



Plenary sitting

A8-0161/2019

4.3.2019

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council on establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union (COM(2019)0053 – C8-0039/2019 – 2019/0019(COD))

Committee on Employment and Social Affairs

Co-Rapporteurs: Marian Harkin, Jean Lambert

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

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

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council on establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union

(COM(2019)0053 – C8-0039/2019 – 2019/0019(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2019)0053),
 - having regard to Article 294(2) and Article 48 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0039/2019),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs (A8-0161/2019),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) This Regulation does not affect existing social security conventions and agreements between the United Kingdom and one or more Member States which are in compliance with Article 8 of Regulation (EC) No 883/2004 and Article 9 of Regulation (EC) No 987/2009. This

Regulation is without prejudice to the possibility for the Union or the Member States to take measures addressing the administrative cooperation and exchange of information with the competent institutions in the United Kingdom for the purpose of giving effect to the principles of this Regulation. Furthermore, this Regulation does not affect any competence of either the Union or the Member States to conclude social security conventions and agreements with third countries, or with the United Kingdom covering the period after the day on which the Treaties cease to apply to and in the United Kingdom.

Amendment 2

Proposal for a regulation Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) This Regulation does not affect any rights acquired or in the process of being acquired in accordance with the legislation of a Member State during the period before the date of application of this Regulation. Good cooperation is necessary for such rights to be protected and upheld. It is important to ensure that appropriate and timely information is available to the persons concerned.

Amendment 3

Proposal for a regulation Recital 5

Text proposed by the Commission

Amendment

(5) *To* achieve a uniform unilateral application of the social security principles of equality of treatment, of assimilation

(5) *Since the objective of this Regulation, namely to* achieve a uniform unilateral application of the social security

and of aggregation, *it is necessary to introduce this contingency Regulation.*

principles of equality of treatment, of assimilation and of aggregation *cannot be sufficiently achieved by the Member States but can rather, by reason of coordinating their response, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.*

Amendment 4

Proposal for a regulation Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) In view of the fact that in the absence of a withdrawal agreement or of an extension of the two-year period after the United Kingdom's notification, the Treaties will cease to apply to and in the United Kingdom on 30 March 2019, and in view of the need to provide legal certainty, it was considered appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

Amendment 5

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) This Regulation should apply as from the day following that on which the Treaties cease to apply to and in the United Kingdom unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date.

Amendment

(6) This Regulation should ***enter into force as a matter of urgency on the day following that of its publication in the Official Journal of the European Union and should*** apply as from the day following that on which the Treaties cease to apply to and in the United Kingdom unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date.

Amendment 6

Proposal for a regulation
Article 2

Text proposed by the Commission

Article 2

Persons covered

This Regulation shall apply to the following persons:

- (a) nationals of a Member State, stateless persons and refugees, who are or have been subject to the legislation of one or more Member States and who are or have been in a situation involving the United Kingdom of Great Britain and Northern Ireland (the ‘United Kingdom’) before **30 March 2019**, as well as their family members and survivors;
- (b) nationals of the United Kingdom who are or have been subject to the legislation of one or more Member States before **30 March 2019**, as well as their family members and survivors.

Amendment

Article 2

Persons covered

This Regulation shall apply to the following persons:

- (a) nationals of a Member State, stateless persons and refugees, who are or have been subject to the legislation of one or more Member States and who are or have been in a situation involving the United Kingdom of Great Britain and Northern Ireland (the ‘United Kingdom’) before ***the date of application of this Regulation***, as well as their family members and survivors;
- (b) nationals of the United Kingdom who are or have been subject to the legislation of one or more Member States before ***the date of application of this Regulation***, as well as their family members and survivors.

