

**DECISION No 2/2003 OF THE EU-SWISS JOINT COMMITTEE
of 15 July 2003**

amending Annex II (Social Security) to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, on the free movement of persons

(2003/554/EC)

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, and in particular Articles 14 and 18 thereof,

Whereas:

- (1) The Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons (hereinafter referred to as 'the Agreement') was signed on 21 June 1999 and entered into force on 1 June 2002.
- (2) Annex II to the Agreement refers in particular to Council Regulations (EEC) No 1408/71 ⁽¹⁾ and (EEC) No 574/72 ⁽²⁾, as updated by Regulation (EC) No 118/97 ⁽³⁾ as well as to subsequent amending Regulations, including Regulation (EC) No 307/1999 ⁽⁴⁾.
- (3) Regulations (EEC) No 1408/71 and (EEC) No 574/72 have, since the date of signature of the Agreement, been amended on a number of occasions. Consequently, it is now necessary to incorporate the relevant amending acts, namely Regulation (EC) No 1399/1999 ⁽⁵⁾, Commission Regulation (EC) No 89/2001 ⁽⁶⁾, Regulation (EC) No 1386/2001 and (EC) No 410/2002, into the Agreement, and specifically into Annex II thereto.
- (4) The allowances established under Swiss law for helpless persons should be provided for in the text of Annex IIa to Regulation (EEC) No 1408/71 according to the Protocol to Annex II to the Agreement as the acts relating to these benefits have been amended stipulating that these benefits shall be financed exclusively by public authorities.
- (5) The conditions and effects of the option to request exemption from compulsory Swiss sickness insurance need to be further clarified, particularly as regards the time limits for submitting a request for exemption, its

effects for family members residing in the same Member State, as regards the distribution of costs for sickness benefits in kind between the Swiss accident insurance and a Member State's sickness insurance for non-work related accidents, and as regards entitlement to sickness benefits in kind during a stay in Switzerland.

- (6) As a result of a change to the Swiss invalidity insurance scheme, the current provisions in Annex II concerning the granting of an invalidity pension and entitlement to rehabilitation measures should be amended.
- (7) Following modifications at national Swiss level of the responsibilities or designations, amendments should be made to the references to the ministries and institutions concerned.
- (8) The complicated and technical nature of the coordination of social security schemes requires effective and coherent coordination, through the application of common and homogeneous provisions within the territory of the Contracting parties.
- (9) It is in the interests of the persons covered by the Agreement to resolve, or at least limit in time, any negative effects arising from the application of different coordination rules by the Contracting Parties.
- (10) Amendments to Annex II should therefore take effect on the date of entry into force of the Agreement, except for the ending or limiting of the possibility of exemption from Swiss compulsory insurance for persons residing in Portugal and Finland, which should take effect as from 1 June 2003,

HAS DECIDED AS FOLLOWS:

Article 1

Annex II to the Agreement shall be amended as set out in the Annex to this Decision.

⁽¹⁾ OJ L 149, 5.7.1971, p. 2. Regulation as last amended by Regulation (EC) No 1386/2001 of the European Parliament and of the Council (OJ L 187, 10.7.2001, p. 1).

⁽²⁾ OJ L 74, 27.3.1972. Regulation as last amended by Commission Regulation (EC) No 410/2002 (OJ L 62, 5.3.2002, p. 17).

⁽³⁾ OJ L 28, 30.1.1997, p. 1.

⁽⁴⁾ OJ L 38, 12.2.1999, p. 1.

⁽⁵⁾ OJ L 164, 30.6.1999, p. 1.

⁽⁶⁾ OJ L 14, 18.1.2001, p. 16.

Article 2

This Decision shall enter into force on the day of its adoption by the Joint Committee.

It shall apply from 1 June 2002, except for the amendment to Point 3(b) of Annex II to the Agreement, ending or limiting the possibility of exemption from Swiss compulsory insurance for persons residing in Portugal and Finland, which shall take effect on 1 June 2003.

Equally, from this latter date, the effects of the exemptions from Swiss compulsory insurance that may have been granted to persons residing in Portugal shall cease.

Article 3

This Decision shall be published in the *Official Journal of the European Union*.

Done at Brussels, 15 July 2003.

For the Joint Committee

The President

Matthias BRINKMANN

ANNEX

Annex II to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons is hereby amended as follows:

1. The following shall be inserted under the Title 'Section A: Acts referred to' of point 1 'Regulation (EEC) No 1408/71' after '399 R 307: Council Regulation (EC) No 307/1999 ...':

'399 R 1399: Council Regulation (EC) No 1399/1999 of 29 April 1999 amending 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 and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (OJ L 164, 30.6.1999, p. 1).

