

## **EU Social Security Legislation and the Rights of Non-EU Nationals**

Council Regulation 1408 of 1971 coordinates the national social security legislation of the EU Member States.

Regulation 1408/71 guarantees all workers who are nationals of Member States and their dependants equality of treatment and entitlement to social security benefits, irrespective of their place of employment and residence.

It covers EU nationals covered by an EU social security system who move about within the European Economic Area (EEA = EU + Norway, Iceland and Liechtenstein).

Applies to

- Sick and maternity benefits
- Invalidity benefits
- Old age benefits
- Survivor's benefits
- Benefits in respect of accidents at work and occupational diseases
- Unemployment benefits
- Family benefits
- Death grants

Applies to general and special contributory and non-contributory social security schemes and to schemes concerning the liability of an employer.

Examples: X, a Belgian, who works in Belgium, and is covered by the Belgian social security system, has an accident on holidays in Greece and needs medical treatment in Greece. He will be covered.

Y, a German national, who works in France, wants to retire to Spain. He will be covered by the French social security system.

The European Court of Justice (*Gaygusuz v Austria*), held, on 16 September 1996, that a ban on discrimination on the basis of nationality also applies to social security rights.

Around 13 million third country nationals legally residing and working in the EU are presently not covered by Regulation 1408/71.

### **Proposed Amendment**

The European Commission put forward a proposal on 12 November 1997, aimed at extending to third country nationals the provisions of Council Regulation 1408/71.

UNICE (Union of Industrial and Employers' Confederation of Europe) called for an in-depth study of the issue before any extension of Regulation 1408/71 is adopted. (November 1997).

The Economic and Social Committee applauded the proposal in March 1998.

The European Parliament fully backed the Commission's proposed amendment in September 1998.

The proposal is blocked in the Council. Unanimity is required among the 15 Member States.

Some Member States are unhappy at the financial implications of the proposal, and are therefore reluctant to vote to adopt it in the Council. They are using the argument that the European Community does not have the legal authority to adopt such legislation, in other words, there is no appropriate legal base in the EC Treaty.

Some countries also have problems of substance, eg – they think that even if the Regulation is extended to third country nationals, not all social security benefits should be covered.

### **Possible Action for a New Group:**

Lobby the Member States with arguments as to why there is an existing sufficient legal base for the present proposal to be adopted.

Lobby generally in the context of the upcoming IGC (Intergovernmental Conference) for amendments to the EC Treaty which clarify this issue.

NB: None of the Member States or any of the Institutions have received any representations from any third country governments or third country nationals in support of this proposal.