

DECISION No 83

of 22 February 1973

concerning the interpretation of Article 68 (2) of Regulation (EEC) No 1408/71 and of Article 82 of Regulation (EEC) No 574/72 relating to increases in unemployment benefit for dependent members of the family

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS;

Having regard to Article 81 (a) of Regulation (EEC) No 1408/71 under which it is made responsible for dealing with all questions of interpretation arising from the provisions of that Regulation and of Regulation (EEC) No 574/72;

Whereas Decision No 57 published in the *Official Journal of the European Communities* No 53 of 31 March 1965 has been rendered invalid by the entry into force of Regulations (EEC) Nos 1408/71 and 574/72, but, taking into account the provisions of the said Regulations, there are grounds for adopting a new decision;

Whereas it is in fact essential to know whether arrears of increases in unemployment benefit for dependent members of the family should be paid for the period prior to the date of submission of the certified statement relating to members of the family residing in the territory of a Member State other than that where the competent institution is situated, at a time when such persons were already dependent on the worker from the start of the period of unemployment for which benefit is payable;

Whereas by virtue of Article 68 (2) of Regulation (EEC) No 1408/71, if under the legislation of a Member State the amount of unemployment benefit varies with the number of members of the family, the competent institution shall also take into consideration when calculating the benefit the number of members of the family residing in the territory of a Member State other than that where the competent institution is situated;

Whereas it follows from the provision of Article 82 of Regulation (EEC) No 574/72 that in order to benefit from the aforementioned provisions of Article 68 (2) of Regulation (EEC) No 1408/71, the worker must submit to the competent institution a certified statement relating to the members of his family residing in the territory of a Member State other than that where the competent institution is situated; and that this certified statement, which must be issued by the institution designated by the competent authority of the country where the members of the family reside, shall be valid during the 12 months following the date of issue;

Whereas in so far as the object of the provisions of Regulation (EEC) No 574/72 is to lay down procedures for implementing Regulation (EEC) No 1408/71, such provisions cannot have the effect of restricting the entitlement which workers derive from the provisions of Regulation (EEC) No 574/72;

Whereas the specified period of validity of the certified statement laid down by Article 82 (2) of Regulation (EEC) No 574/72, subject to any modifications relating to dependent members of the family which may have occurred after the issue of that certified statement which the worker must notify without delay to the competent institution means that those dependants are assumed to remain unchanged for a period of 12 months starting from the issue of the certified statement but does not imply that the dependants must not be taken into consideration from the start of the period of unemployment for which benefit is payable;

Whereas the certified statements drawn up in accordance with the models laid down by the Administrative Commission are a means of proof of the rights of the worker but their issue does not constitute a condition for the acquisition of such rights;

Whereas the certified statements relating to members of the family residing in the territory of a Member State other than that where the competent institution is situated can be issued only after the start of the period of unemployment for which benefit is payable; after deliberation in the light of the conditions laid down in Article 80 (3) of Regulation (EEC) No 1408/71;

HAS DECIDED:

1. The issue of the certified statement E 302 drawn up after the start of the period of unemployment for which benefit is payable shall not have the effect of postponing the starting of the acquisition of entitlement to unemployment benefit at the increased rate for dependent members of the family, which shall be determined in accordance with the legislation of the competent country.
2. This Decision shall be published in the *Official Journal of the European Communities*. It shall apply to the six Founder Member States as from 1 October 1973 and, in accordance with the Treaty of Accession, as from 1 April 1973 for the three new Member States.

*The President of the
Administrative Commission*
J. DONIS

DECISION No 84

of 22 February 1973

concerning the interpretation of Article 76 and Article 79 (3) of Regulation (EEC) No 1408/71 relating to the overlapping of family allowances

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS;

Having regard to Article 18 (a) of Regulation (EEC) No 1408/71 under which it is made responsible for dealing with all questions of interpretation arising from the provisions of Regulations (EEC) Nos 1408/71 and 574/72;

Whereas Decision No 61 published in the *Official Journal of the European Communities*, No 120 of 21 June 1967 has been rendered invalid by the entry into force of Regulations (EEC) Nos 1408/71 and 574/72, but, taking into account the provisions of the said Regulations, there are grounds for adopting a new decision;

Whereas it is in fact essential to know the scope of the expression family allowances payable 'by reason of the pursuit of a professional or trade activity' found in Article 76 and Article 79 (3) of Regulation (EEC) No 1408/71;