

COMMISSION OF THE EUROPEAN COMMUNITIES

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Brussels, 20.04.1994

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Proposal for a

COUNCIL REGULATION (EC)

amending Regulation (EEC) N° 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,
Regulation (EEC) N° 574/72 laying down the procedure for
implementing Regulation (EEC) N° 1408/71,
Regulation (EEC) N° 1247/92 amending
Regulation (EEC) N° 1408/71 and
Regulation (EEC) N° 1945/93 amending Regulation (EEC) N° 1247/92

(presented by the Commission)

EXPLANATORY MEMORANDUM

relating to the proposal for a Council Regulation amending Regulation (EEC) N° 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 and Regulation (EEC) N° 574/72 laying down the procedure for implementing Regulation (EEC) N° 1408/71, Regulation (EEC) n° 1247/92 amending Regulation (EEC) N° 1408/71 and Regulation (EEC) N° 1945/93 amending Regulation (EEC) N° 1247/92.

INTRODUCTION

Since the entry into force of Regulation (EEC) N° 2001/83, which is a consolidated update in a single official text of Regulations (EEC) Nos 1408/71 and 574/72, following the extension of their scope to self-employed persons, these Regulations have been amended by Council Regulations (EEC) Nos 1660/85 and 1661/85, Commission Regulation N° 513/86, and Council Regulations Nos 3811/86, 1305/89, 2332/89, 3427/89, 2195/91, 1247/92, 1248/92 and 1249/92, and by the 1985 Act of Accession of Spain and Portugal.

The proposal aims to update the Community Regulations in the light of a number of changes to form, substance and administration made by national legislations in the intervening period, to take account of the bilateral agreements concluded between the Member States and to improve the functioning of the coordination.

Article One

Amendments to Regulation (EEC) N° 1408/71

1. The insertion of an Article 25a, and the amendment to Articles 39, 45 and 72a

It is stated in the Regulation that, in the case of a wholly unemployed worker, benefits in respect of sickness and maternity, invalidity, old age and family benefits shall be at the expense of the institution of the State of residence. However, no provision has been made for the collection of contributions. The amendments proposed are aimed at remedying this situation by providing that the contributions are collected by the Member State of residence.

2. The insertion of a paragraph 2 in Article 86.

In order to avoid a situation in which a family loses its rights to family benefits, a new paragraph has been inserted in which it is stated that a new application must be submitted by the actual beneficiary.

3. The insertion of a new Article 90

This amendment stipulates that housing allowances shall be awarded under the legislation of the Member State where the person concerned resides. For, the benefits in question here are, per definition, always based on the living conditions obtaining in the Member State of residence.

4. The insertion of a new Article 95b

Regulation (EEC) N° 1247/92 concerning special non-contributory benefits, amending Regulation (EEC) N° 1408/71, contains transitional provisions, which have not been incorporated into Regulation (EEC) N° 1408/71. These rules have been added to by the provisions appearing in Regulation (EEC) N° 1945/93.

The proposed amendment aims at incorporating all the transitional provisions in Regulation (EEC) N° 1408/71, itself, in order to facilitate the understanding of the texts in force.

5. Amendment to Annex I - Part II

In accordance with what is laid down in the second sentence of Article 1(f) of the Regulation, Part II of Annex I contains the meaning of the concept of "members of the family" for the Member States whose legislation concerning benefits in kind for sickness and maternity does not enable members of a family to be distinguished from the other persons to whom it applies.

(a) Amendment to heading 6. Ireland

The proposed amendment to this heading is aimed at making it clear that the reference to dependants for the application of the Health Acts of 1947-70 does not concern benefits in kind for sickness and maternity. For, according to the present text, misunderstandings could arise in so far as the concept of "dependant" differs from that where it is a matter of certain cash benefits pursuant to the Health Acts of 1947-70 or benefits in kind for sickness and maternity pursuant to the same legislation.

(b) Amendment to heading L. United Kingdom

This proposal is aimed at replacing the present definition given under this heading, which is considered to be inadequate. For, the expression used must specify the fact that, for the award of the various benefits in kind, the concept of "dependant" is interpreted differently from time to time.

In the amendment to heading G. Ireland and to heading L. United Kingdom, it is proposed that the reference to Article 22(1)(a) and to Article 31 be deleted so that this definition also applies to the other Articles for which it is likewise necessary that the Member State of residence must determine who is a member of the family.

