



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 2.07.2008  
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Draft

**DECISION OF THE EEA JOINT COMMITTEE**

**amending Annex VI (Social security) to the EEA Agreement**

- Draft common position of the Community -  
(presented by the Commission)

## EXPLANATORY MEMORANDUM

1. This Draft Joint Committee Decision replaces the Draft Joint Committee Decision submitted to the Council with Doc DGrelex-PE-SEC\_2007\_1164-C3 and has been revised in line with the conclusions of the European Court of Justice (ECJ) (case C-299/05) and of the EFTA Court (Case E-5/06)
2. In order to ensure the requisite legal security and homogeneity of the Internal Market, the EEA Joint Committee is to integrate all the relevant Community legislation into the EEA Agreement as soon as possible after its adoption.
3. The EEA Joint Committee should therefore adopt the attached decision to amend Annex VI to the EEA Agreement by adding new Community acquis in field of Social Security. The decision concerns the following Regulations:

**32005 R 0647:** Regulation (EC) N° 647/2005 of the European Parliament and of the Council of 13 April 2005 (OJ L 117, 4.5.2005, p. 1) and

**32006 R 0629:** Regulation (EC) N° 629/2006 of the European Parliament and of the Council of 5 April 2006 (OJ L 114, 27.4.2006, p. 1)

4. The Joint Committee Decision incorporating Regulations (EC) Nos 647/2005 and 629/2006 into Annex VI of the EEA Agreement foresees several deletions as well as the replacement of an adaptation text in Annex VI which shall be explained in the following:

First, the text of adaptation (m) is replaced in line with the conclusions of the European Court of Justice (ECJ) (case C-299/05) on the amended Article 4(2a) of Regulation (EEC) No 1408/71. Certain entries in Annex IIa of the Regulation are disapplied in line with the annulment by the ECJ, while stating along the latter's judgment that the effects of the inclusion of the Disability Living Allowance in letter (d) under the heading "AA.UNITED KINGDOM" shall be upheld as regards the mobility part of that allowance.

The replacement of adaptation (m) includes the deletion of the current letter (d) under the heading "ZB. LIECHTENSTEIN" in view of the judgment delivered by the EFTA Court in case E-5/06, declaring that Liechtenstein, by applying a residence requirement for the entitlement to the helplessness allowance, failed to fulfil its obligations pursuant to Council Regulation (EEC) No 1408/71. Furthermore, the text of letters (a) and (c) under the heading "ZC. NORWAY" in adaptation (m) of point 1 (Council Regulation (EEC) No 1408/71) is deleted.

Second, the Joint Committee Decision replaces adaptation (n) of point 1 (Council Regulation (EEC) No 1408/71). This replacement in fact deletes all points in adaptations (n) which foresee that there is no agreement between two EEA countries (i.e. "No convention" or "None"). Furthermore, it deletes points 331, 337, 345, 359, 370, 371 and 373 in adaptation (n) due to the fact that the agreements therein mentioned do not fulfil the conditions mentioned in Recital 4 of Regulation (EC) No 647/2005 (this concerns agreements between Liechtenstein – Germany, Liechtenstein – Italy, Liechtenstein – Austria, Norway – Greece, Norway – Netherlands, Norway – Austria and Norway – Portugal). At the same time, the remaining points are re-

numbered and the text of these points is aligned with the wording used in Regulation (EC) No 647/2005.

Third, for the same reasons as mentioned above, adaptation (o) of point 1 (Council Regulation (EEC) No 1408/71) is deleted.

Fourth, Liechtenstein has requested to delete the text of paragraph 1 under the heading 'ZB. LIECHTENSTEIN' in adaptation (t) of point 1 (Council Regulation (EEC) No 1408/71). The reason put forward by Liechtenstein is the following:

This entry was necessary because of the so-called "insurance clause" which was in force when Liechtenstein joined the EEA in 1995. According to the Liechtenstein legislation in 1995, invalidity pensions by the Liechtenstein Invalidity Insurance could only be granted if the applicant was insured with the Liechtenstein Invalidity Insurance on the very date on which the risk materialized (i.e. on the very date on which the person became disabled). This provision of the national law ("insurance clause") was in conflict with the right to free movement of persons – therefore paragraph (1) under the heading 'ZB. LIECHTENSTEIN' in adaptation (t) was foreseen in Annex VI.

