Code), a person who is compulsorily insured in another Member State or receives an old-age pension under the legislation of another Member State may join the voluntary insurance scheme in Germany.

Amendment 39

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 4 a (new)

Text proposed by the Commission

Amendment

4a. For the purpose of granting cash benefits under § 47(1) of SGB V, §47(1) of SGB VII and §200(2) of the Reichsversicherungsordnung to insured persons who live in another Member State, German insurance schemes calculate net pay, which is used to assess benefits, as if the insured person lived in Germany, unless the insured person requests an assessment on the basis of the net pay which he actually receives.

Amendment 40

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 4 b (new)

Text proposed by the Commission

Amendment

4b. Nationals of other Member States whose place of residence or usual abode is outside Germany and who fulfil the general conditions of the German pension insurance scheme may pay voluntary contributions only if they have been voluntarily or compulsorily insured in the German pension insurance scheme at some time previously; this also applies to stateless persons and refugees whose place of residence or usual abode is in another Member State.

Amendment 41

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 6

Text proposed by the Commission

Amendment

6. In cases to which the German pension legislation in force on 31 December 1991 is applicable, only the German legislation ***in force at that date*** applies for the purposes of crediting German Ersatzzeiten (substitute ***qualifying*** periods).

6. In cases where the German pension legislation in force on 31 December 1991 is applicable ***for the recalculation of a pension***, only the German legislation applies for the purposes of crediting German Ersatzzeiten (substitute periods).

Amendment 42

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 6 a (new)

Text proposed by the Commission

Amendment

6a. The German legislation on accidents at work and occupational diseases to be compensated for under the law governing foreign pensions and for benefits for insurance periods which can be credited under the law governing foreign pensions in the territories named in paragraph 1(2)(3) of the Act on affairs of displaced persons and refugees (Bundesvertriebenengesetz) continues to apply within the scope of application of the Regulation notwithstanding the provisions of paragraph 2 of the Act on foreign pensions (Fremdrentengesetz).

Amendment 43

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading D. GERMANY – point 6 b (new)

Text proposed by the Commission

Amendment

6b. For the calculation of the theoretical amount referred to in Article 52(1)(b)(i) of the Regulation, in pension schemes for liberal professions, the competent institution shall take as a basis, in respect of each of the years of insurance completed under the legislation of any other Member State, the average annual pension entitlement acquired during the period of membership of the competent institution through the payment of contributions.

Amendment 44

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading F. GREECE – point 1 a (new)

Text proposed by the Commission

Amendment

1a. Law No 1469/84 concerning voluntary affiliation to the pension insurance scheme for Greek nationals and foreign nationals of Greek origin is applicable to nationals of other Member States, stateless persons and refugees, where the persons concerned, regardless of their place of residence or stay, have at some time in the past been compulsorily or voluntarily affiliated to the Greek pension insurance scheme.

Amendment 45

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading F. GREECE – point 1 b (new)

Text proposed by the Commission

Amendment

1b. Notwithstanding Article 5(a) of the Regulation and Article 34 of Law 1140/1981, a person who receives a pension in respect of accidents at work or occupational diseases under the legislation of another Member State may request to be compulsorily insured under the legislation applied by OGA, to the extent he/she pursues an activity falling within the scope of that legislation.

Amendment 46

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading G. SPAIN – point 1

Text proposed by the Commission

Amendment

1 In all Spanish social security schemes, with the exception of the scheme for civil

deleted

servants, the armed forces and the judicial administration, a person who is no longer insured under Spanish legislation shall be deemed still to be insured, when the risk materialises, for the purposes of Chapter 5 of Title III of this Regulation, if he is insured under the legislation of another Member State at the time of materialisation of the risk or, failing that, in the case where a benefit is due for the same risk in pursuance of the legislation of another Member State. The latter condition shall be deemed to have been fulfilled, however, in the case referred to in Article 57(1).

Amendment 47

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading G. SPAIN – point 2

Text proposed by the Commission

2 For the purposes of implementing ***the provisions of Chapter 5 of Title III of this Regulation***, the years which the worker lacks to reach the pensionable or compulsory retirement age stipulated ***in point 4 of Article 31*** of the consolidated ***text*** of the Ley de clases pasivas del Estado (Law on State Pensioners) will be taken into account as service ***performed*** only if at the time of ***materialisation of the risk*** in respect of which invalidity or death pensions are due, the beneficiary was covered by Spain's special scheme for ***public*** servants or ***in*** an activity ***accorded like treatment*** under ***that*** scheme.

