

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland)

TITLE VI

TRANSITIONAL AND FINAL PROVISIONS

Article 87

Transitional provisions

1 No rights shall be acquired under this Regulation for the period before its date of application.

2 Any period of insurance and, where appropriate, any period of employment, self-employment or residence completed under the legislation of a Member State prior to the date of application of this Regulation in the Member State concerned shall be taken into consideration for the determination of rights acquired under this Regulation.

3 Subject to paragraph 1, a right shall be acquired under this Regulation even if it relates to a contingency arising before its date of application in the Member State concerned.

4 Any benefit which has not been awarded or which has been suspended by reason of the nationality or place of residence of the person concerned shall, at the request of that person, be provided or resumed with effect from the date of application of this Regulation in the Member State concerned, provided that the rights for which benefits were previously provided have not given rise to a lump-sum payment.

5 The rights of a person to whom a pension was provided prior to the date of application of this Regulation in a Member State may, at the request of the person concerned, be reviewed, taking into account this Regulation.

6 If a request referred to in paragraph 4 or 5 is submitted within two years from the date of application of this Regulation in a Member State, the rights acquired under this Regulation shall have effect from that date, and the legislation of any Member State concerning the forfeiture or limitation of rights may not be invoked against the persons concerned.

7 If a request referred to in paragraph 4 or 5 is submitted after the expiry of the two-year period following the date of application of this Regulation in the Member State concerned, rights not forfeited or not time-barred shall have effect from the date on which the request was submitted, subject to any more favourable provisions under the legislation of any Member State.

8 If, as a result of this Regulation, a person is subject to the legislation of a Member State other than the one determined in accordance with Title II of Regulation (EEC) No 1408/71, that legislation shall continue to apply as long as the relevant situation remains unchanged, unless the person concerned requests that he be subject to the legislation applicable under this Regulation. The request shall be submitted within three months after the date of application of this Regulation to the competent institution of the Member State whose legislation is applicable under this Regulation if the person concerned is to be subject to the legislation of that Member State as of the date of application of this Regulation. If the request is made after the time limit indicated, the changeover shall take place on the first day of the following month.

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9 Article 55 of this Regulation shall apply only to pensions not subject to Article 46c of Regulation (EEC) No 1408/71 on the date of application of this Regulation.

10 The provisions of the second sentences of Article 65(2) and (3) shall be applicable to Luxembourg at the latest two years after the date of application of this Regulation.

11 Member States shall ensure that appropriate information is provided regarding the changes in rights and obligations introduced by this Regulation and the Implementing Regulation.

Article 88

Updating of the Annexes

The Annexes of this Regulation shall be revised periodically.

Article 89

Implementing Regulation

A further Regulation shall lay down the procedure for implementing this Regulation.

Article 90

Repeal

1 Council Regulation (EEC) No 1408/71 shall be repealed from the date of application of this Regulation.

However, Regulation (EEC) No 1408/71 shall remain in force and shall continue to have legal effect for the purposes of:

- a Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality⁽¹⁾ for as long as that Regulation has not been repealed or modified;
- b Council Regulation (EEC) No 1661/85 of 13 June 1985 laying down the technical adaptations to the Community rules on social security for migrant workers with regard to Greenland⁽²⁾, for as long as that Regulation has not been repealed or modified;
- c the Agreement on the European Economic Area⁽³⁾ and the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part, on the free movement of persons⁽⁴⁾ and other agreements which contain a reference to Regulation (EEC) No 1408/71, for as long as those agreements have not been modified in the light of this Regulation.

2 References to Regulation (EEC) No 1408/71 in Council Directive 98/49/EC of 29 June 1998 on safeguarding the supplementary pension rights of employed and self-employed persons moving within the Community⁽⁵⁾ are to be read as referring to this Regulation.

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Article 91

Entry into force

This Regulation shall enter into force on the twentieth day after its publication in the Official Journal of the European Union.

It shall apply from the date of entry into force of the Implementing Regulation.

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- (1) OJ L 124, 20.5.2003, p. 1.
- (2) OJ L 160, 20.6.1985, p. 7.
- (3) OJ L 1, 3.1.1994, p. 1.
- (4) OJ L 114, 30.4.2002, p. 6. Agreement as last amended by Decision No 2/2003 of the EU-Swiss Committee (OJ L 187, 26.7.2003, p. 55).
- (5) OJ L 209, 25.7.1998, p. 46.