COUNCIL REGULATION (EC) No. 3095/95

of 22 December 1995

amending 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, Regulation (EEC) No. 574/72 fixing the procedure for implementing Regulation (EEC) No.1408/71, Regulation (EEC) No. 1247/92 amending Regulation (EEC) No. 1408/71 and Regulation (EEC) No. 1945/93 amending Regulation (EEC) No. 1247/92

OJ No. L335, 30.12.95, p.1

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Articles 51 and 235 thereof.

Having regard to the proposal from the Commission, drawn up after consulting the Administrative Commission on Social Security for Migrant Workers([1]),

Having regard to the opinion of the European Parliament([2]),

Having regard to the opinion of the Economic and Social committee([3]),

1. Whereas there is a need for certain amendments to be made to Regulations (EEC) No. 1408/71([4]) and (EEC) No. 574/72([5]); whereas some of these amendments relate to changes made by the Member States to their social security legislation while others are of a technical nature and are designed to refine the said Regulations;

2. Whereas, in order to facilitate temporary residence and access to treatment with the authorization of the competent institution in European Union territory, the benefit of Article 22(1)(a) and (c) should be extended to all nationals of Member States who are insured under the legislation of a Member State and to the members of their families residing with them, even if they are neither employed nor self-employed;

3. Whereas in so far as the totally unemployed person referred to in Article 71(1)(a)(ii) or (b)(ii) is entitled to benefits for sickness and maternity and to family benefits provided by the competent institution of the Member State in whose territory he resides, as well as to credits for periods of total unemployment conferring entitlement as regards invalidity and old age provided by the said institution, in accordance with the legislation applied by that State (*Articles 25(2), 39(6), 45(6) and 72a of Regulation (EEC) No. 1408/71) it follows that the Member State of residence should be able to deduct the contributions for these benefits where necessary, and consequently provisions should be introduced to enable the State to make such deductions if its own legislation so provides;

4. Whereas it would appear necessary to ensure that a family does not lose rights to family benefits because the time limit for claims is too short, and for this purpose Article 86 of Regulation (EEC) No. 1408/71 should be amended;

5. Whereas, for reasons of efficacy, it would be preferable to group together al the transitional provisions concerning special non-contributory benefits in a new Article 95b of Regulation (EEC) No. 1408/71;

6. Whereas certain amendments hold be made to headings "G. IRELAND" AND "O. UNITED KINGDOM" in Annex 1, part II to Regulation (EEC) No. 1408/71 to take account of the interpretation given by the Irish and United Kingdom authorities to the concept of "member of the family"'

([1]) OJ No. C143, 26.5. 1994, p.7.
([2]) OJ No. C166, 3.7.1995 p.24.
([3]) OJ No. C393, 31.12.1994, p.75.
([4]) OJ No. L149, 5.7.1971, p.2. Regulation as last amended by the 1994 Act of Accession.
([5]) OJ No. L74, 27.3.1972, p.1. Regulation as last amended by the 1994 Act of Accession.

7. Whereas it is necessary to add to Annex Iia to Regulation (EEC) No. 1408/71 under the heading "B. DENMARK" a flat-rate rehabilitation allowance, which constitutes a non-exportable special non-contributory benefit;

8. Whereas it is necessary to delete the entry "compensatory costs-of-living allowance" in Annex Iia under heading "I. LUXEMBOURG" since that allowance no longer exists in Luxembourg legislation;

9. Whereas, as a result of an agreement concluded between the Greek and German authorities, an addition should be made to Annex III, Part B, point 30 to Regulation (EEC) No. 1408/71;

10. Whereas it would appear necessary to adapt heading "F. GREECE" of Annex VI to Regulation (EEC) No. 1408/71 as a result of the restructuring of social insurance and of various amendments made to Greek legislation;

11. Whereas in view of the possibility for insured persons to change more frequently from one sickness insurance institution to another, it is necessary to amend Articles 17(2) and 30(1) of Regulation (EEC) No. 574/72 for the purpose of extending to German, Italian and Portuguese institutions a specific provision already provided for in respect of French institutions;

12. Whereas Article 95 of Regulation (EEC) No. 574/72 should be amended to Brian a little closer the fixed amount to be reimbursed and the amount of the actual expenditure incurred by the institutions of the Member States; whereas provision should be made for a transitional period for relation's with the French Republic in view of the administrative difficulties which might be encountered by that State;

