

**Opinion of the European Economic and Social Committee on the 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**

COM(2005) 676 final — 2005/0258 (COD)

(2006/C 325/12)

On 14 February 2006, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Employment, Social Affairs and Citizenship, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 7 November 2006. The rapporteur was Mr Rodríguez García-Caro.

At its 431st plenary session, held on 13 and 14 December 2006 (meeting of 13 December), the European Economic and Social Committee adopted the following opinion with 140 votes in favour, *nem. con.* and two abstentions.

## 1. Conclusions

1.1 The European Economic and Social Committee welcomes the proposal to amend Regulation No 1408/71 and hopes that this will be one of the last amendments (if not the last) on which it must issue an opinion. The result would be that Regulation No 883/2004 would enter fully into force, as the European Parliament and the Council would have approved the new Implementing Regulation which is due to replace Regulation No 574/72.

1.2 The European Economic and Social Committee therefore calls on the Member States and the Parliament to streamline the procedure for the new Regulation, in order to make it more efficient than the adoption procedure for Regulation No 883/2004. This would be the greatest contribution that the EU institutions could make during the European Year of Workers' Mobility.

## 2. Introduction

2.1 Since their entry into force, Regulations 1408/71 and 574/72 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community have been successively amended to take account of legislative changes in Member States and the various rulings on social security by the Court of Justice.

2.2 These amendments ensure that the coordination of social security schemes at EU level is up to date, so that European citizens moving within the EU's borders do not see their social security rights infringed when exercising the fundamental EU right of freedom of movement and residence.

2.3 The most substantial change to the coordination of social security schemes in the EU Member States was made by Regulation 883/2004 <sup>(1)</sup> of the European Parliament and of the Council. This Regulation, replacing Regulation No 1408/71, has not yet been implemented, pending adoption of the regulation which is to replace the current Regulation No 574/72. The legislative procedure is already under way for the proposal for a Regulation on the rules for implementing Regulation No 883/2004 <sup>(2)</sup>, on which the EESC recently adopted an opinion <sup>(3)</sup>.

2.4 The EESC delivered an opinion <sup>(4)</sup> on the proposal for a Regulation on the coordination of social security schemes.

## 3. Content of the proposal

3.1 The proposal submitted for the EESC's consideration aims to update the annexes of Regulation No 1408/71 in order to reflect the changes that various countries have made to their social security legislation, and thus to make it easier to implement EU legislation for the coordination of social security schemes.

3.2 On this occasion, and in the text proposed by the Commission, no amendment to Regulation No 574/72 is proposed.

3.3 In order to simplify the working document, the proposed amendments will be described in the Specific Comments section, owing to their diversity.

<sup>(1)</sup> OJ L 166, 30.4.2004.

<sup>(2)</sup> COM (2006) 16 final.

<sup>(3)</sup> Cf. EESC Opinion on the Proposal for a Regulation of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (Rapporteur: Mr Greif), CESE 1371/2006.

<sup>(4)</sup> OJ C 75, 15.02.00. Rapporteur: Mr Rodríguez García-Caro.

#### 4. General comments

4.1 Overall, the EESC welcomes the proposal, as the changes are the result of the Member States' wish to legislate on the matter. Any change to the coordination of social security schemes in the EU will always be well received if it benefits EU citizens and simplifies and improves their relations with the various authorities responsible for upholding their rights.

4.2 Although the Implementing regulation for Regulation No 883/2004 is in the process of being approved, the EESC believes that the general comments that it made in its opinion on other partial amendments to Regulations 1408/71 and 574/72 (adopted by the EESC at its plenary session on 28 and 29 September 2005) <sup>(3)</sup> are still relevant and should be taken into consideration, as they remain perfectly valid.

4.3 The proposed amendment under consideration is entitled *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*.

4.4 Article 1 of the proposal explains that various annexes of Regulation 1408/71 are amended, but no reference is made to Regulation No 574/72. The EESC therefore proposes that the title of the proposal be brought into line with its content and the reference to Regulation No 574/72 removed.

#### 5. Specific comments

5.1 Article 1 of the proposal amends annexes I, IIa, III, IV and VI of the Regulation.

5.2 In order to take account of the changes to the laws on social security and contributions in Sweden, amendments are made to Annex I, Part I, which defines the terms 'employed persons' and 'self-employed persons'.

5.3 Owing to the changes brought by the new law on sickness insurance in the Netherlands, amendments are made to Annex I, Part II, referring to the personal scope of the regulation as regards the meaning of the term 'member of the family', which in this case includes spouses, registered partners and children under 18 years of age.

5.4 As a result of the various legislative changes made to the laws on social pensions in Lithuania and Slovakia, amendments are made to Annex IIa on special non-contributory benefits. In the case of Lithuania, the annex is modified to take account of changes in national legislation, while in the case of Slovakia, the legislation is adjusted and the allowance is only maintained for those previously entitled to it.

5.5 Amendments are made to Annex III, Part A, concerning provisions for social security agreements that continue to apply, removing the reference made in point 187 on the General Convention between Italy and the Netherlands.

5.6 Amendments are made to Annex IV, Part A on the laws referred to in Article 37(1) of the Regulation under which the amount of invalidity benefits is independent of the length of periods of insurance. The content of the Slovak Republic section in Part A is amended, as a result of inclusion in national legislation.

5.7 Due to changes in Spanish legislation, amendments are made to Annex IV, Part B, which refers to special schemes for self-employed persons to which special provisions on the aggregation of insurance periods completed in another Member State apply.

5.8 Annex IV, Part C is amended in relation to Slovakia and Sweden. This annex mentions the cases in which a double calculation of the benefit can be waived due to the results being the same. As regards Slovakia, the amendment mentions the survivor's pension; as regards Sweden, it mentions the calculation of the minimum guaranteed pension depending on periods of residence in the country.

5.9 Due to changes to the law in Sweden, updates are made to Annex IV, Part D, regarding benefits and agreements on the accumulation of benefits of the same type to which persons may be entitled under legislation of two or more States. The bilateral agreement between Finland and Luxembourg is also added.

5.10 Amendments are also made to Annex VI, which sets out particular methods for applying the legislation of certain Member States. Changes are made to the points concerning the following Member States:

- Estonia, adding rules for calculating parental benefit;
- the Netherlands, taking account of the entry into force of the new health care reform implemented this year;
- Finland, reflecting the reform of the Finnish employment pension legislation;
- Sweden, reflecting the new legislation regarding coverage under Swedish social security legislation and pension reform.

<sup>(3)</sup> OJ C 24, 31.1.2006. Rapporteur: Mr Rodríguez García-Caro.

5.11 The changes made to the various annexes to Regulation No 1408/71 derive essentially from the legislative changes implemented in various Member States. Any change that brings improvements to the benefits received by EU citizens will be welcomed by the European Economic and Social Committee.

5.12 However, the EESC points out that having a multitude of annexes and specific cases in Regulations 1408/71 and 883/2004 is not the best way to simplify the provisions for coordinating social security schemes. Improvement and simplification were the objectives for Regulation No 883/2004, and the Committee believes that work should continue along these lines.

5.13 The Commission presented a proposal for a Regulation amending Regulation No 883/2004 in order to set down the content of Annex XI <sup>(6)</sup>. This annex corresponds to Annex VI of Regulation No 1408/71. The EESC notes that there is a differ-

ence between the two annexes, concerning Section 'W. FINLAND' mentioned in point 4.10 of this opinion.

5.14 In point 6.c).1 of the annex to the proposal for a Regulation amending Regulation No 1408/71, the following is stated: '... where an individual has pension insurance periods based on employment in another Member State ...'. Meanwhile, Section 'W. FINLAND' of Annex XI to the proposal for a Regulation amending Regulation No 883/2004 states that: '... where an individual has pension insurance periods based on activity as an employed or self-employed person in another Member State ...'.

5.15 The EESC believes that, as the same situation is being dealt with, the wording should be the same and the two texts harmonised.

Brussels, 13 December 2006.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

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<sup>(6)</sup> COM(2006) 7 final, SOC/238. EESC opinion in progress. Rapporteur: Mr Greif.