6. Amendment to Annex IIa

Annex IIa lists the special non-contributory benefits awarded to the persons concerned exclusively in the territory of the Member State in which they reside, in application of Article 10a of the Regulation.

(a) Amendment to heading B. Denmark

It is proposed that the flat-rate rehabilitation benefit be mentioned under this heading because it is a special non-contributory benefit which is not exportable.

(b) Amendment to heading I. Luxembourg

The Luxembourg compensatory cost-of-living allowance no longer exists in Luxembourg legislation and should therefore be deleted from Annex IIa.

7. Amendment to Annex III

Part B of Annex III lists the provisions of social security conventions which do not apply to all persons to whom the Regulation applies.

It is proposed that point 24, Germany-Greece, be amended in order to take account of the arrangement between the Greek and German authorities, in accordance with which Greece takes account of the insurance periods completed in the former GDR by repatriated Greeks, that the agreement applies only to persons who return to Greece not later than 2 October 1990. The situation concerning other persons is regulated by German law and by Community law.

8. Amendment to Annex VI

Annex VI contains the special procedures for applying the legislation of certain Member States. One of the amendments to heading F. Greece, is the deletion of point 3 in order to avoid any problems concerning the restructuring of the Greek social insurance. Furthermore, the new provisions take account of the specific character of the Greek legal supplementary schemes, and provision has been made for equality of treatment between persons who are compulsorily insured in another Member State who go to work for the first time in Greece from 1 January 1993 onwards and persons already insured before that date.

Article 2

Amendments to Regulation (EEC) N° 574/72

1. Amendment to Article 17(2) and to Article 30(1)

The aim of this amendment is to extend to German institutions the specific provisions already provided for in respect of French institutions by virtue of which a certified statement is valid only for one year following the date of its issue and must be renewed every year; this means that henceforth insured persons are free to choose their own sickness fund on German territory.

2. Insertion of a new Article 87

The insertion of a new Article 87 is aimed at facilitating the procedure for applying Article 86(2) of Regulation (EEC) N° 1408/71, thereby guaranteeing all the rights of the family concerned.

3. Amendment to Article 95

This provision should be amended so that more specific account can be taken of the actual expenditure of the institutions of the Member States where both spouses receive a pension.

4. Amendment to Article 107(1)

The amendment proposed takes consideration of all the amendments (relating to the conversion of currencies) made by Regulations (EEC) Nos 2195/91, 1248/92 and 1249/92.

5. Amendment to Annex 2

Annex 2 lists the competent institutions of each Member State.

(a) Amendment to heading B. Denmark

The amendment proposed for points 2(a) and 3(a) take account of the administrative changes for Denmark. The "Direktoratet for Social Sikring og Bistand (Directorate for Social Security and Social Assistance), Kobenhavn" becomes the competent institution instead of the "Socialministeriet (Ministry for Social Affairs), Kobenhavn".

(b) Amendment to heading I. Luxembourg

The proposed amendments are the result of an administrative reorganization in Luxembourg.

(c) Amendment to heading J. the Netherlands

The proposed amendments are the result of an administrative reorganization in the Netherlands.

6. Amendment to Annex 3

Annex 3 lists the institutions of the place of residence and the institutions of the place of stay.

(a) Amendment to heading B. Denmark

The proposed amendments to point I., institutions of the place of stay, under (b) and (c) and (i) are the same as those outlined above for Annex 2.

(b) Amendment to heading I. Luxembourg

The proposed amendments are the result of an administrative reorganization in Luxembourg.

(c) Amendment to heading J. the Netherlands

The proposed amendment is the result of an administrative reorganization in the Netherlands.

7. Amendment to Annex 4 of Regulation (EEC) N° 574/72

Annex 4 lists the liaison bodies.

(a) Amendment to heading B. Denmark

The proposed amendment to points 1, 2, 3 and 5 is the same as those outlined above for Annex 2.

(b) Amendment to heading I. Luxembourg

The proposed amendments are the result of an administrative reorganization in Luxembourg.

(c) Amendment to heading J. the Netherlands

The proposed amendment is the result of an administrative reorganization in the Netherlands.

8. Amendment to Annex 5

Annex 5 lists the implementing provisions of bilateral conventions which remain in force. Three amendments should be made to this Annex.

