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A6-0207/2009

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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting 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
(14518/1/2008 – C6-0003/2009 – 2006/0008(COD))

Committee on Employment and Social Affairs

Rapporteur: Jan Cremers

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 Council common position for adopting 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 (14518/1/2008 – C6-0003/2009 – 2006/0008(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (14518/1/2008 – C6-0003/2009),
 - having regard to its position at first reading¹ on the Commission proposals to Parliament and the Council (COM(2006)0007) and (COM(2007)0376),
 - having regard to the amended Commission proposal (COM(2008)0648),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 62 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Employment and Social Affairs (A6-0207/2009),
1. Approves the common position as amended;
 2. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Council common position – amending act
Recital 7 a (new)

Council common position

Amendment

(7a) It is appropriate to assess the significance, frequency, scale and costs relating to the application of the restriction of rights to benefits in kind for members of the family of frontier workers under Annex III to Regulation (EC) No 883/2004 for those Member States still listed in that Annex after Article 1(19)(b) of this Regulation has come into effect.

¹ Texts adopted, 9.7.2008, P6_TA(2008)0349.

Amendment 2

Council common position – amending act

Article 1 – point 7

Regulation (EC) No 883/2004

Article 18 – paragraph 2 – subparagraph 3

Council common position

Amendment

The list contained in Annex III shall be reviewed no later than ...¹ on the basis of a report from the Administrative Commission. In the light of this report, the European Commission may, if necessary, submit a proposal to revise the list."

deleted

¹ 5 years from the date of application of this Regulation.

Amendment 3

Council common position – amending act

Article 1 – point 8

Regulation (EC) No 883/2004

Article 28 – paragraph 1 – subparagraph 3

Council common position

Amendment

The list contained in Annex III shall be reviewed no later than ...¹ on the basis of a report from the Administrative Commission. In the light of this report, the European Commission may, if necessary, submit a proposal to revise the list."

deleted

¹ 5 years from the date of application of this Regulation.

Amendment 4

Council common position – amending act

Article 1 – point 19 – point b a (new)

Regulation (EC) No 883/2004

Article 87 – paragraph 10 b (new)

(ba) The following paragraph shall be inserted.

"10b. The list contained in Annex III shall be reviewed no later than ...¹ on the basis of a report by the Administrative Commission. This report shall provide an impact assessment of the significance, frequency, scale and costs, both in absolute and in relative terms, of the application of the provisions of Annex III and the effect of their possible repeal for those Member States which will still be listed in that Annex after paragraph 10a has come into effect. In the light of that report, the Commission will decide on submitting a proposal with regard to reviewing the list, in principle with the aim of repealing the list unless the Administrative Commission's report provides compelling reasons not to do so.

¹ 5 years from the date of entry into force of this Regulation

Justification

The Council's common position takes into account the position of the European Parliament by accepting 69 of the 77 amendments. The only problematic issue that is still open is Annex III that contains a list of Member States which apply 'Restriction of rights to benefits in kind for members of the family of a frontier worker' in the competent Member State. The Council is unwilling to repeal the Annex III but instead as proposed a review in 5 years. Though it is a step towards the Parliaments position your Rapporteur feels that it should be made clear that, in principle, the aim of this revision is to have the Annex III repealed unless there are compelling reasons to do otherwise.

EXPLANATORY STATEMENT

On 17 December 2008 the Council adopted a common position on the implementation of the 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 contents of its annexes. The Council's common position has largely taken into account the position of the European Parliament by accepting 69 of the 77 amendments. The EP had its first reading on 9 July 2008.

The basic Regulation, adopted in 2004, aims to modify and modernise Regulation 1408/71 and its successive modifications.¹ It is a very technical dossier with the purpose to streamline the coordination of the social security systems applicable when citizens decide to make use of their right to free movement. A previous consideration must be made: the competence for the organization, financing and management of national social security systems stays in the hands of the Member States. Regulation 883/2004 aims to improve the coordination between the national administrations and institutions competent on social security and does not aim at harmonizing national provisions. It also has as an objective to simplify the procedures. It includes annexes that contain provisions in respect of individual Member States. The content of certain of these annexes had not yet been determined when the Regulation was adopted.

The original proposals for the Annexes were formulated in two separate documents:

- 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;
- Proposal for a Regulation of the European Parliament and of the Council amending the annexes to Regulation (EC) No 883/2004 on the coordination of social security systems.

Following the EP's first reading, the Commission presented its amended proposal on 15 October 2008² taking on board the amendment of the European Parliament to merge the two original proposals into a single text.

