



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 22.4.2004
COM(2004) 314 final

2003/0184 (COD)

Amended proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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 Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71

(presented by the Commission pursuant
to Article 250 (2) of the EC Treaty)

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1. BACKGROUND

Regulations (EEC) No 1408/71¹ et No 574/72² were updated by Regulation (EC) No 118/97³ and were last amended by Commission Regulation (EC) No 89/2001⁴ and Regulation (EC) No 1386/2001⁵ of the European Parliament and of the Council.

On 31 July 2003 the Commission presented a proposal for amendment of these Regulations. The proposal seeks to update these Community Regulations in order to take account of changes in national law and to clarify the legal position concerning certain Articles of the said Regulations. It also seeks to take account of recent developments in the case law of the Court of Justice of the European Communities, in particular rulings concerning the identification criteria for special non-contributory cash benefits subject to specific coordination (which are non-exportable if they meet the above-mentioned criteria and are entered in Annex IIa of the Regulation), as well as rulings concerning the relationship between the Regulation and the provisions of bilateral social security agreements (which will continue to apply if they meet the requirements for inclusion in Annex III of the Regulation).

At its plenary session of 11 March 2004 the European Parliament adopted 4 amendments. The Commission accepts all 4 of them.

¹ Council Regulation (EEC) No 1408/71 14.7.71 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 updated by Council Regulation (EC) No 118/97 (OJ L 28 of 30.1.1997, p.1) and last amended by Regulation (EC) No 1386/2001 of the European Parliament and of the Council (OJ L 187 of 10.7.2001, p.1).

² Council Regulation (EEC) No 574/72 of 21.3.72 laying down the procedure for implementing 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 (OJ L 74 of 27.3.1972, p.1); Regulation updated by Council Regulation (EC) No 1290/97 (OJ L 176 of 4.7.1997, p. 1) and last amended by Regulation (EC) No 1386/2001 of the European Parliament and of the Council (OJ L 187 of 10.7.2001, p.1).

³ OJ L 28 of 30.1.1997

⁴ OJ L 14 of 18.1.2001

⁵ OJ L 187 of 10.7.2001

2. EXAMINATION OF THE AMENDMENTS

2.1. Oral amendment

The amendment seeks to invite Member States to take measures to ensure that the prejudicial effects of certain amendments made to the list of benefits in Annex IIa, specifically when a benefit becomes non-exportable due to its inclusion in the Annex, are mitigated with regard to persons who previously received these benefits, by introducing a transition period. The Commission can accept this amendment.

2.2. Amendment 1

The amendment seeks to insert into the list of special non-contributory cash benefits contained in Annex IIa to Regulation (EEC) No 1408/71, a benefit provided for by Spanish legislation: "mobility allowance to cover transport costs". The Commission can accept this amendment, since the benefit in question perfectly meets the criteria laid down in Article 4(2)(a) of the Regulation, i.e. it must be "intended to provide solely specific protection for the disabled, closely linked to the said person's social environment in the Member State concerned".

2.3. Amendment 2

The amendment seeks to insert into the list of special non-contributory cash benefits contained in Annex IIa to Regulation (EEC) No 1408/71, a benefit provided for by Irish legislation: "mobility allowance". The Commission can accept this amendment, since the benefit in question perfectly meets the criteria laid down in Article 4(2)(a) of the Regulation, i.e. it must be "intended to provide solely specific protection for the disabled, closely linked to the said person's social environment in the Member State concerned".

2.4. Amendment 3

The amendment seeks to insert into the list of special non-contributory cash benefits contained in Annex IIa to Regulation (EEC) No 1408/71, a benefit provided for by UK legislation: "income support". This United Kingdom benefit is intended to guarantee a minimum income to persons aged under 60 years and is funded from the national budget. The Commission can therefore accept this amendment, since the benefit in question meets the criteria of being "special" and "non-contributory".

3. CONCLUSION

Pursuant to Article 250(2) of the Treaty establishing the European Community, the Commission amends its proposal for a Regulation as outlined above.