Amendment

2. For the purposes of implementing ***Article 52(1)(b)(i)*** of ***the*** Regulation, the years which the worker lacks to reach the pensionable or compulsory retirement age ***as stipulated under Article 31(4)*** of the consolidated ***version*** of the Ley de Clases Pasivas del Estado (Law on State Pensioners) will be taken into account as ***actual years of service to the State*** only if at the time of ***the event*** in respect of which invalidity or death pensions are due, the beneficiary was covered by Spain's special scheme for ***civil*** servants or ***was performing*** an activity ***assimilated*** under ***the*** scheme, ***or if, at the time of the event in respect of which the pensions are due, the beneficiary was performing an activity that would have required the person concerned to be included under the State's special scheme for civil servants, the armed forces or the judiciary, had the***

activity been performed in Spain.

Amendment 48

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading G. SPAIN – point 4 a (new)

Text proposed by the Commission

Amendment

4a. The additional amounts based on age referred to in the Second Transitional Provision of the General Law on Social Security shall be applicable to all beneficiaries of the Regulation who have contributions to their name under the Spanish legislation prior to 1 January 1967; it shall not be possible, by application of Article 5 of the Regulation, to treat periods of insurance credited in another Member State prior to the aforementioned date as being the same as contributions paid in Spain, solely for the present purposes. The date corresponding to 1 January 1967 shall be 1 August 1970 for the Special Scheme for Seafarers and 1 April 1969 for the Special Social Security Scheme for Coal Mining.

Amendment 49

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading H. FRANCE – point -1 (new)

Text proposed by the Commission

Amendment

-1. Nationals of other Member States whose place of residence or usual abode is outside France and who fulfil the general conditions of the French pension insurance scheme may pay voluntary contributions to it only if they had been voluntarily or compulsorily insured in the

French pension insurance scheme at some time previously; this also applies to stateless persons and refugees whose place of residence or usual abode is in another Member State.

Amendment 50

Proposal for a regulation – amending act Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading I. IRELAND – point 1

Text proposed by the Commission

1. **For** the purposes of calculating the earnings for the **granting** of sickness **benefit** or unemployment benefit under Irish legislation, an amount equal to the average weekly wage **in that year** of employed persons shall, **notwithstanding Articles 21(2) and 62**, be credited to **the employed** person in respect of each week of activity as an employed person under the legislation of another Member State during the prescribed **period**.

Amendment

1. **Notwithstanding Article 21(2) and Article 62, for** the purposes of the calculating the **prescribed reckonable weekly earnings of an insured person** for the **grant** of sickness or unemployment benefit under Irish legislation, an amount equal to the average weekly wage of employed persons **in the relevant prescribed year** shall be credited to **that insured** person in respect of each week of activity as an employed person under the legislation of another Member State during the **said** prescribed **year**.

Amendment 51

Proposal for a regulation – amending act Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading I. IRELAND – point 2

Text proposed by the Commission

2. Where Article 46 applies, if the person concerned suffers incapacity for work leading to invalidity while subject to the legislation of another Member State, Ireland shall, for the purposes of **Section 95(1)(a) of the Social Welfare (Consolidation) Act, 1993**, take account of any periods during which, in respect of the

Amendment

2. Where Article 46 **of the Regulation** applies, if the person concerned suffers incapacity for work leading to invalidity while subject to the legislation of another Member State, Ireland shall, for the purposes of **Section 118(1)(a) of the Social Welfare Consolidation Act 2005**, take account of any periods during which, in

invalidity that followed that incapacity for work, he **was** regarded as being incapable of work under Irish legislation.

respect of the invalidity that followed that incapacity for work, he *or she would have been* regarded as being incapable of work under Irish legislation.

Amendment 52

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading P. MALTA

Text proposed by the Commission

None

Amendment

Special provisions for civil servants:

(a) For the purposes of the application of Articles 49 and 60 of the Regulation only, persons employed under the Armed Forces Act (Chapter 220 of the Laws of Malta), the Police Act (Chapter 164 of the Laws of Malta) and the Prisons Act (Chapter 260 of the Laws of Malta) shall be treated as civil servants.