For, an agreement on the partial reciprocal waiving of reimbursement provided for in Article 36(3) and Article 63(3) of the Regulation and the reciprocal waiving of reimbursement provided for in Article 105(2) of the implementing Regulation (partial waiving of costs of reimbursement in respect of benefits in kind for sickness, maternity, accidents at work and occupational diseases and waiving of the reimbursement of the costs of administrative controls and medical examinations) was concluded between Denmark and Spain on 1 July 1990.

Another agreement concerning the partial reciprocal waiving of reimbursement provided for in Article 36(3) and in Article 63(3) of the Regulation and the reciprocal waiving of reimbursement provided for in Article 105(2) of the implementing Regulation (partial reciprocal waiving of reimbursement in respect of benefits in kind for sickness, maternity, accidents at work and occupational diseases and waiving of the reimbursement of the costs in respect of administrative controls and medical examinations) was concluded between Denmark and Greece on 8 May 1986.

Finally, an agreement between Greece and the Netherlands was concluded on the procedures of reimbursement between institutions.

9. Amendment to Annex 9

Amendment to heading I. Luxembourg

The proposed amendments are the result of an administrative reorganization in Luxembourg.

10. Amendment to Annex 10 of Regulation N° 574/72

Annex 10 lists the institutions and bodies designated by the competent authorities.

(a) Amendment to heading A. Belgium

Article 10 of Regulation (EEC) N° 574/72 lists the institutions and bodies designated by the competent authorities. For employed persons, this will be the insurance institution to which the insured person is affiliated or with which he is registered; for self-employed persons, this will be the l'institut national d'assurances sociales pour travailleurs indépendants (National Social Insurance Institute for the Self-Employed), Brussels.

(b) Amendment to heading B. Denmark

The proposed amendment is the same as that outlined above for Annex 2.

(c) Amendment to heading I. Luxembourg

The proposed amendments are the result of an administrative reorganization in Luxembourg.

Article 3

Amendment to Regulation (EEC) N° 1247/92

Article 2 of the Regulation should be deleted in view of the fact that it has been proposed that the provisions of this Article be included in Regulation (EEC) N° 1408/71. Consequently, Article 3 of Regulation (EEC) N° 1247/92 should become Article 2.

Article 4

Amendment to Regulation (EEC) N° 1945/93

Article 3 of this Regulation should likewise be deleted in view of the fact that the contents of the Article are included in Regulation (EEC) N° 1408/71. Consequently, Article 4 of Regulation (EEC) N° 1945/93 should become Article 3, and point 10 of the same Article, in which reference is made to Article 3, should be deleted.

Proposal for a
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Regulation (EEC) N° 574/72 laying down the procedure for
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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community
and in particular Articles 51 and 235 thereof,

Having regard to the proposal from the Commission, drawn up after consulting
the Administrative Commission on Social Security for Migrant Workers ⁽¹⁾,

Having regard to the Opinion of the European Parliament ⁽²⁾,

Having regard to the Opinion of the Economic and Social Committee ⁽³⁾,

Whereas there is a need for certain amendments to be made to Regulations
(EEC) Nos 1408/71 ⁽⁴⁾ and (EEC) N° 574/72 ⁽⁵⁾, as last amended by Regulation
(EEC) N° 1945/93 ⁽⁶⁾; whereas some of these amendments relate to changes
made by the Member States to their social security legislation while others
are of a technical nature and are designed to refine the said Regulations;

Whereas in the case of totally unemployed persons, benefits for sickness
and maternity, invalidity, old age and family benefits shall be for the
account of the institution of the country of residence (Articles 25(2),
39(6), 45(6) and 72a of Regulation (EEC) N° 1408/71), and that this
institution is also competent in the matter of the award of unemployment
benefits (Article 71 of the same Regulation); whereas the abovementioned
provisions of the Regulation designate the Member State competent in the
matter of the benefits in question whereby reference is made to the
legislation of the Member State thus designated; whereas it has been

(1)

(2)

(3)

(4) OJ N° L 149, 5.7.1971, p. 2

(5) OJ N° L 74, 27.3.1972, p. 1

(6) OJ N° L 181, 23.7.1993, p. 1

ascertained that no provision has been made for the deduction of contributions for the aforementioned benefits in those cases where the legislation of the State competent in the matter of unemployment benefits provides for this reduction; that it would seem expedient to remedy this situation by the introduction of a provision stating that the Member State of residence may deduct the contributions where this has been provided for in its own legislation, under the condition that the application of this legislation does not have any discriminatory effects in respect of nationals of other Member States and that it does not constitute a hindrance to the freedom of movement of these persons;

Whereas it would appear necessary to ensure that a family does not lose the rights to family benefits because the time-limit concerned is too short, and that for this purpose Article 86 of Regulation (EEC) N° 1408/71 should be amended;

Whereas there is a need, taking account of the specific nature of the housing allowances, which are closely linked to the national territory, to specify in Article 90 of Regulation (EEC) N° 1408/71 that this benefit is awarded only by the Member State of residence;

Whereas, for reasons of efficacy, it would be preferable to regroup all the transitional provisions concerning the special non-contributory benefits in a new Article 95b of Regulation (EEC) N° 1408/71;

Whereas there is a need for certain amendments to be made to headings "G. Ireland" and "L. United Kingdom" in Annex I, Part II of Regulation (EEC) N° 1408/71 for the purpose of taking account of the interpretation given by the Irish and United Kingdom authorities to the concept of "member of the family";

Whereas it has become necessary to add to Annex IIa of Regulation (EEC) N° 1408/71 under the heading "B. Denmark" a flat-rate rehabilitation allowance, which constitutes a non-exportable special non-contributory benefit;

Whereas there is a need to delete the entry in Annex IIa under heading "I. Luxembourg" the compensatory cost-of-living allowance since that allowance no longer exists in Luxembourg legislation;

Whereas, as a result of an agreement concluded between the Greek and German authorities, there is a need to complete Annex III, Part B, point 24 of Regulation (EEC) N° 1408/71;

Whereas it would appear necessary to adapt heading "F. Greece" of Annex VI to Regulation (EEC) N° 1408/71 as a result of the restructuring of the social insurances and of the various amendments made to Greek legislation;

Whereas it is necessary to amend Articles 17(2) and 30(1) of Regulation (EEC) N° 574/72 for the purpose of extending to German institutions a specific provision already provided for in respect of French institutions, taking account of the fact that this will give rise to a greater fluctuation of insured persons between the various sickness funds;

Whereas there is a need to insert a new Article 87 in Regulation (EEC) N° 574/72 for the purpose of facilitating the procedure of implementing the new paragraph 2 in Article 86 of Regulation (EEC) N° 1408/71 and to guarantee that the family is not obliged to reimburse family benefits erroneously awarded by an institution where the family has not received the amount of benefits due from the competent institution;

Whereas there is a need to amend Article 95 of Regulation (EEC) N° 574/72 for the purpose of maintaining a state of equilibrium between the amount to be reimbursed and the real expenditure of the institutions of the Member States;

Whereas there is a need to amend the text of Article 107(1) of Regulation (EEC) N° 574/72 for the purpose of taking account of the amendments that have been made by Regulations (EEC) Nos 2195/91, 1248/92 and 1249/92;

Whereas, as a result of the administrative amendments made in Denmark, there is a need to adapt the heading "B. Denmark" of Annexes 2, 3, 4, and 10 to Regulation (EEC) N° 574/72;

Whereas there is a need to adapt points 13 "Denmark-Spain" and 15 "Denmark-Greece" of Annex 5 to Regulation (EEC) N° 574/72 in order to take account of the agreements concluded by these Member States;

Whereas there is likewise a need to amend Annex 5 as a result of an agreement between Greece and the Netherlands pursuant to Article 36(3) of Regulation (EEC) N° 1408/71;

Whereas it is necessary to adapt the heading "A. Belgium" of Annex 10 to Regulation (EEC) N° 574/72 for the purpose of mentioning the competent institution referred to in Article 10 of the said Regulation;

Whereas, as a result of an administrative reorganization of the sickness insurance in Luxembourg, there is a need to amend the entries in Annexes 2, 3, 4, 9 and 10 to Regulation (EEC) N° 574/72 under the heading "I. Luxembourg";

Whereas, as a result of a change in the denomination of the Netherlands Labour Councils, it is necessary to adapt Annexes 2, 3 and 4 to Regulation (EEC) N° 574/72 under heading "J. the Netherlands";

Whereas there is a need to delete Article 2 of Regulation (EEC) N° 1247/92 and Article 3 of Regulation (EEC) N° 1945/93, the contents of which are contained in Regulation (EEC) N° 1408/71; that it is consequently necessary to renumber Article 3 of Regulation (EEC) N° 1247/92 and Article 4 of Regulation (EEC) N° 1945/93, and to delete point 10 of the last-mentioned Article in which reference is made to the deleted provisions;

HAS ADOPTED THIS REGULATION:

Article One

Regulation (EEC) N° 1408/71 shall be amended as follows:

1. The following Article 25a shall be inserted after Article 25:

"Contributions for the account of totally unemployed persons

The institution of a Member State, which owes benefits in kind and in cash to the unemployed persons mentioned in Article 25(2), which applies a legislation that provides for the deduction of contributions for the account of the unemployed persons for the purpose of insurance cover for benefits in respect of sickness and maternity shall be authorized to make these deductions in accordance with the provisions of its legislation."

2. Article 39 shall be amended as follows.

The following subparagraph shall be inserted after the first subparagraph of paragraph 6:

"Where this institution applies a legislation by virtue of which the deduction of contributions are for the account of unemployed persons for the purpose of insurance cover for invalidity benefits, it shall be authorized to make these deductions in accordance with the provisions of its legislation."

3. Article 45 shall be amended as follows.

The following subparagraph shall be added after the first sentence of paragraph 6:

"Where this institution applies a legislation by virtue of which the deduction of contributions is for the account of unemployed persons for the purpose of insurance cover for old age and death (pensions), it shall be authorized to make these deductions in accordance with the provisions of its legislation."

4. Article 72a shall be amended as follows.

The following paragraph shall be added:

"Where that institution applies a legislation by virtue of which the deduction of contributions is for the account of unemployed persons for the purpose of insurance cover for family benefits, it shall be authorized to make these deductions in accordance with the provisions of its legislation."

5. Article 86 shall be amended as follows.

The existing text becomes paragraph 1, and the following paragraph 2 shall be inserted:

"Where a claim for family benefits has been submitted in a Member State which is not competent by priority right, the date on which that first application was made shall be considered as the date on which it was submitted to the authority, institution or tribunal, provided that a new application is submitted in the Member State, which is

competent by priority right. The second application shall be submitted within a period of one year after notification of the rejection of the first application.

The first sentence shall be applicable only where the person who submitted the first application is one of the potential beneficiaries."

6. An Article 90 shall be inserted. It shall read as follows:

"Housing allowances

Housing allowances shall be granted only by virtue of the legislation of a Member State on whose territory the person concerned resides. The benefits shall be awarded by and for the account of the institution of the place of residence."

7. An Article 95b shall be added. It shall read as follows:

- "1. Regulation (EEC) N° 1247/92 shall not provide any entitlement for periods prior to 1 June 1992.
2. The periods of residence and periods of employment or of self-employment completed on the territory of a Member State before 1 June 1992 shall be taken into consideration for the determination of rights acquired under the provisions of Regulation (EEC) N° 1247/92.
3. Subject to the provisions of paragraph 1, a right shall be acquired under Regulation (EEC) N° 1247/92 even where it relates to a contingency that occurred before 1 June 1992.
4. All special non-contributory benefits which have not been awarded or which have been suspended by reason of the nationality or place of residence of the person concerned shall, on the application of the person concerned, be awarded or resumed with effect from 1 June 1992, provided that the rights previously determined have not given rise to a lump-sum payment.
5. The rights of persons to whom a pension was awarded prior to 1 June 1992, may, on the application of the persons concerned, be reviewed, taking account of the provisions of Regulation (EEC) N° 1247/92.
6. If an application referred to in paragraph 4 or 5 is submitted within two years from 1 June 1992, the rights acquired under Regulation (EEC) N° 1247/92 shall have effect from that date, and the provisions of the legislation of any Member State concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.
7. If an application referred to in paragraph 4 or 5 is submitted after the expiry of the two-year period after 1 June 1992, rights which have not been forfeited or which are not time-barred shall have effect from the date on which the application was submitted, except where more favourable provisions of the legislation of any Member State apply.

8. The application of Regulation (EEC) N° 1247/92 may not result in the withdrawal of benefits, which were awarded before 1 June 1992 by the competent institutions of the Member States under Title III of Regulation (EEC) N° 1408/71 to which Article 10 of that Regulation is applicable.
9. The application of Regulation (EEC) N° 1247/92 may not result in the rejection of an application for a special non-contributory benefit awarded as a supplement to a pension, which was submitted by the person concerned who had satisfied the conditions for the award of this benefit before 1 June 1992, even where the person concerned resides on the territory of a Member State other than the competent Member State, provided that the application for the benefit is submitted within a period of five years starting from 1 June 1992.
10. Notwithstanding the provisions of paragraph 1, any special non-contributory benefit, granted as a supplement to a pension, which has not been awarded or which has been suspended by reason of the residence of the person concerned on the territory of a Member State other than the competent Member State shall, on the application of the person concerned, be awarded or resumed with effect from 1 June 1992, in the first case from the date on which the benefit should have been awarded, and in the second case on the date of suspension of the benefit.
11. Where the special non-contributory benefits referred to in Article 4(2a) can be awarded during one and the same period for one and the same person under Article 10a by the competent institution of the Member State on whose territory where the person concerned resides and under paragraphs 1-10 of this Article by the competent institution of another Member State, the amount that arises from the cumulation of these benefits may not exceed the amount of the highest special benefit to which the person concerned would be entitled in application of one of the legislations in question.
12. The procedures for the application of the preceding paragraph, notably the application of the clauses in respect of reduction, suspension or withdrawal of these benefits, provided for by the legislation of one or more Member States and the award of supplementary differentials, shall be determined by common accord by the Member States in question or by their competent authorities or by a decision of the Administrative Commission.

8. In Annex I, Part II, the heading "G. Ireland" shall be replaced by the following text:

"G. Ireland

In order to determine the right to benefits in kind for sickness and maternity in application of the Regulation, the term "member of the family" shall mean any person considered as being a dependant of an employed person or of a self-employed person for the application of the Health Acts of 1947-1970."

9. In Annex I, Part II, the heading "L. United Kingdom" shall be replaced by the following text:

"For the purpose of determining entitlement to benefits in kind, the term "member of the family" means:

1. as regards the legislation of either Great Britain or Northern Ireland,
 - (1) a spouse, provided that
 - (a) the worker is
 - (i) residing with the spouse, or
 - (ii) contributing to the maintenance of the spouse; and
 - (b) the spouse does not
 - (i) have earnings as a worker, or
 - (ii) receive a social security benefit or pension based on the spouse's own insurance.
 - (2) a person having care of a child, provided that
 - (a) the worker is
 - (i) living together with the person as though husband and wife, or
 - (ii) contributing to the maintenance of the person; and
 - (b) the person does not
 - (i) have earnings as a worker or
 - (ii) receive a social security benefit or pension based on that person's own insurance.
 - (3) a child in respect of whom the worker is, or could be, paid child benefit.
2. as regards the legislation of Gibraltar, any person regarded as a dependant within the meaning of the 1987 (Medical (Group Practice Scheme) Ordinance, 1987)".

10. Annex IIa shall be amended as follows:

- (a) in heading "B. Denmark", there is a need to insert the following provision: "The flat-rate rehabilitation benefit awarded under the Law on Social Welfare for the maintenance of persons receiving rehabilitation treatment."
- (b) in heading "I. Luxembourg", point "(a) Compensatory cost-of-living allowance (Law of 13 June 1975)" shall be deleted. Points (b) and (c) then become respectively points (a) and (b).

11. In Annex III, Part B, point 24, the word "None" shall be replaced by the following text:

"Germany-Greece
Protocol of 7 October 1991 in conjunction with the Agreement of 6 July 1984 between the Government of the German Democratic Republic and the Government of the Hellenic Republic on the settlement of problems relating to pensions."

12. Annex VI shall be amended as follows:

- (a) in heading "F. Greece", point 3 shall be deleted. Point 4 then becomes point 3. The following two points shall be added:

"4. Where the rules of the Greek auxiliary pension fund make provision for the recognition of compulsory insurance periods completed with the Greek principal insurance institutions in the pension branch, these rules shall also apply to compulsory insurance periods completed under the legislation of any other Member State which is relevant to the scope of this Regulation."

- 5. (a) Employed persons who were compulsorily affiliated until 31 December 1992 to a pension insurance scheme of a Member State other than Greece and who are compulsorily subject to Greek social insurance for the first time after 1 January 1993, shall be regarded as "old insured persons" in accordance with the provisions of Part IV of Law N° 2084/92 relating to contributions (Articles 44-46).
- (b) The provisions of Part IV of Law N° 2084/92 relating to the acquisition of the right to a pension and to the calculation of benefits (Articles 47-51) shall be applicable to employed persons who were subject to compulsory pension insurance in a Member State other than Greece until 31 December 1992 and were then subject to Greek compulsory social pension insurance for the first time after 1 January 1993, provided that aggregation of insurance periods completed in other Member States is necessary for the acquisition of the right to benefits under Greek legislation."

Article 2

Regulation (EEC) N° 574/72 shall be amended as follows:

1. The second sentence of paragraph 2 of Article 17 and the last sentence of paragraph 1 of Article 30 shall be replaced by the following text:

"However, where the said certified statement has been issued by a German or French institution, it shall be valid only for a period of one year following the date on which it was issued and must be renewed every year."

2. After Article 86, an Article 87 shall be inserted, the text of which shall be as follows:

"Implementation of Article 86(2) of the Regulation

Where, during a given period, the family benefits have been awarded by one institution whereas they should have been awarded by another institution, the two Member States in question may agree on special procedures for the payment of these benefits. The right to family benefits due in the competent Member State under its legislation and, where appropriate, under Articles 73 or 74 of the Regulation, shall be honoured to the amount paid by the incompetent institution for the same period and for the same member of the family."

3. Article 95 shall be amended as follows.

After paragraph 4, the following paragraph 4a shall be added:

"For the implementation of this Article, the two spouses, each of whom receives an old-age pension under the legislation of a Member State and who live under the same roof on the territory of another Member State, shall be considered as one pensioner. This provision shall not apply where, up to the date on which the abovementioned pension was awarded, both spouses had been entitled to benefits in their capacity as employed persons."

4. Paragraph 1 of Article 107 shall be replaced by the following text:

"1. For the implementation of the following provisions:

- (a) Regulation: Article 12(2), (3) and (4), Article 14d(1), Article 19(1)(b), third sentence, Article 22(1) point ii, last sentence, Article 25(1)(b) penultimate sentence, Article 41(1)(c) and (d), Article 46(4), Article 46a(3), Article 50, Article 52(b) last sentence, Article 55(1)(ii), last sentence, Article 70(1), first subparagraph, Article 71(1), points (a)(ii) and (b)(ii), penultimate sentence;

- (b) Implementing Regulation: Article 34(1), (4) and (5):

The rate of conversion into a national currency of amounts expressed in another national currency shall be the rate calculated by the Commission of the rates of exchange of these currencies which have been notified to the Commission for the implementation of the European monetary system."

5. Annex 2 shall be amended as follows:

- (a) In heading "B. Denmark",

- (i) in point 2a, "Socialministeriet (Ministry for Social Affairs), København" should be replaced by "Direktoratet for Social Sikring og Bistand (National Office for Social Security and Welfare), København."
- (ii) in point 3a, the words "Socialministeriet (Ministry for Social Affairs), København" should be replaced by the words "Direktoratet for Social Sikring og Bistand (National Office for Social Security and Welfare), København."

- (b) Points 1 and 6 of heading "L. Luxembourg" should read as follows:

"1. Sickness and maternity

- (a) Benefits in kind: Caisse de maladie compétente et/ou union des caisses de maladie competent sickness fund and/or the sickness funds' association)
- (b) Cash benefits: Caisse de maladie compétente (the competent sickness fund)

6. Death grants

For the purpose of implementing Article 66 of the Regulation:	Union des caisses de maladie (the sickness funds' association), Luxembourg."
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- (c) In point 5 (a) and (b) of heading "J. the Netherlands", the words "Raad van Arbeid" should be replaced in each case by the words "districtskantoor van de Sociale Verzekeringsbank" (the local office of the Social Insurance Bank).

6. Annex 3 shall be amended as follows:

- (a) In heading "B. Denmark", point "I. Institutions of the place of residence", (b) and (c) (i), the words "Socialministeriet (Ministry of Social Affairs), København" shall be replaced by the words "Direktoratet for Social Sikring og Bistand (National Office for Social Security and Welfare), København."

- (b) In heading "I. Luxembourg", point "I. Sickness and maternity" shall be amended as follows:

The text appearing in the column to the right of paragraph (a) shall be replaced by "caisse de maladie des ouvriers et/ou union des caisses de maladie" (the sickness fund for manual workers and/or the sickness fund association)".

The text appearing in the column to the right of paragraph (b) shall be replaced by "caisse de maladie compétente, selon la législation luxembourgeoise, pour la pension partielle luxembourgeoise et/ou union des caisses de maladie (the sickness fund which, under Luxembourg legislation, is competent for the Luxembourg partial pension and/or the sickness fund association)".

- (c) In heading "J. the Netherlands", point 3(c), the words "Bureau voor Duitse Zaken van de Vereniging van Raden van Arbeid, Nijmegen" shall be replaced by "Bureau voor Duitse zaken (Department of German Affairs) Nijmegen."