301 R 1386: Regulation (EC) No 1386/2001 of the European Parliament and of the Council of 5 June 2001 amending 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 and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (OJ L 187, 10.7.2001, p. 1).'

2. Under the heading 'For the purposes of this Agreement, the Regulation shall be adapted as follows:', point 1 of Section A of Annex II to the Agreement shall be amended as follows:

(a) under (h), concerning Annex IIa, a new item shall be added after item (a):

'(a1) Allowance for helpless persons (Federal Act of 19 June 1959 on invalidity insurance (LAI) and Federal Act of 20 December 1946 on old-age and survivor's pensions (LAVS) as amended on 8 October 1999).'

(b) under (o), concerning Annex VI, point 3 shall be replaced by the following:

'3. Compulsory insurance under Swiss sickness insurance and possible exemptions

(a) The Swiss legal provisions governing compulsory sickness insurance shall apply to the following persons not resident in Switzerland:

(i) persons subject to Swiss legal provisions under Title II of the Regulation;

(ii) persons for whom Switzerland is the competent State for sickness insurance under Articles 28, 28a or 29 of the Regulation;

(iii) persons receiving Swiss unemployment insurance benefits;

(iv) family members of persons referred to in (i) and (iii) or of an employed or self-employed person resident in Switzerland who is insured under the Swiss sickness insurance scheme, unless these family members are resident in one of the following States: Denmark, Spain, Portugal, Sweden or the United Kingdom;

(v) family members of persons referred to in (ii) or of a pensioner resident in Switzerland who is insured under the Swiss sickness insurance scheme, unless these family members are resident in one of the following States: Denmark, Portugal, Sweden or the United Kingdom.

As family members are considered those persons who are defined as family members according to the legislation of the State of residence.

(b) Persons referred to in (a) may, on request, be exempted from compulsory insurance if and as long as they are resident in one of the following States and can prove that they are eligible for cover in the event of sickness: Germany, Austria, France, Italy and, with regard to persons referred to in (a)(iv) and (v), Finland.

This request

(aa) must be submitted within three months of the date on which the obligation to take out insurance in Switzerland comes into effect; where, in justified cases, the request is submitted after this deadline, the exemption shall take effect as from the commencement of the insurance obligation;

(bb) shall apply to all family members residing in the same State.'

- (c) under (o) after point 3, the following new paragraphs shall be added:

'3a. Where a person subject to Swiss legal provisions under Title II of the Regulation is, in application of 3b, subject for the purposes of sickness insurance to the legal provisions of another State covered by this Agreement, the costs of these benefits in kind for non-occupational accidents shall be shared equally between the Swiss insurer against occupational and non-occupational accidents and industrial diseases and the competent sickness insurance institution if an entitlement exists to benefits in kind from both bodies. The Swiss insurer against occupational and non-occupational accidents and industrial diseases shall meet all costs in the event of occupational accidents, accidents on the way to work or industrial diseases, even where there is an entitlement to benefits from a sickness insurance body in the country of residence.