(b) Pensions payable under the above Acts and under the Pensions Ordinance (Chapter 93 of the Laws of Malta) shall, solely for the purposes of Article 1(e) of the Regulation, be considered as ‘special schemes for civil servants’.

Amendment 53

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 1 – point a – point ii

Text proposed by the Commission

(ii) insofar as they are not already included under point (i), persons who are resident in another Member State and who, under the Regulation are entitled to health care in their state of residence, the costs being

Amendment

(ii) insofar as they are not already included under point (i), ***members of the family of active military personnel who are living in another Member State*** and persons who are resident in another Member State and who, under the Regulation are entitled to

borne by the Netherlands.

health care in their state of residence, the costs being borne by the Netherlands.

Justification

This amendment will ensure that members of the families of military personnel living outside the Netherlands are also insured under the Care Insurance Act (ZVW).

Amendment 54

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 1 – point c

Text proposed by the Commission

(c) The provisions of the Zorgverzekeringswet (Health Care Insurance Act) and the Algemene *wet bijzondere ziektekosten* (**Law on General Insurance Against Special** Medical Expenses) concerning liability for the payment of contributions shall apply to the persons referred to under paragraph 1(a) and the members of their families. In respect of family members, the contributions shall be levied on the person from whom the right to health care is derived.

Amendment

(c) The provisions of the Zorgverzekeringswet (Health Care Insurance Act) and the Algemene **Wet Bijzondere Ziektekosten** (**General Act on Exceptional** Medical Expenses) concerning liability for the payment of contributions shall apply to the persons referred to under paragraph 1(a) and the members of their families. In respect of family members, the contributions shall be levied on the person from whom the right to health care is derived **with exception of the members of the family of military personnel who are living in another Member State who shall be levied directly.**

Justification

This amendment will ensure that members of the families of military personnel living outside the Netherlands are also insured under the Care Insurance Act (ZVW).

Amendment 55

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 1 – point (f) – introductory part

Text proposed by the Commission

(f) For the purposes of Articles 23 to 30, the following benefits shall be treated as pensions due under Netherlands legislation:

Amendment

(f) For the purposes of Articles 23 to 30, the following benefits ***(in addition to pensions covered by Title III, Chapters 4 and 5)*** shall be treated as pensions due under Netherlands legislation:

Amendment 56

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 1 – point f – indent 6

Text proposed by the Commission

– benefits awarded to retired persons before reaching the pensionable age of 65 years under a pension designed to provide income for former employed persons in their old age, or benefits provided in the event of premature exit from the labour market under a scheme set up by the state or by an industrial agreement for persons aged 55 or over ***whereby the percentage benefit is set at at least 70% of the latest salary.***

Amendment

– benefits awarded to retired persons before reaching the pensionable age of 65 years under a pension designed to provide income for former employed persons in their old age, or benefits provided in the event of premature exit from the labour market under a scheme set up by the state or by an industrial agreement for persons aged 55 or over;

Justification

As decided in miscellaneous amendments 2005 (Reg. (EC) No 1992/2006)

Amendment 57

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 1 – point f – indent 6 a (new)

Text proposed by the Commission

Amendment

– benefits awarded to military personnel and civil servants under a scheme applicable in the event of redundancy,

superannuation and early retirement.

Justification

This provision appeared in Reg. 1408/71 (was introduced in misc. amendments 2005 (Reg. (EC) No 1992:2006), and there is no reason to delete it in the new regulation. The addition of these benefits makes it possible to bring within the scope of Regulation 1408/71 military personnel with entitlement under the Dutch law on benefits for former military personnel and civil servants on reduced pay, so ensuring that this category is also properly insured. This is not the case at present.

Amendment 58

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 1 – point h

Text proposed by the Commission

Amendment

(h) When applying Article 34, the Netherlands will provide a list of estimates of the amounts which are as close as possible to the actual expenditure incurred. ***deleted***

Amendment 59

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 3 – point a

Text proposed by the Commission

Amendment

(a) A person who has been compulsorily insured under the Algemene nabestaandenwet (ANW) (Netherlands general law on insurance for surviving dependants) shall be deemed, for the purposes of Chapter 5 of Title III, to be insured under that legislation at the time when the risk materialises, if that person is insured under the legislation of another Member State for the same risk or, failing that, in the case where a survivor's ***deleted***

pension is due under the legislation of another Member State. The latter condition shall be deemed to have been fulfilled, however, in the case referred to in Article 57(1).