In point 5, the words "Raad van Arbeid" shall be replaced by the words "districtskantoor van de Sociale Verzekeringsbank (local office of the social insurance bank)."

7. Annex 4 shall be amended as follows:

- (a) In heading "B. Denmark", in points 1, 2, 3 and 5, the words "Socialministeriet (Ministry for Social Affairs), København" shall be replaced by the following words "Direktoratet for Social Sikring og Bistand (National Office for Social Security and Welfare), København."

- (b) In heading "I. Luxembourg", points 1 and 6 shall be amended as follows:

- | | |
|--|--|
| "1. Sickness and maternity: | Union des caisses de maladie, (sickness funds' association), Luxembourg. |
| | |
| 6. Death grants: | |
| (a) For the purposes of applying Article 66 of the Regulation: | Union des caisses de maladie (sickness funds' association), Luxembourg. |
| (b) In other cases: | Institutions referred to in 1 or 3, depending upon which branch of insurance is responsible for the payment of benefit." |

- (c) In heading "J. the Netherlands", in point 2(c), the words "Bureau voor Duitse Zaken van de Vereniging van Raden van Arbeid, Nijmegen" should be replaced by "Bureau voor Duitse zaken (Department of German Affairs), Nijmegen."

8. Annex 5 should be amended as follows:

- (a) In point "13. Denmark-Spain", the text should be replaced by the following text:

"Agreement of 1 July 1990 on the partial reciprocal waiving of reimbursement provided for in Articles 36(3) and Article 63(3) of the Regulation and the reciprocal waiving of reimbursement provided for in Article 105(2) of the implementing Regulation. (Partial waiving of reimbursement in respect of benefits in kind for sickness, maternity, accidents at work and occupational diseases and waiving of reimbursement in respect of administrative checks and medical examinations)."

- (b) In point "15. Denmark-Greece", the text should be replaced by the following text:

"Agreement of 8 May 1986 on the partial reciprocal waiving of reimbursement provided for in Article 36(3) and Article 63(3) of the Regulation and the reciprocal waiving of reimbursement provided for in Article 105(2) of the implementing Regulation. (Partial waiving of reimbursement in respect of benefits in kind for sickness, maternity, accidents at work and occupational diseases and waiving of reimbursement in respect of administrative checks and medical examinations)."

- (c) In point 49, "Greece-the Netherlands", the word "None" shall be replaced by the following text:

"The exchange of letters of 8 September 1992 and 30 June 1993 concerning the methods of reimbursement between the institutions."

9. Annex 9 shall be amended as follows:

In heading "I. Luxembourg", the text shall read as follows:

"All sickness funds and the sickness funds' association shall be taken into consideration when calculating the annual average cost of benefits in kind."

10. Annex 10 shall be amended as follows:

- (a) In heading "A. Belgium", the following point shall be added:

- "1. For the application of Article 10b of the implementing Regulation:

Employed persons:

The insurance institution with which the employed person was insured

Self-employed persons:

Institut national d'assurances sociales pour travailleurs indépendants (National Social Insurance Institute for the Self-employed), Brussels"

The present point 1 becomes point 2, etc.

(b) In heading "B. Denmark",

(i) the words "Socialministeriet (Ministry for Social Affairs), København" in points 1, 2 and 3 shall be replaced by the words "Direktoratet for Social Sikring og Bistand (National Office for Social Security and Welfare), København."

(ii) Subparagraph (b) in point 7 shall be replaced by the following text:

"(b) Cash benefits under Title III, Chapter 1 of the Regulation and benefits under Title III, Chapters 2, 3, 7 and 8 of the Regulation:
Direktoratet for Social Sikring og Bistand
(National Office for Social Security and Welfare),
København."

(c) In heading "I. Luxembourg", there is a need to replace points 8 and 9 of the text appearing in the column to the right of subparagraph (a) sickness, maternity, by the words "Union des caisses de maladie (sickness funds' association), Luxembourg."

Article 3

Article 2 of Regulation (EEC) N° 1247/92 shall be deleted. Article 3 then becomes Article 2.

Article 4

Article 3 of Regulation (EEC) N° 1945/93 shall be deleted. Article 4 then becomes Article 3. It shall be amended as follows:

Point 10 shall be deleted.

Article 5

This Regulation shall enter into force on the first day of the month following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,..... for the Council

The President

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