The only problematic issue that is still open is Annex III that contains a list of Member States which apply 'Restriction of rights to benefits in kind for members of the family of a frontier worker' in the competent Member State.

Its content constitutes already progress for many of the persons concerned compared with their current situation under Regulation 1408/71 as this approach will allow family members of frontier workers residing in eight Member States to benefit from a new right. But the EP had urged for a complete repeal in an amendment.

The negotiations in this context have been very complicated, with different arguments.

- some of the Member States prefer an implementation period and want to assess the effect of the Annex, given the lack of experience in the application of the Regulation,

¹ Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, OJ L 149 of 5.7.1971, p. 2. Regulation last amended by Regulation (EC) No 1992/2006 (OJ L 392 of 30.12.2006, p. 1).

² COM(2008)0648.

- others relate the content of the Annex to the cross border health care dossier.

The result has been that according to Articles 18 (2) and 24 (2) of Regulation 883/04 the members of the family of a frontier worker shall be entitled to benefits in kind during their stay in the competent Member State with some exceptions to this principle provided for in Annex III as the Council common position says that:

- Article 1 - point 19(ba new) of Regulation 883/2004 will be amended to state that Annex III will be reviewed five years after its application, and
- A new paragraph (10a) will be added to Article 87 of Regulation 883/2004 to provide that the period of validity of some Member States' entries in Annex III is limited to four years.

The real impact of the application of the restrictions based on the list and related to the articles 18(2) and 28(1) is unclear and no figures are available to underpin the continuation.

The European Parliament considers that the Common Position goes largely in the direction of the concerns voiced by Parliament. It is willing, with a view to reaching final agreement as soon as possible, to accept the idea of a review clause, bearing in mind the importance of the Regulation. In order to find a way out the proposal is to formulate clear conditions related to the revision proposed.

The report of the Administrative Commission has to result in a clear overview of the effects and impact of Annex III in terms of costs, significance, scale, and frequency of its application. The aim of the review should be to abolish Annex III unless there are important arguments to continue with the list.

The European Commission is willing to accept the compromise as it is a step forward compared to the current situation of Annex III. The European Commission has taken a strong commitment to endeavour to pursue, and contribute to, the process of revision in five years. In the meantime the Czech presidency has expressed the will to finalise this dossier. The adoption of this Regulation is a prerequisite to make it possible for Regulation 883/2004 to become applicable in 2010.

Both rapporteurs (Mrs Lambert for the implementing regulation and Mr Cremers for this proposal) are in favour of a smooth and fast track conclusion of this procedure. The overall impact of the implementation (notably improved cooperation between institutions and between these and the citizens) is of great importance for insured persons and their families as it ensures the individual rights of mobile citizens.

PROCEDURE

Title	Coordination of social security systems: Annexes
References	14518/1/2008 – C6-0003/2009 – 2006/0008(COD)
Date of Parliament's first reading – P number	9.7.2008 T6-0349/2008
Commission proposal	COM(2006)0007 - C6-0029/2006
Amended Commission proposal	COM(2008)0648
Date receipt of common position announced in plenary	15.1.2009
Committee responsible Date announced in plenary	EMPL 15.1.2009
Rapporteur(s) Date appointed	Jan Cremers 2.12.2008
Discussed in committee	20.1.2009 11.2.2009 30.3.2009
Date adopted	31.3.2009
Result of final vote	+: 37 -: 1 0: 0
Members present for the final vote	Jan Andersson, Jean-Pierre Audy, Edit Bauer, Iles Braghetto, Philip Bushill-Matthews, Alejandro Cercas, Derek Roland Clark, Jean Louis Cottigny, Jan Cremers, Proinsias De Rossa, Harald Ettl, Richard Falbr, Joel Hasse Ferreira, Roger Helmer, Stephen Hughes, Jean Lambert, Bernard Lehideux, Elizabeth Lynne, Elisabeth Morin, Juan Andrés Naranjo Escobar, Csaba Óry, Siiri Oviir, Marie Panayotopoulos-Cassiotou, Elisabeth Schroedter, José Albino Silva Peneda, Jean Spautz, Gabriele Stauner, Ewa Tomaszewska, Anne Van Lancker
Substitute(s) present for the final vote	Udo Bullmann, Gabriela Crețu, Richard Howitt, Rumiana Jeleva, Magda Kósáné Kovács, Jamila Madeira, Adrian Manole, Ria Oomen-Ruijten, Csaba Sógor
Date tabled	2.4.2009