Amendment 60

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 3 – point b – paragraph 1

Text proposed by the Commission

(b) Where the surviving spouse is entitled to a survivor's pension under the ANW pursuant to **paragraph 3(a)**, that pension shall be calculated in accordance with Article 52(1)(b).

Amendment

(b) Where the surviving spouse is entitled to a survivor's pension under the ***Algemene Nabestaandenwet*** (ANW) (***General Surviving Relatives Act***) pursuant to **Article 51(3)**, that pension shall be calculated in accordance with Article 52(1)(b) ***of the Regulation***.

Amendment 61

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 4 – point a

Text proposed by the Commission

(a) A person who is no longer insured under the Algemene Arbeidsongeschiktheidswet (AAW) (General Act on Incapacity for Work), the Wet arbeidsongeschiktheidsverzekering zelfstandigen (WAZ) (Self Employed Persons Act on Incapacity for Work) and/or the Wet op de arbeidsongeschiktheidsverzekering (WAO) (Act on Incapacity for Work) shall be deemed, for the purposes of Chapter 5 of Title III, to be still insured at the time when the risk materialises, if that person is insured for the same risk under the

Amendment

deleted

legislation of another Member State or, failing that, is entitled to a benefit under the legislation of another Member State for the same risk. The latter condition shall, however, be deemed to be fulfilled in the case referred to in Article 57(1).

Amendment 62

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 4 – point b

Text proposed by the Commission

(b) *If*, pursuant to **paragraph 4(a)**, the person concerned is entitled to a Netherlands invalidity benefit, the amount referred to in Article 52(1)(b) for calculating that benefit shall be determined:

(i) in accordance with the provisions laid down in the WAO if, **prior to the occurrence of incapacity for work, the person last exercised an activity as an employed person within the meaning of Article 1(a);**

(ii) in accordance with the provisions laid down in the WAZ if, **prior to the occurrence of incapacity for work, the person concerned last exercised an activity as a self employed person within the meaning of Article 1(b).**

Amendment

(b) **Where**, pursuant to **Article 51(3) of the Regulation**, the person concerned is entitled to a Netherlands invalidity benefit, the amount referred to in Article 52 (1) (b) for calculating that benefit shall be determined:

(i) where, prior to the occurrence of incapacity for work, the person last exercised an activity as an employed person within the meaning of Article 1(a), in accordance with:

– the provisions laid down in the ***Wet op arbeidsongeschiktheidsverzekering (WAO) (Act on Incapacity for Work)*** if **the incapacity for work occurred before 1 January 2004 or**

– **the provisions laid down in the *Wet Werk en inkomen naar arbeidsvermogen (WIA) (Work and Income according to labour capacity Act)* if the incapacity for work occurred on or after 1 January 2004.**

(ii) where, prior to the occurrence of the incapacity for work, the person concerned last exercised an activity as a self-employed person within the meaning of Article 1(b), in accordance with the provisions laid down in the ***Wet***

*arbeidsongeschiktheidsverzekering
zelfstandigen (WAZ) (Self-employed
Persons Act on Incapacity for Work) if
the incapacity for work occurred before 1
August 2004.*

Amendment 63

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 4 – point c

Text proposed by the Commission

(c) In calculating benefits under either the WAO or the WAZ, Netherlands institutions shall take account of:

- periods of paid employment and periods treated as such, completed in the Netherlands before 1 July 1967;
- periods of insurance completed under the WAO;
- periods of insurance completed by the person concerned, after the age of 15, under the AAW, insofar as these do not coincide with the periods of insurance completed under the WAO;
- periods of insurance completed under the WAZ.

Amendment

(c) In calculating benefits under either the WAO, **WIA** or the WAZ, **the** Netherlands institutions shall take account of:

- periods of paid employment and periods treated as such, completed in the Netherlands before 1 July 1967;
- periods of insurance completed under the WAO;
- periods of insurance completed by the person concerned, after the age of 15, under the ***Algemene Arbeidsongeschiktheidswet*** (AAW) (***General Act on Incapacity for Work***), insofar as these do not coincide with the periods of insurance completed under the WAO;
- periods of insurance completed under the WAZ;
- ***periods of insurance completed under the WIA.***

Amendment 64

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Q. NETHERLANDS – point 5

5. Application of Netherlands legislation on family benefits

deleted

(a) A person to whom the Algemene Kinderbijslagwet (AKW) (General Family Benefits Act) becomes applicable during a quarter and who was, on the first day of that quarter, subject to the corresponding legislation of another Member State, shall be regarded as being insured by the Netherlands legislation as from that first day.

(b) The amount of family benefits which may be claimed by a person who is considered, pursuant to paragraph 5(a), as being insured by the AKW, shall be determined in accordance with the arrangements laid down in the implementing Regulation referred to in Article 89.

Amendment 65

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading R. AUSTRIA – point 1

1. **Attendance** at a school or comparable educational establishment in another Member State shall be regarded as equivalent to attendance at a school or educational establishment pursuant to Articles 227(1)(1) and 228(1)(3) of the Allgemeines Sozialversicherungsgesetz (ASVG) (general social security act), Article 116(7) of the Gewerbliches Sozialversicherungsgesetz (GSVG) (Federal Act on Social Insurance for Persons engaged in Trade and Commerce) and Article 107(7) of the Bauern-Sozialversicherungsgesetz (BSVG) (social

1. **For the purpose of acquiring periods in the pension insurance, attendance** at a school or comparable educational establishment in another Member State shall be regarded as equivalent to attendance at a school or educational establishment pursuant to Articles 227(1)(1) and 228(1)(3) of the Allgemeines Sozialversicherungsgesetz (ASVG) (general social security act), Article 116(7) of the Gewerbliches Sozialversicherungsgesetz (GSVG) (Federal Act on Social Insurance for Persons engaged in Trade and Commerce)

security act for farmers), when the person concerned was subject at *any* time to Austrian legislation on the grounds that he pursued an activity as an employed or self-employed person, and the contributions provided for under Article 227(3) of the ASVG, Article 116(9) of the GSVG and Article 107(9) of the BSGV are paid.

and Article 107(7) of the Bauern-Sozialversicherungsgesetz (BSVG) (social security act for farmers), when the person concerned was subject at *some* time to Austrian legislation on the grounds that he pursued an activity as an employed or self-employed person, and the *special* contributions provided for under Article 227(3) of the ASVG, Article 116(9) of the GSVG and Article 107(9) of the BSGV *for the purchase of such periods of education*, are paid.

Amendment 66

Proposal for a regulation – amending act Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading R. AUSTRIA – point 2

Text proposed by the Commission

Amendment

2. Where [DG 12 of the new Implementing Regulation] leads to periods of childcare pursuant to Articles 227a and 228a of the Allgemeines Sozialversicherungsgesetz (ASVG) (general social security act), Articles 116a and 116b of the Gewerbliches Sozialversicherungsgesetz (GSVG) (Federal Act on Social Insurance for Persons engaged in Trade and Commerce) and Articles 107a and 107b of the Bauern-Sozialversicherungsgesetz (BSVG) (social security act for farmers) being superseded by insurance periods completed in another Member State, the theoretical amount calculated pursuant to Article 52(1)(b)(i) must be increased by the amount which would arise under Austrian legislation if the periods of childcare were taken into account for those insurance periods.

deleted

Amendment 67

Proposal for a regulation – amending act Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading R. AUSTRIA – point 5

Text proposed by the Commission

Amendment

5. The application of this Regulation shall not have the effect of reducing any entitlement to benefits for persons who have suffered in their social security situation for political or religious reasons or for reasons of their descent. ***deleted***

Amendment 68

Proposal for a regulation – amending act Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading T a. ROMANIA (new)

Text proposed by the Commission

Amendment

Ta. ROMANIA

None.

Amendment 69

Proposal for a regulation – amending act Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading W. FINLAND – point 1

Text proposed by the Commission

Amendment

1. A person who is no longer insured under the National Pensions scheme is regarded, when applying the provisions of Chapter 5 of Title III of this Regulation, as retaining the status of an insured person if, when the risk materialises, he or she is insured for the same risk under the legislation of another Member State or, failing that, is entitled to a benefit for ***deleted***

the same risk under the legislation of another Member State. The latter condition shall, however, be deemed to be fulfilled in the case referred to in Article 57(1).

