

**Proposal for a Council Regulation
on the coordination of social security schemes**

UNICE position paper

1. UNICE has noted the Commission proposal on the coordination of social security. Employers share the Commission analysis that, due to multiple modifications, Regulation 1408/71 has become increasingly complex. Therefore, it would be helpful if a user friendly document which consolidates all the texts and clearly and simply sets out the rules of the game is published. Publication of such a text should facilitate free movement of people within Europe.
2. European employers are convinced that well functioning social security systems are valuable assets of European societies. To keep the social security systems efficient in the future, taking into account economic and social developments, it is essential to implement reforms which result in affordable systems. By no means should the simplified co-ordination rules result in increasing the costs of these systems. Nor should it be the objective of the coordination rules to modify or extend the protection and benefits granted by national social security schemes.
3. Compared with Regulation 1408/71, the new proposal introduces the three following changes
 - an extension of the personal scope of co-ordination rules to all persons covered by national social security systems (including self-employed, family members, refugees, students, third country nationals, etc.),
 - an integration of pre-retirement schemes and an open-ended extension of the material scope through a non-exhaustive list to ensure that new benefits can be included in the future,
 - a modification of the rules governing unemployment benefits extending the period during which a person can go to another Member State in order to look for a job without losing unemployment benefits from 3 months to 6 months.
4. European employers are not opposed, in principle, to the extension of the **scope** of the coordination covered by regulation 1408/71 to all insured persons. However, they believe that the possible financial impacts of such an extension to cover all insured persons and all branches of social security needs to be examined.
5. UNICE believes that the proposed extension of the scope should not lead to the extension of regulation 1408/71 to **nationals from third countries** without an in-depth study of the complex

questions which it would inevitably raise. The comments made in UNICE's reply to the Commission's consultations on posting workers from third countries and on the extension of regulation 1408/71 to nationals of third countries remain valid.

6. Concerning the extension of the regulation 1408/71 to **economically non-active persons**, UNICE feels that the link between work and social benefits should be maintained. In any case, it should not be the function of the simplification of the text to introduce 'hidden reform proposals' without carrying out an in-depth analysis and discussion.
7. UNICE believes, that the scope of co-ordination rules also should not be extended to **pre-retirement schemes**. Extending such rights is inappropriate at a time when these schemes are under discussion and likely to be abolished or replaced by flexible retirement arrangements. In addition, in many countries these benefits are provided for under a contract of employment. Therefore UNICE believes that pre-retirement schemes should not be covered by 1408/71 coordination measures.
8. One of the solutions envisaged during discussions of the SLIM working group was to have various instruments which lay down different provisions for different types of "insured persons" and the various benefits covered by regulation 1408/71, especially since the legal basis is different for each of these groups. UNICE wonders whether this would not be a better solution to produce a user-friendly text.
9. The principle of *lex loci laboris*, applying the legislation of the Member State to the people pursuing a gainful activity in that State (Article 48) is supported by European employers. In contrast, the distinction between temporarily non-active persons and those no longer - or not - engaged in gainful activity might lead to confusion and abuse, especially as the second group of people should remain, according to the Commission's proposal, subject to the legislation of their State of residence.
10. Application of the principle of *lex loci laboris* implies a possibility to remain affiliated to the system of origin in case of temporary posting in another Member State. Present rules foresee this possibility for a renewable period of 12 months. UNICE is very concerned that the proposed Regulation no longer foresee the possibility of renewal once the initial 12 months period is over. This is contrary to the proclaimed objective of simplification and to the promotion of free movement of workers within the EU.
11. UNICE welcomes measures to improve the situation of **frontier workers** and their family members. UNICE, in principle, agrees with the proposal of the Commission that members of a frontier worker's family should have the same right of choice as the employed person himself and thus be able to choose to have medical treatment either in their States of residence or the competent State. However, UNICE believes that bearing in mind subsidiarity and fiscal sovereignty of member states, these issues can best be dealt with on a bilateral basis. No necessity exists to extend the legal basis to obtain medical treatment in another European member state.

12. Concerning the **exports of benefits**, UNICE believes that no extension should be made to the present period of three months in which an unemployed person can go to another Member State to seek work, financed by their own Member State, since no studies have been made, showing that a three month period was insufficient for finding a job in another Member State. It is important that when an unemployed person cannot find work in another Member State, the appropriate labour market measures such as training be provided in the Member State which is providing the benefit.

13. UNICE very much hopes that its comments will be taken into account and insists that thorough examination of the impact on the social security systems of the Member States undertake before any extension of co-ordination rules.

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