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Plenary sitting

A7-0261/2010

1.10.2010

*****II**

RECOMMENDATION FOR SECOND READING

on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality
(11160/4/2010 – C7-0208/2010 – 2007/0152(COD))

Committee on Employment and Social Affairs

Rapporteur: Jean Lambert

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

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

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the Council position at first reading with a view to the adoption of a regulation of the European Parliament and of the Council extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (11160/4/2010 – C7-0208/2010 – 2007/0152(COD))

(Ordinary legislative procedure: second reading)

The European Parliament,

- having regard to the Council position at first reading (11160/4/2010 – C7-0208/2010),
- having regard to the Commission proposal to the Council (COM(2007)0439),
- having regard to Articles 63(4) and 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0289/2007),
- having regard to its position of 9 July 2008¹,
- having regard to the Commission Communication to Parliament and the Council entitled ‘Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures’ (COM(2009)0665),
- having regard to Article 294(7) and Article 79(2)(b) of the Treaty on the Functioning of the European Union,
- having regard to its resolution of 5 May 2010 on the consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures – ‘omnibus’²,
- having regard to the opinion of the European Economic and Social Committee of 16 January 2008³,
- having regard to Rule 72 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on Employment and Social Affairs (A7-0261/2010),

1. Approves the Council position;
2. Notes that the act is adopted in accordance with the Council position;
3. Instructs its President to sign the act with the President of the Council pursuant to

¹ OJ C 294 E, 3.12.2009, p. 259.

² Texts adopted, P7_TA(2010)0126.

³ OJ C 151, 17.6.2008, p. 50.

Article 297(1) of the Treaty on the Functioning of the European Union;

4. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to arrange for its publication in the Official Journal of the European Union;
5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

EXPLANTORY STATEMENT

The draft Regulation is intended to ensure that third country nationals who are legally resident within the EU and are in a cross-border situation concerning at least two Member States are subject to the same rules for coordinating social security entitlements as EU nationals under the revised rules now represented in Regulation (EC) No. 883/2004 and its implementing Regulation (Regulation (EC) No. 987/2009).

When the Commission proposal was first introduced, the European Parliament was consulted and agreed two amendments, replacing references to the Charter of Fundamental Rights and also pointing out to a high standard of social protection as an objective of the European Union, present in the existing Regulation 859/2003. Both these amendments have been incorporated into the position of the Council at first reading of 26th July 2010 as recitals four and seven.

Since the introduction of the Lisbon Treaty, the ordinary legislative procedure applies to this file. In May 2010, the EP confirmed the outcome of its vote under the consultation procedure thus becoming the EP's first reading under the new procedure.

The position of the Council at first reading does not contain any reference to annexes or special provisions for any participating Member State: this is also in line with the first reading position of the European Parliament.

Council is proposing a small number of amendments: it has included some recitals relating to the participation of certain Member States under the proposal's legal basis of Article 79(2)(b). (Recitals 17, 18, 19). Regrettably, Denmark does not participate in the co-ordination arrangements for third-country nationals. Ireland has opted to participate but, to your Rapporteur's disappointment, the UK has chosen not to participate and will therefore continue to operate the existing rules: your Rapporteur feels that this is a step back from both the commitment to simplification, which was a key part of the intent of Regulation 883/2004 and the principle of equal treatment.

Recital 8 of the original proposal (now Recital 10 of the position of the Council at first reading) clarifies the rights of Member States with regard to their powers concerning the decision for an individual to be legally on their territory. Recital 13 clarifies the rights of an individual to maintain his/her entitlements (and those of his/her survivors) to certain social security benefits acquired when residing legally.

Early adoption of the new Regulation would enable its early integration into the revised administration of Regulations 883/2004 and 987/2009 and would guarantee the equal treatment of legally resident third-country nationals in the field of social security. Your Rapporteur has decided not to table any amendments to the position of the Council at first reading and would recommend that it be accepted by the Committee.

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	11160/4/2010 – C7-0208/2010 – 2007/0152(COD)
Date of Parliament's first reading – P number	9.7.2008 T6-0350/2008
Commission proposal	COM(2007)0439 - C6-0289/2007
Receipt of Council position at first reading announced in plenary	9.9.2010
Committee responsible Date announced in plenary	EMPL 9.9.2010
Rapporteur(s) Date appointed	Jean Lambert 11.9.2007
Discussed in committee	30.9.2010
Date adopted	30.9.2010
Result of final vote	+: 41 -: 0 0: 1
Members present for the final vote	Pervenche Berès, Milan Cabrnoch, David Casa, Alejandro Cercas, Ole Christensen, Derek Roland Clark, Sergio Gaetano Cofferati, Tadeusz Cymański, Frédéric Daerden, Proinsias De Rossa, Frank Engel, Sari Essayah, Ilda Figueiredo, Pascale Gruny, Marian Harkin, Roger Helmer, Nadja Hirsch, Vincenzo Iovine, Danuta Jazłowiecka, Adam Kósa, Jean Lambert, Olle Ludvigsson, Elizabeth Lynne, Thomas Mann, Elisabeth Morin-Chartier, Csaba Óry, Siiri Oviir, Rovana Plumb, Konstantinos Poupakis, Sylvana Rapti, Licia Ronzulli, Elisabeth Schroedter, Joanna Katarzyna Skrzydlewska, Traian Ungureanu
Substitute(s) present for the final vote	Georges Bach, Edite Estrela, Kinga Göncz, Richard Howitt, Gesine Meissner, Csaba Sógor, Emilie Turunen, Gabriele Zimmer