13. Whereas the wording of Article 107(1) of Regulation (EEC) No. 574/72 should be amended to take account of the amendments that have been made by Regulations (EEC) No. 2195/91([1]), (EEC) No. 1248/92([2]) and (EEC) No. 1249/92([3]);

14. Whereas following administrative changes in Denmark, heading "B. DENMARK" of Annexes 2,3,4 and 10 to Regulation (EEC) No. 574/72 should be adjusted accordingly;

15. Whereas points "13. DENMARK—SPAIN" and "15. DENMARK—GREECE" of Annex 5 to Regulation (EEC) No. 574/72 should be adjusted to take account of the agreements concluded by these Member States;

16. Whereas the said Annex 5 should also be amended as a result of agreements between the Netherlands and Greece and between the Netherlands and the United Kingdom pursuant to Article 36(3) of Regulation (EEC) No. 1408/71;

17. Whereas it is necessary to adopt the head "A. BELGIUM" of Annex 10 to Regulation (EEC) No. 574/72 for the purpose of mentioning the competent institution referred to in Article 10b of the said Regulation;

18. Whereas, as a result of administrative reorganization of sickness insurance in Luxembourg, the entries in Annexes 2,3,4, 9 and 10 to Regulation (EEC) No. 574/72 under the heading "I. LUXEMBOURG" should be amended;

19. Whereas, as a result of a change in the denomination of the Netherlands Labour Councils, it is necessary to adapt Annexes 2,3 and 4 to Regulation (EEC) No. 574/72 under heading "J. THE NETHERLANDS";

20. Whereas Article 2 of Regulation (EEC) No. 1247/92 and Article 3 of Regulation (EEC) No.1945/93 should be deleted as the content thereof is contained in Regulation (EEC) no. 1408/71 itself; whereas in Article 4 of Regulation (EEC) No. 1945/93, it is consequently necessary to delete point 10 in which reference is made to the deleted provisions,

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([1]) OJ No. L206, 29.7.1991, p.2.
([2]) OJ No. L136, 19.5.1992, p.7.
([3]) OJ No. L136, 19.5.1992, p.28.

HAS ADOPTED THIS REGULATION;

[Art. 1(1) inserts art. 22a into Reg. 1408/71.]

[Art. 1(2) inserts art. 25a into Reg. 1408/71.]

[Art. 1(3) amends art. 39 of Reg. 1408/71.]

[Art. 1(4) amends art. 45 of Reg. 1408/71.]

[Art. 1(5) amends art. 72a of Reg. 1408/71.]

[Art. 1(6) amends art. 86 of Reg. 1408/71.]

[Art. 1(7) inserts art. 95b into Reg. 1408/71.]

[Art. 1(8) and (9) amends Section II of Annex I to Reg. 1408/71.]

[Art. 1(10) amends Annex Iia to Reg. 1408/71.]

[Art. 1(11) amends Section A of Annex III to Reg. 1408/71.]

[Art. 1(12) amends Section B of Annex III to Reg. 1408/71.]

[Art. 1(13) amends Annex VI to Reg. 1408/71.]

[Art. 2(1) amends arts. 17(2) and 30(1) of Reg. 574/72.]

[Art. 2(2) substitutes art. 95 of Reg. 574/72.]

[Art. 2(3) substitutes art. 107(1) of Reg. 574/72.]

[Art. 2(4) amends Annex 2 to Reg. 574/72.]

[Art. 2(6) amends Annex 4 to Reg. 574/72.]

[Art. 2(7) amends Annex 5 to Reg. 574/72.]

[Art. 2(8) amends Annex 9 to Reg. 574/72.]

[Art. 2(9) amends Annex 10 to Reg. 574/72.]

[Art. 3 deletes art. 2 of Reg. 1247/92.]

[Art. 3 deletes art. 2 of Reg. 1247/92.]

[Art. 4(1) deletes art. 3 of Reg. 1945/93.]

[Art. 4(2) deletes art. 4(10) of Reg. 1945/93.]

Article 5

1. This Regulation shall enter into force on the first day of the month following its publication in the *Official Journal of the European Communities.*

2. Article 2(2) shall apply as from 1 January 1998.

However, in relations with the French Republic, Article 2(2) shall apply as form 1 January 2002.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 22 December 1995.

For the Council
The President
L. ATIENZA SERNA