



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.04.1997
COM(97)158 final

96/0004 (CNS)

Amended proposal for a

COUNCIL REGULATION (EC)

amending, for the benefit of unemployed persons, Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to the 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

(presented by the Commission pursuant to Article 189 a (2) of the EC-Treaty)

EXPLANATORY MEMORANDUM

Following the opinion of the European Parliament¹ on the proposal for a Regulation which the Commission presented to the Council on 10 January 1996², two points need to be amended and a new point needs to be added to Article 1 of the proposal. The rest of the proposal remains unchanged.

In addition, one recital has been amended and a new recital added.

Article 1

Amendments to Regulation (EEC) No 1408/71

6. Article 69

In order to ensure the continued provision of benefits to unemployed persons who follow training in a Member State other than the competent Member State, and insofar as these persons would have retained these benefits if they had taken part in training in the latter Member State, Article 69 should be supplemented to this effect. This is in keeping with the Green Paper presented by the Commission on 2 October 1996 and entitled "Education - Training - Research: the obstacles to transnational mobility".

7. Article 69b (7)

Given that the Court of Justice, in its Spataro judgment of 13 June 1996 (Case C-170/95, Court Report 1996 I-2921), gave a very restrictive interpretation of the exception granted to Belgium in paragraph 7 of the proposed Article 69b, this exception should be removed.

9. Article 71 (1) (b), first subparagraph

The transitional period for the reimbursement between competent institutions which was proposed in the event of Luxembourg being the competent State for the unemployment benefits of a frontier worker is reduced to five years, as proposed by the European Parliament.

¹ OJ C (N.B.: opinion adopted on 18 February 1997).

² COM(95) 734, OJ C 68, 6.3.1996, p. 11.

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THE COUNCIL OF THE EUROPEAN UNION,

(Following the opinion of the European Parliament, the first recital should be amended as follows):

“Whereas account should be taken of the fact that possibilities of finding work within a reasonable period of time have been considerably reduced; whereas it is therefore necessary to provide for the retention beyond the current three-month period of the right to unemployment benefits when an unemployed worker goes to another Member State to look for work or to take part in training;”

(Following the opinion of the European Parliament, the following recital should be inserted between the third and fourth recitals):

“Whereas the exception for Belgium currently provided for in Article 69 (4) should no longer be maintained, in the light of the restrictive interpretation given by the Court of Justice to this provision in its judgment of 13 June 1996 in case C-170/95, Spataro;”

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1408/71 is amended as follows:

6. The text of Article 69 is replaced by the following:

“A wholly unemployed person who was formerly employed or self-employed and who satisfies the conditions of the legislation of a Member State for entitlement to benefits, account being taken where appropriate of the provisions of Article 67, and who goes to one or more other Member States in order to seek employment there or to take part in training there shall retain his entitlement to such benefits under the conditions laid down in Article 69a and within the limits determined by Article 69b”.

7. Paragraph 7 of the proposed Article 69b will be deleted.

9. The proposed text of Article 71 (1)(b), first subparagraph, is replaced by the following:

“An unemployed person who has become wholly unemployed and who makes himself available to the employment services in the territory of the competent State shall receive benefits in accordance with the provisions of the legislation of the competent State as if he resided in the territory of that State; these benefits shall be provided by the competent institution. If the competent State is Luxembourg, the institution of the place of residence shall, for a transitional period of five years after the entry into force of this paragraph, refund to the institution of that State half the amount of the benefits provided to the frontier worker within the meaning of Article 1 (b), within the limit of the amount to which the unemployed person would have been entitled if he had made himself available to the employment services of the State of residence.”

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