



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 16 June 2011

**Interinstitutional File:
2010/0380 (COD)**

**11077/11
ADD 2**

**SOC 459
CODEC 970**

ADDENDUM 2 TO THE PROGRESS REPORT

from: Presidency

to: Council (EPSCO)

No. Cion prop.: 5063/11 SOC 7 CODEC 8

Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004

- Progress Report
- = Draft statements for the Council Minutes

1. Joint statement by Austria, Cyprus, Denmark, Finland, Germany, Ireland, Malta, the Netherlands, Portugal, Slovakia, Slovenia, Sweden and the United Kingdom.

"Social security coordination as provided for by Regulation 883/2004 is important for ensuring that the right to free movement of persons can be exercised effectively, in accordance with the provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union. However, the structure, design and entitlement conditions of social security systems are determined at national level, depending on national circumstances and traditions, with due respect to the legislative framework set by European law.

The free movement Directive 2004/38 lays down the conditions governing the exercise of the right of free movement and residence within the territory of the Member States by Union citizens and their family Members. It also sets out the limits placed on these rights on the grounds of public policy, security or health.

Many of these limits have a particular relevance in the context of social security coordination. These include inter alia that Union citizens who are not workers or self-employed according to the criteria laid down by the Directive shall have a right to residence on the territory of another Member State for a period of longer than three months, if they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State during their period of residence, and have comprehensive sickness insurance cover in the host Member State.

Recent discussions in the Administrative Commission have revealed different interpretations at the European level on the interaction of the social security coordination Regulation 883/2004 with other relevant EU instruments, notably the free movement Directive 2004/38, including with regard to the concept of residence.

Against this background, the concept of residence in the context of the interaction of the social security coordination Regulation 883/2004 with other relevant EU instruments, notably the free movement Directive 2004/38, should be further discussed.

We call on all Member States and the European Commission to continue to look into this issue as a matter of priority, including in the Administrative Commission, with a view to considering amendments to the current legislative framework, should these be deemed necessary."

2. **Statement by the Danish delegation.**

"Denmark would like to underline the importance of free movement of workers within the Union and Regulation (EU) 883/2004 ensuring the necessary coordination of the social security schemes of the individual Member States as an element in the free movement of persons.

Denmark finds that the present proposal is problematic and has during the entire negotiation process made it clear that the proposal is far from a solely technical amendment of the Regulation, but rather a very substantial one. The proposal contains central elements which in the Danish view are very extensive. Denmark has therefore insisted on the proposal being accompanied by an impact assessment. The two parts of the proposal that Denmark considers problematic are:

Applicable legislation (Art. 13) which may impose on Denmark considerable additional public expenses on social security. We do not oppose the purpose of the proposal on simplification of regulations, but it has an uneven implication as regards the different social security schemes.

Unemployment insurance schemes for self-employed frontier workers (Art. 65 a) which in our opinion implies a violation of the basic principles of coordination of the Regulation. The intention behind the proposal is that Member States with unemployment insurance schemes for self-employed persons are to compensate for other countries choosing not to have this insurance facility.

Denmark has proposed that substantial amendments should be based on impact assessments of the proposal. We have therefore asked for more time to deal with the proposal.

Denmark is therefore grateful that a number of Member States have shown understanding for the Danish approach and at the same time welcomes the fact that the Presidency has decided that the proposal cannot at present be submitted for political adoption (general approach).

Denmark will play a constructive part in the clarification of the consequences of the proposal, including the financial and legal ones, in order to ensure that the Council has sufficient basis for adoption of a proposal."