Amendment 70

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading X. SWEDEN – point 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purpose of calculating parental leave allowance in accordance with Chapter 4, paragraph 6 of the Lag (1962:381) om allmän försäkring (the National Insurance Act) for persons eligible for a work-based parental leave allowance, the following shall apply:

For a parent for whom sickness benefit generating income is calculated on the basis of income from gainful employment in Sweden, the requirement to have been insured for sickness benefit above the minimum level for at least 240 consecutive days preceding the child's birth shall be satisfied if, during the period mentioned, the parent had income from gainful employment in another Member State corresponding to insurance above the minimum level.

Amendment 71

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading X. SWEDEN – point 2

Text proposed by the Commission

Amendment

2. The provisions of *this* Regulation on the

2. The provisions of *the* Regulation on the

aggregation of insurance periods shall not apply to the transitional provisions in the Swedish legislation on entitlement to guarantee pension for persons born in or before 1937 who have been resident in Sweden for a specified period before applying for a pension (Act 2000:798).

aggregation of insurance periods *or periods of residence* shall not apply to the transitional provisions in the Swedish legislation on entitlement to guarantee pension for persons born in or before 1937 who have been resident in Sweden for a specified period before applying for a pension (Act 2000:798).

Justification

There is no need to exclude periods of residence from the aggregation provisions. Moreover, the Swedish law also takes them into account.

Amendment 72

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading X. SWEDEN, point 3, introductory part

Text proposed by the Commission

3. For the purpose of calculating notional income for *earnings-related* sickness *benefit* and *earnings-related* activity *allowance* in accordance with Chapter 8 of the Lag (1962:381) om allmän försäkrings (the National Insurance Act), the following shall apply:

Amendment

3. For the purpose of calculating notional income for *the income-related* sickness *compensation* and *income-related* activity *compensation* in accordance with Chapter 8 of the Lag (1962:381) om allmän försäkrings (the National Insurance Act), the following shall apply:

Amendment 73

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading X. SWEDEN – point 3 – point a

Text proposed by the Commission

(a) where the insured person, during the reference period, has also been subject to the legislation of one or more other Member States on account of activity as an employed or self-employed person, income in the Member State(s) concerned shall be

Amendment

(a) where the insured person, during the reference period, has also been subject to the legislation of one or more other Member States on account of activity as an employed or self-employed person, income in the Member State(s) concerned shall be

deemed to be equivalent to the insured person's average gross income in Sweden during the part of the reference period in Sweden, calculated by dividing the earnings in Sweden by the number of **months** over which those earnings accrued;

deemed to be equivalent to the insured person's average gross income in Sweden during the part of the reference period in Sweden, calculated by dividing the earnings in Sweden by the number of **years** over which those earnings accrued;

Justification

Calculations in Sweden are based on years and not on months. This correction is based on national legislation and was also introduced in Reg. (EC) No 1992/2006.

Amendment 74

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading X. SWEDEN – point 3 – point b

Text proposed by the Commission

(b) where the benefits are calculated pursuant to Article 46 and persons are not insured in Sweden, the reference period shall be determined in accordance with Chapter 8, paragraphs 2 and 8 of the abovementioned Act as if the person concerned were insured in Sweden. If the person concerned has no pension-generating income during this period under the Act on **earnings-related** old-age pension (1998:674), the reference period shall be permitted to run from the earlier point in time when the insured person had income from gainful **employment** in Sweden.

Amendment

(b) where the benefits are calculated pursuant to Article 46 and persons are not insured in Sweden, the reference period shall be determined in accordance with Chapter 8, paragraphs 2 and 8 of the abovementioned Act as if the person concerned were insured in Sweden. If the person concerned has no pension-generating income during this period under the Act on **income-based** old-age pension (1998:674), the reference period shall be permitted to run from the earlier point in time when the insured person had income from gainful **activity** in Sweden.

Justification

More precise wording, as in Reg. (EC) No 1992/2006

Amendment 75

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading X. SWEDEN – point 4 – point a

Text proposed by the Commission

a) For the purpose of calculating notional pension **income** for **earnings-related** survivor's pension (Act 2000:461), if the requirement in Swedish legislation for pension entitlement in respect of at least three out of the five calendar years immediately preceding the insured person's death (reference period) is not met, account shall also be taken of insurance periods completed in other Member States as if they had been completed in Sweden. Insurance periods in other Member States shall be regarded as based on the average Swedish pension base. If the person concerned has only one year in Sweden with a pension base, each insurance period in another Member State shall be regarded as constituting the same amount.

