



**COUNCIL OF
THE EUROPEAN UNION**

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"I/A" ITEM NOTE

from : General Secretariat of the Council
to : Permanent Representatives Committee (Part I)/Council (Employment, Social Policy, Health and Consumer Affairs)

No. prev. doc.: 13987/12 SOC 762 SM 15 EEE 105
No. Cion prop.: 8555/12 SOC 262 SM 4 EEE 30 - COM(2012) 157 final

Subject : Proposal for a Council Decision on the position to be taken by the European Union within the Cooperation Committee established by the Agreement on Cooperation and Customs Union between the European Economic Community and its Member States, of the one part, and the Republic of San Marino, of the other part, with regard to the adoption of provisions on the coordination of social security systems
= Adoption

1. On 30 March 2012, the Commission submitted the above-mentioned proposal which aims at establishing the position to be taken by the European Union within the Cooperation Committee established by the Agreement on Cooperation and Customs Union between the European Economic Community and San Marino. This draft Decision is part of a package of four proposals which includes similar proposals with regard to Albania, Montenegro and Turkey¹ which are largely based on the Decisions which were adopted by the Council in 2010 with regard to Algeria, Croatia, the Former Yugoslav Republic of Macedonia, Israel, Morocco and Tunisia².

¹ Docs 8553/12, 8554/12 + COR 1 and 8556/12.

² OJ L 306 of 23 November 2010, respectively p. 14, p. 35, p. 28, p. 21, p. 1 and p. 8.

2. This proposal consists of a Council Decision on the position to be taken on behalf of the Union within the Cooperation Committee established by the Agreement with San Marino and, in the Annex, of a draft Decision of the Cooperation Committee in the social security field.
3. The draft Decision aims at fulfilling the requirement set out in the Cooperation and Customs Union Agreement that a decision of the Cooperation Committee be taken in order to implement the principles for the co-ordination of social security systems as laid down in Article 22 of the Agreement. The Decision contains implementing provisions with regard to those provisions of Article 21 of the Agreement with San Marino which are not already covered by Regulation (EU) No 1231/2010. In substance, the aim of these principles is that nationals of San Marino who are, or have been, subject to the legislation of one or more Member States, may be granted certain social security benefits as provided for under the legislation of the Member State to which they are, or have been, subject. These principles also apply to their family members provided they are, or have been, legally resident with the worker concerned in the Member State where the worker is employed.
4. By way of reciprocity, these principles are also applicable to EU nationals legally employed in San Marino as well as to their family members legally resident therein.
5. The proposal for a Decision further lays down a number of provisions on cooperation between the Member States and San Marino concerning, inter alia, the procedures for administrative checks and medical examinations.
6. The legal basis proposed by the Commission is Article 79(2)(b) TFEU in conjunction with Article 218(9) TFEU.
7. In accordance with Article 218(10) TFEU, the European Parliament shall have to be immediately and fully informed at all stages of the procedure.

8. In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application.
9. In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.
10. In view of the importance of giving effect to the principles on the co-ordination of social security systems set out in Article 22 of the Agreement with San Marino, the Danish and the Cyprus Presidencies held discussions³ on this proposal for a decision with a view to the Council (EPSCO) reaching a political agreement at its session on 4 October 2012.
11. At its meeting on 4 October 2012, the Council (EPSCO) reached a political agreement on the text of the draft Decision, as set out in doc. 13987/12 +COR1.
12. The text of the draft Decision, as finalised by the lawyer-linguists, is to be found in doc. 14797/12.
13. The Permanent Representatives Committee therefore recommends the Council (EPSCO) to adopt the draft Decision, as set out in doc. 14797/12, as an "A" item at its session on 6 December 2012.

³ See outcomes of proceedings in documents 11123/12 + COR 1 + COR 2 + COR 3 and 12364/12 + COR1.