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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the Joint Committee established under the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons, as regards the amendment of Annex II to that Agreement on the co-ordination of social security schemes

COUNCIL DECISION

of ...

**on the position to be taken on behalf of the European Union
within the Joint Committee established under the Agreement
between the European Community and its Member States, of the one part,
and the Swiss Confederation, of the other,
on the free movement of persons, as regards the amendment of
Annex II to that Agreement on the co-ordination of social security schemes**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 48,
in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons¹ ('the Agreement') was signed on 21 June 1999 and entered into force on 1 June 2002.
- (2) Article 18 of the Agreement provides that the Joint Committee established under Article 14 of the Agreement ('the Joint Committee') may, by decision, adopt amendments to Annex II to the Agreement on the coordination of social security schemes.
- (3) In order to maintain the consistent application of the legal acts of the Union and to avoid administrative and possible legal difficulties, Annex II to the Agreement needs to be amended to include new legal acts of the Union to which the Agreement does not currently refer.
- (4) It is appropriate to establish the position to be taken on behalf of the Union within the Joint Committee as regards the amendment of Annex II to the Agreement.
- (5) The position of the Union within the Joint Committee should therefore be based on the attached draft Decision,

HAS ADOPTED THIS DECISION:

¹ OJ L 114, 30.4.2002, p. 6.

Article 1

The position to be adopted on behalf of the European Union within the Joint Committee established under Article 14 of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons ('the Joint Committee') shall be based on the draft Decision of the Joint Committee attached to this Decision.

Minor technical changes to the draft Decision may be agreed to by the representatives of the Union within the Joint Committee without the need for a further Council Decision.

Article 2

After its adoption, the Decision of the Joint Committee shall be published in the *Official Journal of the European Union*.

Article 3

This Decision shall enter into force on the date of its adoption.

Done at

For the Council
The President

Draft

Decision No .../...
of the Joint Committee
established under the Agreement between
the European Community and its Member States, of the one part,
and the Swiss Confederation, of the other,
on the free movement of persons

of ...

amending Annex II to that Agreement on the co-ordination of social security schemes

THE JOINT COMMITTEE,

Having regard to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons¹ ('the Agreement') and in particular Articles 14 and 18 thereof,

¹ OJ L 114, 30.4.2002, p. 6.

Whereas:

- (1) The Agreement was signed on 21 June 1999 and entered into force on 1 June 2002.
- (2) Annex II to the Agreement on the co-ordination of social security schemes was replaced by Decision No 1/2012 of the Joint Committee of 31 March 2012¹.
- (3) Annex II to the Agreement should be updated to take account of the new legal acts of European Union legislation that has come into force since then, in particular amendments to Regulation (EC) No 883/2004 of the European Parliament and of the Council² and Regulation (EC) No 987/2009 of the European Parliament and of the Council³ brought about by Commission Regulation (EU) No 1244/2010⁴, Regulation (EU) No 465/2012 of the European Parliament and of the Council⁵ and Commission Regulation (EU) No 1224/2012⁶.

¹ OJ L 103, 13.4.2012, p. 51.

² Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 166, 30.4.2004, p. 1 as corrected in OJ L 200, 7.6.2004, p. 1.)

³ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1.)

⁴ Commission Regulation (EU) No 1244/2010 of 9 December 2010 (OJ L 338, 22.12.2010, p. 35.)

⁵ Regulation (EU) No 465/2012 of the European Parliament and of the Council of 22 May 2012 (OJ L 149, 8.6.2012, p. 4.)

⁶ Commission Regulation (EU) No 1224/2012 of 18 December 2012 (OJ L 349, 19.12.2012, p. 45.)

- (4) Account should also be taken of the decisions and recommendations adopted by the Administrative Commission for the Coordination of Social Security Systems to implement Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 subsequent to the entry into force of Decision No 1/2012 of the Joint Committee.
- (5) Annex II to the Agreement should be updated in line with changes to the relevant legal acts of the European Union,

HAS DECIDED AS FOLLOWS:

Article 1

Annex II to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons ('the Agreement') is amended as set out in the Annex to this Decision.

Article 2

This Decision is established in the Bulgarian, Croatian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, the texts in each of these languages being equally authentic.