Amendment 7

Proposal for a regulation

Article 4

Text proposed by the Commission

Article 4

Equality of treatment

The principle of equality of treatment as laid down in Article 4 of Regulation (EC) No 883/2004 shall apply to the persons referred to in Article 2 of this Regulation, as regards ***facts or events that have occurred in the United Kingdom before 30 March 2019.***

Amendment

Article 4

Equality of treatment

The principle of equality of treatment as laid down in Article 4 of Regulation (EC) No 883/2004 shall apply to the persons referred to in Article 2 of this Regulation, as regards ***any situation that has occurred before the date of application of this Regulation.***

Amendment 8

Proposal for a regulation

Article 5

Text proposed by the Commission

Article 5

Assimilation and aggregation

1. The principle of assimilation as laid down in Article 5 of Regulation (EC) No 883/2004 shall apply as regards benefits or income acquired and facts or events that have occurred in the United Kingdom before ***30 March 2019.***

2. The principle of aggregation as laid down in Article 6 of Regulation (EC) No 883/2004 shall apply as regards periods of insurance, employment, self-employment or residence in the United Kingdom before ***30 March 2019.***

3. Any other provisions of the Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 necessary to give effect to the principles laid down

Amendment

Article 5

Assimilation and aggregation

1. The principle of assimilation as laid down in Article 5 of Regulation (EC) No 883/2004 shall apply as regards benefits or income acquired and facts or events that have occurred in the United Kingdom before ***the date of application of this Regulation.***

2. The principle of aggregation as laid down in Article 6 of Regulation (EC) No 883/2004 shall apply as regards periods of insurance, employment, self-employment or residence in the United Kingdom before ***the date of application of this Regulation.***

3. Any other provisions of the Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 necessary to give effect to the principles laid down

under paragraphs 1 and 2 of this Article shall apply.

under paragraphs 1 and 2 of this Article shall apply.

Amendment 9

Proposal for a regulation Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5 a

Relations of this Regulation and other coordination instruments

- 1. This Regulation shall be without prejudice to the existing social security conventions and agreements between the United Kingdom and one or more Member States which are in compliance with Article 8 of Regulation (EC) No 883/2004 and Article 9 of Regulation (EC) No 987/2009.***
- 2. This Regulation shall be without prejudice to social security conventions and agreements between the United Kingdom and one or more Member States concluded after the day on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union and covering the period before the date of application of this Regulation, provided they give effect to the principles laid down in Article 5(1) and (2), apply the provisions referred to in Article 5(3) of this Regulation, are based on the principles of Regulation (EC) No 883/2004 and in keeping with the spirit thereof.***

Amendment 10

Proposal for a regulation Article 5 b (new)

Text proposed by the Commission

Amendment

Article 5 b

Report

One year after date of application, the Commission shall submit to the European Parliament and the Council a report on the implementation of this Regulation. The report shall address, in particular, practical problems arising for the persons concerned, including those arising from the lack of continuity of the coordination of social security systems.

Amendment 11

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

Amendment

This Regulation shall enter into force on the ***twentieth*** day following that of its publication in the Official Journal of the European Union.

This Regulation shall enter into force on the day following that of its publication in the Official Journal of the European Union.

EXPLANATORY STATEMENT

Beforehand, please note that the content of the report is exactly aligned with the text in the annex of the letter received by Coreper (which can be found on the EMPL Committee webpage under the meeting document of 26 February 2019)¹. Coreper states in that letter that it is in the “position to confirm that, should the European Parliament adopt its position at first reading, in accordance with Article 294 paragraph 3 of the Treaty on the Functioning of the European Union (TFEU), in the same form set out in the compromise package contained in the Annex to this letter, subject to revision by the legal linguists of both institutions, the Council would, in accordance with Article 294, paragraph 4 TFEU, approve the European Parliament’s position and the act shall be adopted in the wording which corresponds to the European Parliament’s position.”

On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. Consequently, the Union’s primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, unless the Withdrawal Agreement is ratified. As a consequence, the existing regulations relating to the co-ordination of social security will not apply from that date in the relations between the Union and the United Kingdom (UK).

The objective of the Regulation on establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union proposed by the Commission is to mitigate some of the negative effects of the UK's withdrawal from the Union in the absence of any solutions agreed with the UK.

The Regulation aims to ensure the social security entitlements for Union citizens regarding facts or events that occurred and periods completed before the withdrawal date involving the UK. Also for other relevant persons who would otherwise be covered by Regulations (EC) Nos 883/2004 and 987/2009 (stateless persons, refugees, as well as family members and survivors of all the previous categories), those entitlements are maintained in such situations.

