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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 5.6.2009
COM(2009) 265 final

2006/0008 (COD)

OPINION OF THE COMMISSION

**pursuant to Article 251 (2), third subparagraph, point (c) of the EC Treaty,
on the European Parliament's amendments
to the Council's common position regarding the
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 determining the contents of its annexes**

AMENDING THE PROPOSAL OF THE COMMISSION pursuant to Article 250 (2) of the
EC Treaty

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on the European Parliament's amendments
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1. INTRODUCTION

Article 251(2), third subparagraph, point (c) of the EC Treaty provides that the Commission is to deliver an opinion on the amendments proposed by the European Parliament at second reading. The Commission sets out its opinion below on the four amendments proposed by Parliament.

2. BACKGROUND

Date of transmission of the proposals to Parliament and Council:	
- concerning the proposal COM(2006) 7 final (2006/0008/COD)	24 January 2006
- concerning the proposal COM(2007) 376 final (2007/0129 (COD)	3 July 2007
Date of the opinion of the European Economic and Social Committee:	26 October 2006
Date of the opinion of the European Parliament, first reading:	9 July 2008
Date of transmission of the amended proposal (COM(2008) 648 final) (2006/0008/COD)	15 October 2008
Date of adoption of the common position:	17 December 2008
Date of adoption of Commission's communication:	7 January 2009
Date of the opinion of the European Parliament, second reading:	22 April 2009

3. PURPOSE OF THE PROPOSAL

On 29 April 2004, the European Parliament and the Council adopted Regulation (EC) No 883/2004¹ on the coordination of social security systems which will replace Regulation (EEC) No 1408/71².

Regulation 883/2004 has a number of Annexes which contain provisions in respect of individual Member States. The content of some of these annexes had not been determined at the time of the adoption of Regulation 883/2004. The latter therefore provides that the content of Annexes II (provisions of conventions which remain in force), X (special non-contributory cash benefits) and XI (special provisions for the application of the legislation of the Member States) should be determined before the date of application of the Regulation. Furthermore, some of the Annexes to Regulation 883/2004 must be adapted to take account of the requirements of the Member States that joined the European Union since the adoption of the Regulation, as well as recent developments in other Member States.

Against this background, the Commission adopted two proposals on 24 January 2006 and 3 July 2007, respectively:

- 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 determining the content of Annex XI;
- Proposal for a Regulation of the European Parliament and of the Council amending the annexes to Regulation (EC) No 883/2004 on the coordination of social security systems.

The Commission presented its amended proposal on 15 October 2008 taking on board the amendment of the European Parliament to merge the two original proposals into a single text. The procedure concerning the proposal (2007/0129/COD) was abandoned as a result of it being incorporated into the procedure relating to the first proposal (2006/0008/COD).

The proposal for a Regulation determining the content of Annex XI provides for supplementary rules regarding specific aspects of individual Member States' legislation to ensure that Regulation 883/2004 is applied smoothly in the Member States concerned. In accordance with the general objective of simplification, the proposal contains fewer entries than the corresponding Annex VI in Regulation (EEC) No 1408/71.

Annexes II and X of Regulation 883/2004 have equivalent provisions to those in Annexes III and IIa of Regulation 1408/71. The other Annexes need to be complemented to take account of the Member States which joined the EU after the adoption of Regulation 883/2004. Some of these Annexes also have corresponding provisions in Regulation 1408/71. However, Annex I Part 1 (advances of maintenance payments) and Annexes III and IV (special rules for health care benefits) are new.

4. OPINION OF THE COMMISSION ON THE AMENDMENTS BY THE EUROPEAN PARLIAMENT

4.1. Amendments accepted by the Commission

The Commission accepts all 4 amendments adopted by Parliament.

¹ OJ L166, 30.4.2004, corrected version in OJ L 200, 7.6.2004, p.1

² 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, OJ L 149 of 5.7.1971, p. 2.

The 4 amendments concern Annex III, which contains a list of Member States applying “restriction of rights to benefits in kind for members of the family of frontier workers” in the competent Member State. The text provides a review of Annex III no later than 5 years from the date of entry into force of the Regulation. The corresponding four amendments (new recital 7 a, article 1 - point 7, article 1 - point 8 and article 1 - point 9 – point b a new) all aim to clarify that the aim of the revision is, in principle, to have Annex III repealed, unless there are compelling reasons to do otherwise.

5. CONCLUSION

Pursuant to Article 250(2) of the EC Treaty, the Commission amends its proposal as set out above.