Article 3

This Decision shall enter into force on the first day of the second month following its adoption by the Joint Committee.

Done at Brussels

For the Joint Committee

The Chairman

The Secretaries

ANNEX

Annex II to the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons is amended as follows:

- (1) In **Section A: Legal acts referred to, Point 1**, the words 'as amended 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 Annexes¹' shall be replaced by the following:

'as amended 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 Annexes²;
- Commission Regulation (EU) No 1244/2010 of 9 December 2010 amending Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004³;

¹ OJ L 284, 30.10.2009, p. 43.

² OJ L 284, 30.10.2009, p. 43.

³ OJ L 338, 22.12.2010, p. 35.

- 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 883/2004¹;
- Commission Regulation (EU) No 1224/2012 of 18 December 2012 amending Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004².

(2) In **Section A: Legal acts referred to, Point 1**, under the heading 'For the purposes of this Agreement, Regulation (EC) No 883/2004 shall be adapted as follows:', the entry in letter h, point 1 the words 'Federal Supplementary Benefits Act of 19 March 1965' shall be replaced by the following:

'Federal Supplementary Benefits Act of 6 October 2006'.

¹ OJ L 149, 8.6.2012, p. 4.

² OJ L 349, 19.12.2012, p. 45.

(3) In **Section A: Legal acts referred to, Point 2**, the following is inserted after the words 'Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems¹':

'as amended by

- Commission Regulation (EU) No 1244/2010 of 9 December 2010 amending Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004²;
- 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 883/2004³;
- Commission Regulation (EU) No 1224/2012 of 18 December 2012 amending Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems and Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004⁴!.

¹ OJ L 284, 30.10.2009, p. 1.
² OJ L 338, 22.12.2010, p. 35.
³ OJ L 149, 8.6.2012, p. 4.
⁴ OJ L 349, 19.12.2012, p. 45.

- (4) In **Section A: Legal acts referred to, Point 2**, under the heading 'For the purposes of this Agreement, Regulation (EC) No 987/2009 shall be adapted as follows:', the following words shall be deleted:

'Arrangement between Switzerland and Italy of 20 December 2005 fixing the special procedures for the reimbursement of health care benefits'.

- (5) In **Section B: Legal acts of which the Contracting Parties shall take due account**, the following is added after Point 21:

(22) Decision of the Administrative Commission for the Coordination of Social Security Systems No E2 of 3 March 2010 concerning the establishment of a change management procedure applying to details of the bodies defined in Article 1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council which are listed in the electronic directory which is an inherent part of EESSI¹,

(23) Decision of the Administrative Commission for the Coordination of Social Security Systems No E3 of 19 October 2011 concerning the transitional period as defined in Article 95 of Regulation (EC) No 987/2009 of the European Parliament and of the Council²,

¹ OJ C 187, 10.7.2010, p. 5. [Electronic Exchange of Social Security Information]

² OJ C 12, 14.1.2012, p. 6.

- (24) Decision of the Administrative Commission for the Coordination of Social Security Systems No H6 of 16 December 2010 concerning the application of certain principles regarding the aggregation of periods under Article 6 of Regulation (EC) No 883/2004 on the coordination of social security systems¹,
- (25) Decision of the Administrative Commission for the Coordination of Social Security Systems No S8 of 15 June 2011 concerning the granting of prostheses, major appliances and other substantial benefits in kind provided for in Article 33 of Regulation (EC) No 883/2004 on the coordination of social security systems²,
- (26) Decision of the Administrative Commission for the Coordination of Social Security Systems No U4 of 13 December 2011 concerning the reimbursement procedures under Article 65(6) and (7) of Regulation (EC) No 883/2004 and Article 70 of Regulation (EC) No 987/2009³!.
- (6) In **Section C: Legal acts of which the Contracting Parties shall take note**, the following is added after Point 2:
- '(3) Recommendation of the Administrative Commission for the Coordination of Social Security Systems No S1 of 15 March 2012 concerning financial aspects of cross-border living organ donations⁴!.

¹ OJ C 45, 12.2.2011, p. 5.
² OJ C 262, 6.9.2011, p. 6.
³ OJ C 57, 25.2.2012, p. 4.
⁴ OJ C 240, 10.8.2012, p. 3.