The Regulation does not provide for any entitlement after March 29th 2019, as there is, as yet, no formal agreement between the EU and the UK covering that situation. This is creating enormous concerns for those whose rights and entitlements will change on March 30th 2019 if no agreement is found between the EU and UK.

Given that the protection of citizens’ rights related to the UK’s proposed departure from the EU is a clear priority for the European Parliament, your Rapporteurs consider that this proposal is of the utmost importance and urgency as there is a clear need to safeguard the acquired cross-border social security rights of those who are affected by the UK’s decision to leave the EU. Providing certainty in times of uncertainty is your rapporteurs’ first concern, therefore the aim is to find the best possible agreement (within and between institutions) as soon as possible. In order to assist a swift agreement with Council, only a small number of amendments are tabled to the proposal. The one amendment on the operative part of the Regulation is technical in nature, covering the procedure in relation to Member States and the date of entry in to force, which should ideally coincide with the date of the UK’s leaving the EU to provide ‘seamless’ coverage.

¹ http://www.europarl.europa.eu/meetdocs/2014_2019/plmrep/COMMITTEES/EMPL/LT/2019/02-26/EMPL20190226_Brexit_contingency_measure_Corepe_letterannex_EN.pdf

The Rapporteurs' proposed amendments to the Recitals are intending to ensure that there will be a report from the Commission to Parliament and Council so that any problems that are arising from the implementation of this Regulation have to be identified and resolved. We also want to be sure that any other necessary legislation can be brought forward easily, for example, regarding other groups who may need to be included. It is also clear that persons concerned will need to be given timely and accurate information to help them protect and access their rights and entitlements, which could result in an increased demand on the services responsible.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union	
References	COM(2019)0053 – C8-0039/2019 – 2019/0019(COD)	
Date submitted to Parliament	30.1.2019	
Committee responsible Date announced in plenary	EMPL 30.1.2019	
Rapporteurs Date appointed	Marian Harkin 7.2.2019	Jean Lambert 7.2.2019
Discussed in committee	7.2.2019	19.2.2019
Date adopted	26.2.2019	
Result of final vote	+: 36 –: 1 0: 0	
Members present for the final vote	Brando Benifei, Enrique Calvet Chambon, David Casa, Ole Christensen, Michael Detjen, Lampros Fountoulis, Elena Gentile, Marian Harkin, Agnes Jongerius, Rina Ronja Kari, Jan Keller, Ádám Kósa, Agnieszka Kozłowska-Rajewicz, Jean Lambert, Jeroen Lenaers, Thomas Mann, João Pimenta Lopes, Georgi Pirinski, Terry Reintke, Sofia Ribeiro, Robert Rochefort, Claude Rolin, Siôn Simon, Romana Tomc, Yana Toom, Ulrike Trebesius, Marita Ulvskog, Renate Weber	
Substitutes present for the final vote	Georges Bach, Lynn Boylan, Krzysztof Hetman, Alex Mayer, Ivari Padar, Neoklis Sylikiotis, Monika Vana	
Substitutes under Rule 200(2) present for the final vote	Jens Gieseke, Paul Tang	
Date tabled	4.3.2019	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

36	+
ALDE	Enrique Calvet Chambon, Marian Harkin, Robert Rochefort, Yana Toom, Renate Weber
ECR	Ulrike Trebesius
GUE/NGL	Lynn Boylan, Rina Ronja Kari, João Pimenta Lopes, Neoklis Sylikiotis
EPP	Georges Bach, David Casa, Jens Gieseke, Krzysztof Hetman, Agnieszka Kozłowska-Rajewicz, Ádám Kósa, Jeroen Lenaers, Thomas Mann, Sofia Ribeiro, Claude Rolin, Romana Tomc
S&D	Brando Benifei, Ole Christensen, Michael Detjen, Elena Gentile, Agnes Jongerius, Jan Keller, Alex Mayer, Ivare Padar, Georgi Pirinski, Siôn Simon, Paul Tang, Marita Ulvskog
VERTS/ALE	Jean Lambert, Terry Reintke, Monika Vana

1	-
NI	Lampros Fountoulis

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention