

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)

[<sup>X1</sup>TITLE VI

**TRANSITIONAL AND FINAL PROVISIONS**

*Article 87*

**Transitional provisions**

1 No rights shall be acquired pursuant to 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 in accordance with 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.

[<sup>F18</sup> If, as a result of this Regulation, a person is subject to the legislation of a Member State other than that determined in accordance with Title II of Regulation (EEC) No 1408/71, that legislation shall continue to apply while the relevant situation remains unchanged and in any case for no longer than 10 years from the date of application of this Regulation unless the person concerned requests that he/she be subject to the legislation applicable under this Regulation. The request shall be submitted within 3 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

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application of this Regulation. If the request is made after the time limit indicated, the change of applicable legislation shall take place on the first day of the following month.]

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.

[<sup>F2</sup>10a The entries in Annex III corresponding to Estonia, Spain, Italy, Lithuania, Hungary and the Netherlands shall cease to have effect 4 years after the date of application of this Regulation.

10b The list contained in Annex III shall be reviewed no later than 31 October 2014 on the basis of a report by the Administrative Commission. That report shall include an impact assessment of the significance, frequency, scale and costs, both in absolute and in relative terms, of the application of the provisions of Annex III. That report shall also include the possible effects of repealing those provisions for those Member States which continue to be listed in that Annex after the date referred to in paragraph 10a. In the light of that report, the Commission shall decide whether to submit a proposal concerning a review of the list, with the aim in principle of repealing the list unless the report of the Administrative Commission provides compelling reasons not to do so.]

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.

#### **Textual Amendments**

- F1** Substituted by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes (Text with relevance for the EEA and for Switzerland).
- F2** Inserted by Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes (Text with relevance for the EEA and for Switzerland).

#### *[<sup>F3</sup>Article 87a*

#### **Transitional provision for application of Regulation (EU) No 465/2012**

1 If as a result of the entry into force of Regulation (EU) No 465/2012, a person is subject, in accordance with Title II of this Regulation, to the legislation of a different Member State than that to which he/she was subject before that entry into force, the legislation of the Member State applicable before that date shall continue to apply to him/her for a transitional period lasting for as long as the relevant situation remains unchanged and, in any case, for no longer than 10 years from the date of entry into force of Regulation (EU) No 465/2012. Such a person may request that the transitional period no longer applies to him/her. Such request shall be submitted to the institution designated by the competent authority of the Member State of residence. Requests submitted by 29 September 2012 shall be deemed to take effect on 28 June 2012. Requests submitted after 29 September 2012 shall take effect on the first day of the month following that of their submission.

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2 No later than 29 June 2014, the Administrative Commission shall evaluate the implementation of the provisions laid down in Article 65a of this Regulation and present a report on their application. On the basis of this report, the European Commission may, as appropriate, submit proposals to amend those provisions.]

#### **Textual Amendments**

- F3** Inserted by [Regulation \(EU\) No 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation \(EC\) No 883/2004 on the coordination of social security systems and Regulation \(EC\) No 987/2009 laying down the procedure for implementing Regulation \(EC\) No 883/2004 \(Text of relevance to the EEA and to the EU/Switzerland Agreement\)](#).

#### *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<sup>(1)</sup>, 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<sup>(2)</sup>, for as long as that Regulation has not been repealed or modified;
- c the Agreement on the European Economic Area<sup>(3)</sup> 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<sup>(4)</sup> 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<sup>(5)</sup> 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 20th 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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#### Editorial Information

- X1** Substituted by [Corrigendum to Regulation \(EC\) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems \(Official Journal of the European Union L 166 of 30 April 2004\)](#).

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- (1) [<sup>X1</sup>OJ L 124, 20.5.2003, p. 1.]
- (2) [<sup>X1</sup>OJ L 160, 20.6.1985, p. 7.]
- (3) [<sup>X1</sup>OJ L 1, 3.1.1994, p. 1.]
- (4) [<sup>X1</sup>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) [<sup>X1</sup>OJ L 209, 25.7.1998, p. 46.]

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