On 1 May 2001 the national provisions have been amended. The so-called "insurance clause" is now met if the applicant on the date on which s/he becomes invalid meets any of the following conditions: (a) the person is insured with the Liechtenstein Invalidity Insurance or (b) the person either lives or works in a state with which Liechtenstein has entered social security agreements or (c) the person is insured with the National Insurance of any state with which Liechtenstein has entered social security agreements or (d) the person has at the time of the pension application completed 25% of the contribution period which a person of the same age could have completed if that person was at all times (i.e. as of the age of 20 until the time of the pension application) insured with the Liechtenstein Invalidity Insurance.

In the meaning of lit. (b) and (c), Regulation (EEC) No 1408/71 would be considered as a social security agreement. When applying lit. (d), contribution periods in any EEA State are taken into consideration. It can therefore be concluded that the current paragraph (1) under the heading 'ZB. LIECHTENSTEIN' in adaptation (t) with regard to Council Regulation (EEC) No 1408/71 is no longer necessary and can be deleted.

Finally, the text of adaptation (n) in point 2 (Council Regulation (EEC) No 574/72) is deleted as Regulation (EC) No 647/2005 deletes Annex 11 to Regulation (EEC) No 574/72.

5. Article 1(3) of Council Regulation (EC) No 2894/94 concerning the arrangements for implementing the EEA Agreement envisages that the Council establishes the Community position for decisions extending Community legislation with substantial changes.
6. The draft Decision of the EEA Joint Committee is submitted for the approval of the Council. The Commission aims to put forward the position of the Community in the EEA Joint Committee as soon as possible after the adoption of the Council.

Draft

**DECISION OF THE EEA JOINT COMMITTEE  
No [...]**

**of [...]**

**amending Annex VI (Social security) to the EEA Agreement**

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as amended by the Protocol adjusting the Agreement on the European Economic Area, hereinafter referred to as ‘the Agreement’, and in particular Article 98 thereof,

Whereas:

- (1) Annex VI to the Agreement was amended by Decision of the EEA Joint Committee No .../... of ...<sup>1</sup>.
- (2) Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 amending Council Regulations (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71<sup>2</sup> is to be incorporated into the Agreement.
- (3) Regulation (EC) No 629/2006 of the European Parliament and of the Council of 5 April 2006 amending Council Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community and Council Regulation (EEC) No 574/72 laying down the procedure for implementing Regulation (EEC) No 1408/71<sup>3</sup> is to be incorporated into the Agreement.
- (4) The judgment of the European Court of Justice in case C-299/05, which annuls certain entries in Regulation (EC) No 647/2005, and the judgment of the EFTA Court in case E-5/06 are taken into account,

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<sup>1</sup> OJ L ...

<sup>2</sup> OJ L 117, 4.5.2005, p. 1.

<sup>3</sup> OJ L 114, 27.4.2006, p. 1.

HAS DECIDED AS FOLLOWS:

*Article 1*

Annex VI to the Agreement shall be amended as follows:

1. The following indents shall be added in point 1 (Council Regulation (EEC) No 1408/71):
  - ‘- **32005 R 0647**: Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 (OJ L 117, 4.5.2005, p. 1),
  - **32006 R 0629**: Regulation (EC) No 629/2006 of the European Parliament and of the Council of 5 April 2006 (OJ L 114, 27.4.2006, p. 1).’
2. The text of adaptation (m) in point 1 (Council Regulation (EEC) No 1408/71) shall be replaced by the following:
  - ‘(i) Annex IIa shall be read as follows:

Point (b) under the heading ‘Y. FINLAND’, point (c) under the heading ‘Z. SWEDEN’ and points (d) to (f) under the heading ‘AA. UNITED KINGDOM’ do not apply with regard to the EFTA States.

