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REPORT

on the proposal for a Council regulation extending the provisions of Regulation (EC) No 883/2004 and Regulation (EC) No [...] to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality
(COM(2007)0439 – C6-0289/2007 – 2007/0152(CNS))

Committee on Employment and Social Affairs

Rapporteur: Jean Lambert

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation extending the provisions of Regulation (EC) No 883/2004 and Regulation (EC) No [...] to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality (COM(2007)0439 – C6-0289/2007 – 2007/0152(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2007)0439),
 - having regard to Article 63(4) of the EC Treaty,
 - having regard to Article 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0289/2007),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Employment and Social Affairs (A6-0209/2008),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a Regulation
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) This Regulation respects the fundamental rights and observes the principles recognised, in particular, by the Charter of Fundamental Rights of the European Union, notably Article 34(2).

Justification

Reinstates a recital (originally proposed by the European Parliament) in the current legislation that is not included in the new proposal.

Amendment 2

Proposal for a Regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Promoting a high level of social protection and raising the standard of living and the quality of life in the Member States are objectives of the European Union.

Justification

Reinstates a recital in the current legislation that is not included in the new proposal.

EXPLANATORY STATEMENT

Regulation 859/2003 currently links third-country nationals who are legally resident in the Community and are in a cross-border situation with Regulation 1408/71. The latter Regulation is due to be replaced by the updated and simplified Regulation 883/2004 when the Implementing Regulation currently under discussion in Council and Parliament comes into force.

Therefore, we also need to update the Regulation dealing with third-country nationals in order to avoid an extremely confusing duplication of having individuals and national administrations dealing with two different sets of rules and entitlements covering the coordination of social security between Member States. It is intended that this replacement Regulation will come into force at the same time as 883/2004 and its Implementing Regulation.

The new proposal is substantially the same as the existing one. Again, it clarifies the scope of the Regulation and makes clear that it confers no right to enter, stay, reside or have access to the labour market (Recital 8): those areas are dealt with under other legislation. Indeed, it only covers those who are in a regular migration situation and are or have been subject to the legislation of one or more Member States (Regulation 883/2004). Refugees and stateless persons are already included in the scope of 883/2004.

The need for this linking Regulation remains and indeed, will be increasingly important as the European Union develops a Common Immigration Policy. The so-called "Blue-Card" proposal concerning the entry and rights of highly-skilled migrants foresees the possibility of cross-border movement for work purposes, so it is important to have an updated set of Rules concerning basic social security in such cross-border situations. The proposal for the Regulation sets out the links to integration.

Generally, your Rapporteur supports the Commission proposal, although she echoes the opinion expressed by the previous Rapporteur on the issue in criticising the legal base for the Regulation. This also means that one Member States (Denmark) is not included at present. Like her predecessor, your Rapporteur would prefer third-country nationals to simply be incorporated into the scope of the Basic Regulation as this is not an issue of immigration but of equality of treatment within the European Union, as expressed by Council.

In regard to this your Rapporteur wishes to propose two amendments to emphasize the importance of equality of treatment. They are drawn from the current Regulation and Parliament's previous opinion, and they are missing in the new proposal. They link the Regulation to the Charter of Fundamental Rights, Article 32 and also recall the Union's objective of a high level of social protection.

PROCEDURE

Title	Extension of the provisions of Regulation (EC) No 883/2004 and Regulation (EC) No [...] to nationals of third countries who are not already covered by these provisions solely on the ground of their nationality		
References	COM(2007)0439 – C6-0289/2007 – 2007/0152(CNS)		
Date of consulting Parliament	17.9.2007		
Committee responsible Date announced in plenary	EMPL 24.9.2007		
Committee(s) asked for opinion(s) Date announced in plenary	LIBE 24.9.2007		
Not delivering opinions Date of decision	LIBE 3.9.2007		
Rapporteur(s) Date appointed	Jean Lambert 11.9.2007		
Discussed in committee	1.4.2008	6.5.2008	28.5.2008
Date adopted	29.5.2008		
Result of final vote	+: 34	–: 2	0: 0
Members present for the final vote	Jan Andersson, Edit Bauer, Philip Bushill-Matthews, Alejandro Cercas, Derek Roland Clark, Luigi Cocilovo, Jean Louis Cottigny, Jan Cremers, Harald Ettl, Richard Falbr, Roger Helmer, Stephen Hughes, Jan Jerzy Kulakowski, Jean Lambert, Bernard Lehideux, Elizabeth Lynne, Thomas Mann, Maria Matsouka, Elisabeth Morin, Juan Andrés Naranjo Escobar, Csaba Óry, Marie Panayotopoulos-Cassiotou, Pier Antonio Panzeri, Rovana Plumb, Jacek Protasiewicz, Bilyana Ilieva Raeva, José Albino Silva Peneda, Jean Spautz, Gabriele Stauner, Ewa Tomaszewska, Anne Van Lancker, Gabriele Zimmer		
Substitute(s) present for the final vote	Françoise Castex, Gabriela Crețu, Sepp Kusstatscher, Ria Oomen-Ruijten, Csaba Sógor, Tatjana Ždanoka		