- 3b. Persons who are working, but not residing in Switzerland and who have statutory insurance cover in their State of residence in accordance with point 3(b) shall benefit from the provisions of Article 22(1)(a) of the Regulation for any condition requiring benefits during a stay in Switzerland.'
- (d) Point 8 shall be replaced by the following:
- '8. Notwithstanding the provisions of Title III of the Regulation, an employed or self-employed worker who is no longer subject to Swiss legislation on invalidity insurance shall be regarded as being covered by that insurance for a period of one year with effect from the day on which work preceding the invalidity was interrupted if he had to give up his gainful employment or self-employment in Switzerland owing to an accident or an illness and if the invalidity was diagnosed in this country; he shall be obliged to pay contributions to old-age, survivors' and invalidity insurance as if he were resident in Switzerland. This shall not apply if he is subject to the legislation of another Member State according to Articles 13(2)(a) to (e), Articles 14 to 14(f) or Article 17 of the Regulation.'
- (e) Point 9 shall be replaced by the following:
- '9. Where a person who was gainfully employed or self-employed in Switzerland and covering his vital needs has had to cease his activity owing to an accident or illness and is no longer subject to Swiss legislation on invalidity insurance, he shall be considered to be covered by that insurance for the purpose of eligibility for rehabilitation measures and throughout the period during which he benefits from these measures, provided that he has not taken up a new activity outside Switzerland.'
3. The following shall be inserted under the Title 'Section A: Acts referred to' under point 2 'Regulation (EEC) No 574/72' after '399 R 307: Council Regulation (EC) No 307/1999 ...':
- '399 R 1399: Council Regulation (EC) No 1399/1999 of 29 April 1999 amending 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, and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (OJ L 164, 30.6.1999, p. 1).
- 301 R 1386: Regulation (EC) No 1386/2001 of the European Parliament and of the Council of 5 June 2001 amending 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 and Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71 (OJ L 187, 10.7.2001, p. 1).
- 301 R 89: Commission Regulation (EC) No 89/2001 of 17 January 2001 amending Council Regulation (EEC) No 574/72 laying down the procedure for implementing 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 14, 18.1.2001, p. 16).
- 302 R 410: Commission Regulation (EC) No 410/2002 of 27 February 2002 amending Council Regulation (EEC) No 574/72 laying down the procedure for implementing 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 62, 5.3.2002, p. 17).'
4. Under the heading 'For the purposes of this Agreement, the Regulation shall be adapted as follows:', point 2 of Section A of Annex II to the Agreement shall be amended as follows:
- (a) under (a) of Annex 1, point 2 shall be replaced as follows:
- '2. Staatssekretariat für Wirtschaft, Direktion für Arbeit, Bern — Secrétariat d'Etat à l'économie, Direction du travail, Berne — Segretariato di Stato dell'economia, Direzione del lavoro, Berna — State Secretariat for Economic Affairs, Directorate of Labour, Berne';
- (b) under (d) of Annex 4, point 5 shall be replaced as follows:
- '5. Unemployment Staatssekretariat für Wirtschaft, Direktion für Arbeit, Bern — Secrétariat d'Etat à l'économie, Direction du travail, Berne — Segretariato di Stato dell'economia, Direzione del lavoro, Berna — State Secretariat for Economic Affairs, Directorate of Labour, Berne';
- (c) letter (g) of Annex 7, shall be replaced as follows:
- 'Switzerland
- UBS SA, Genève — Genf — Ginevra — Geneva';

- (d) under (j), concerning Annex 10,
- (aa) in point 3 the words 'Gemeindeverwaltung — Administration communale — Amministrazione comunale' are deleted in the English version,
- (bb) in point 5 the words 'Gemeindeverwaltung — Administration communale — Amministrazione comunale' are added before the words in parentheses 'the local authority at the place of residence' in the English version,
- (cc) under point 6, the title 'Bundesamt für Wirtschaft und Arbeit, Bern — Office fédéral du développement économique et de l'emploi, Berne — Ufficio federale dello sviluppo economico e del lavoro, Berna' are replaced as follows:
- 'Staatssekretariat für Wirtschaft, Direktion für Arbeit, Bern — Secrétariat d'Etat à l'économie, Direction du travail, Berne — Segretariato di Stato dell'economia, Direzione del lavoro, Berna (State Secretariat for Economic Affairs, Directorate of Labour, Berne);
- (dd) under point 7(c), the title 'Bundesamt für Wirtschaft und Arbeit, Bern — Office fédéral du développement économique et de l'emploi, Berne — Ufficio federale dello sviluppo economico e del lavoro, Berna' are replaced as follows:
- 'Staatssekretariat für Wirtschaft, Direktion für Arbeit, Bern — Secrétariat d'Etat à l'économie, Direction du travail, Berne — Segretariato di Stato dell'economia, Direzione del lavoro, Berna — (State Secretariat for Economic Affairs, Directorate of Labour, Berne)';

5. Section B of Annex II shall be as follows:

- (a) in 4.23, '387 D XXX' shall be replaced by '387 Y 1009 (01)';
- (b) in 4.25, '388 D XXX' shall be replaced by '388 Y 309 (01)';
- (c) in 4.26, '388 D XXX' shall be replaced by '388 Y 309 (3)';
- (d) in 4.29, '389 D XXX' shall be replaced by '389 Y 1115 (01)';
- (e) in 4.30, '390 D XXX' shall be replaced by '390 Y 412 (01)';
- (f) in 4.31, '390 D XXX' shall be replaced by '390 Y 412 (02)';
- (g) in 4.32, '390 D XXX' shall be replaced by '390 Y 412 (03)';
- (h) in 4.33, '390 D XXX' shall be replaced by '390 Y 330 (01)';
- (i) Points 4.16, 4.46 and 4.47 shall be deleted.
- (j) under point 4.38
- in 1(a), the term 'invalidity insurance' shall be replaced by 'old-age, survivors' and invalidity insurance';
- in 2, the title 'Bundesamt für Wirtschaft und Arbeit, Bern — Office fédéral du développement économique et de l'emploi, Berne — Ufficio federale dello sviluppo economico e del lavoro, Berna' is replaced as follows:
- 'Staatssekretariat für Wirtschaft, Direktion für Arbeit, Bern — Secrétariat d'Etat à l'économie, Direction du travail, Berne — Segretariato di Stato dell'economia, Direzione del lavoro, Berna — State Secretariat for Economic Affairs, Directorate of Labour, Berne';
- (k) after point 4.55, the following numbers shall be added:
- 4.56. 399 D 370: Decision No 171 of 9 December 1998 amending Decision No 135 of 1 July 1987 concerning the granting of benefits in kind provided for in Article 17(7) and Article 60(6) of Council Regulation (EEC) No 574/72 and the concepts of urgency within the meaning of Article 20 of Regulation (EEC) No 1408/71 and of extreme urgency within the meaning of Article 17(7) and Article 60(6) of Regulation (EEC) No 574/72 (OJ L 143, 8.6.1999, p. 11).
- 4.57. 399 D 371: Decision No 172 of 9 December 1998 on the model forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 101) (OJ L 143, 8.6.1999, p. 13).
- 4.58. 300 D 129: (01) Decision No 173 of 9 December 1998 concerning the common arrangements adopted by the Member States, for the purposes of reimbursement between institutions following the introduction of the euro unit (OJ C 27, 29.1.2000, p. 21).
- 4.59. 300 D 141: Decision No 174 of 20 April 1999 concerning the interpretation of Article 22a of Regulation (EEC) No 1408/71 (OJ L 47, 19.2.2000, p. 30).

- 4.60. 300 D 142: Decision No 175 of 23 June 1999 on interpretation of the concept of "benefits in kind" in the event of sickness or maternity pursuant to Article 19(1) and (2), Article 22, Article 22a, Article 22b, Article 25(1), (3) and (4), Article 26, Article 28(1), Article 28a, Article 29, Article 31, Article 34a and Article 34b of Council Regulation (EEC) No 1408/71 and on calculation of the amounts to be refunded under Articles 93, 94 and 95 of Council Regulation (EEC) No 574/72 as well as the advances to be paid pursuant to Article 102(4) of the same Regulation (OJ L 47, 19.2.2000, p. 32).
 - 4.61. 300 D 582: Decision No 176 of 24 June 1999 concerning the reimbursement by the competent institution in a Member State of the costs incurred during a stay in another Member State by means of the procedure referred to in Article 34(4) of Regulation (EEC) No 574/72 (96/249/EC) (OJ L 243, 28.9.2000, p. 42).
 - 4.62. 300 D 748: Decision No 177 of 5 October 1999 on the forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 128 and E 128 B) (OJ L 302, 1.12.2000, p. 65).
 - 4.63. 300 D 749: Decision No 178 of 9 December 1999 on the interpretation of Article 111(1) and (2) of Regulation (EEC) No 574/72 (OJ L 302, 1.12.2000, p. 71).
 - 4.64. 302 D 154: Decision No 179 of 18 April 2000 on the model forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 111, E 111 B, E 113 to E 118 and E 125 to E 127) (OJ L 54, 25.2.2002, p. 1).
 - 4.65. 301 D 70: Decision No 180 of 15 February 2000 on the model forms necessary for the application of Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 (E 211, E 212) (OJ L 23, 25.1.2001, p. 33).
 - 4.66. 301 D 891: Decision No 181 of 13 December 2000 concerning the interpretation of Articles 14(1), 14a(1) and 14b(1) and (2) of Council Regulation (EEC) No 1408/71 on the legislation applicable to posted workers and self-employed workers temporarily working outside the competent State (OJ L 329, 14.12.2001, p. 73).
 - 4.67. 301 D 655: Decision No 182 of 13 December 2000 concerning the establishment of a common framework for the collection of data on the settlement of pension claims (OJ L 230, 28.8.2001, p. 20).
 - 4.68. 302 D 155: Decision No 183 of 27 June 2001 on the interpretation of Article 22(1)(a) of Council Regulation (EEC) No 1408/71, concerning health care in conjunction with pregnancy and childbirth (OJ L 54, 25.2.2002, p. 39).
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