Amendment

a) For the purpose of calculating notional pension **asset** for **income-based** survivor's pension (Act 2000:461), if the requirement in Swedish legislation for pension entitlement in respect of at least three out of the five calendar years immediately preceding the insured person's death (reference period) is not met, account shall also be taken of insurance periods completed in other Member States as if they had been completed in Sweden. Insurance periods in other Member States shall be regarded as based on the average Swedish pension base. If the person concerned has only one year in Sweden with a pension base, each insurance period in another Member State shall be regarded as constituting the same amount.

Justification

More precise wording, as in Reg. (EC) No 1992/2006

Amendment 76

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Y. UNITED KINGDOM – point 2

Text proposed by the Commission

2. For the purposes of applying Article 6 to the provisions governing entitlement to attendance allowance, carer's allowance and disability living allowance, a period of employment, self-employment or residence

Amendment

2. For the purposes of applying Article 6 **of the Regulation** to the provisions governing entitlement to attendance allowance, carer's allowance and disability living allowance, a period of employment, self-

completed in the territory of a Member State other than the United Kingdom shall be taken into account insofar as is necessary to satisfy conditions as to presence in the United Kingdom, prior to the day on which entitlement to the benefit in question first arises.

employment or residence completed in the territory of a Member State other than the United Kingdom shall be taken into account insofar as is necessary to satisfy conditions as to ***required periods of*** presence in the United Kingdom, prior to the day on which entitlement to the benefit in question first arises.

Amendment 77

Proposal for a regulation – amending act

Annex – point 3

Regulation (EC) No 883/2004

Annex XI – heading Y. UNITED KINGDOM – point 3

Text proposed by the Commission

3. Article 7 ***shall apply to any beneficiary of United Kingdom*** invalidity, old-age or survivors' cash benefits, pensions for accidents at work or occupational diseases and death grants, who is staying in the territory of another Member State.

Amendment

3. ***For the purposes of Article 7 of the Regulation, in the case of*** invalidity, old-age or survivors' cash benefits, pensions for accidents at work or occupational diseases and death grants, ***any beneficiary under United Kingdom legislation*** who is staying in the territory of another Member State ***shall, during that stay, be considered as if he resided in the territory of that other Member State.***

EXPLANATORY STATEMENT

In close cooperation with the Rapporteur on the report on the implementation of the social security directive, Mrs. Jean Lambert, regular trialogue meetings were organized in the Parliament, between representatives of the Parliament, the Commission and the Council. At these meetings the rapporteurs were updated on the progress in the Council, and were able to ask more information to the Commission on the original proposal.

In considering amendments the Rapporteurs have been led by the principles of simplification and a de minimis principle, stating that changes to the current coordination system should never lead to fewer rights for citizens, but more.

Simplification is necessary to allow European citizens to better understand the complex rules regulating social security coordination. The Parliament Rapporteurs furthermore believe it is in the interest of the citizens to have broader rights concerning social security coordination, and certainly not less.

PROCEDURE

Title	Coordination of social security systems: Annex XI			
References	COM(2006)0007 – C6-0029/2006 – 2006/0008(COD)			
Date submitted to Parliament	24.1.2006			
Committee responsible Date announced in plenary	EMPL 14.2.2006			
Rapporteur(s) Date appointed	Emine Bozkurt 1.2.2006			
Discussed in committee	23.11.2006	1.4.2008	6.5.2008	28.5.2008
Date adopted	29.5.2008			
Result of final vote	+: 31 -: 2 0: 0			
Members present for the final vote	Jan Andersson, Edit Bauer, Philip Bushill-Matthews, Alejandro Cercas, Derek Roland Clark, Luigi Cocilovo, Jean Louis Cottigny, Jan Cremers, Harald Ettl, Richard Falbr, Roger Helmer, Stephen Hughes, Jan Jerzy Kułakowski, Jean Lambert, Bernard Lehideux, Elizabeth Lynne, Thomas Mann, Maria Matsouka, Elisabeth Morin, Juan Andrés Naranjo Escobar, Csaba Őry, Pier Antonio Panzeri, Rovana Plumb, Jacek Protasiewicz, Bilyana Ilieva Raeva, José Albino Silva Peneda, Jean Spautz, Gabriele Stauner, Ewa Tomaszewska, Anne Van Lancker, Gabriele Zimmer			
Substitute(s) present for the final vote	Françoise Castex, Gabriela Crețu, Csaba Sógor, Tatjana Ždanoka			