However, the effects of the inclusion of the Disability Living Allowance in point (d) under the heading ‘AA. UNITED KINGDOM’ are maintained as regards solely the “mobility” part of that allowance.
  - (ii) The following shall be added to Annex IIa:

ZA. ICELAND

None.

ZB. LIECHTENSTEIN

    - (a) Allowances for blind persons (Law on the granting of allowances for blind persons of 17 December 1970).
    - (b) Maternity allowances (Law on the granting of maternity allowances of 25 November 1981).
    - (c) Supplementary benefits to the old age, survivors’ and invalidity insurance (Law on supplementary benefits to the old age, survivors’ and invalidity insurance of 10 December 1965 as revised on 12 November 1992).

ZC. NORWAY

    - (a) Guaranteed minimum supplementary pension to persons who are born disabled or become disabled at an early age in accordance

with Articles 7-3 and 8-4 of the National Insurance Act of 17 June 1966 No 12.

- (b) Special benefits in accordance with the Act of 29 April 2005 No. 21 on supplementary allowance to persons with short periods of residence in Norway.’

3. The text of adaptation (n) in point 1 (Council Regulation (EEC) No 1408/71) shall be replaced by the following:

‘The following shall be added to Annex III(A):

#### ICELAND – DENMARK

Article 10 of the Nordic Convention on Social Security of 15 June 1992, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making a more expensive return travel to the country of residence necessary.

#### ICELAND – FINLAND

Article 10 of the Nordic Convention on Social Security of 15 June 1992, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making a more expensive return travel to the country of residence necessary.

#### ICELAND – SWEDEN

Article 10 of the Nordic Convention on Social Security of 15 June 1992, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making a more expensive return travel to the country of residence necessary.

#### ICELAND – NORWAY

Article 10 of the Nordic Convention on Social Security of 15 June 1992, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making a more expensive return travel to the country of residence necessary.

#### NORWAY – DENMARK

Article 10 of the Nordic Convention on Social Security of 15 June 1992, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making a more expensive return travel to the country of residence necessary.

#### NORWAY – FINLAND

Article 10 of the Nordic Convention on Social Security of 15 June 1992, concerning coverage of extra travel expenses in case of sickness during stay in

another Nordic country making a more expensive return travel to the country of residence necessary.

#### NORWAY – SWEDEN

Article 10 of the Nordic Convention on Social Security of 15 June 1992, concerning coverage of extra travel expenses in case of sickness during stay in another Nordic country making a more expensive return travel to the country of residence necessary.’

4. The text of adaptation (o) in point 1 (Council Regulation (EEC) No 1408/71) shall be deleted.
5. The text of paragraph 1 under the heading ‘ZB. LIECHTENSTEIN’ in adaptation (t) of point 1 (Council Regulation (EEC) No 1408/71) shall be deleted.
6. The following indents shall be added in point 2 (Council Regulation (EEC) No 574/72):
  - ‘ - **32005 R 0647**: Regulation (EC) No 647/2005 of the European Parliament and of the Council of 13 April 2005 (OJ L 117, 4.5.2005, p. 1),
  - **32006 R 0629**: Regulation (EC) No 629/2006 of the European Parliament and of the Council of 5 April 2006 (OJ L 114, 27.4.2006, p. 1).’
7. The text of adaptation (n) in point 2 (Council Regulation (EEC) No 574/72) shall be deleted.

#### *Article 2*

The texts of Regulations (EC) Nos 647/2005 and 629/2006 in the Icelandic and Norwegian languages, to be published in the EEA Supplement to the *Official Journal of the European Union*, shall be authentic.

#### *Article 3*

This Decision shall enter into force on [...], provided that all the notifications under Article 103(1) of the Agreement have been made to the EEA Joint Committee\*.

#### *Article 4*

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Union*.

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\* [No constitutional requirements indicated.] [Constitutional requirements indicated.]

Done at Brussels, [...].

*For the EEA Joint Committee  
The President  
[...]*

*The Secretaries  
to the EEA Joint Committee  
[...]*