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**Title**

ANNEXES

**Created** 20/10/2009

**Modified** 25/11/2009

## References:

- **Recital(s):** see 4 to 6 of Regulation 988/2009 and Attachment 1 to this note.
- **BR :** as modified by Regulation 988/2009 and see Attachment 1 to this note). [Article 88 BR
- **IR:** Article 92 (Amendment of the annexes).
- **AC Decision (s) :**
- **ECJ CASE Law:**

## Comments:

- Roman numbering is used for annexes to the Basic Regulation; Arabic numbering is used for the annexes to the IR.
- Compared to 1408/71, the volume of the annexes has been significantly reduced. For instance, Annex I of former Regulation 1408/71 has disappeared as it was not needed any more due to the extension of the personal scope of BR.

### The making of the annexes

- the above-mentioned recitals of the Regulations explain the method followed by the annexes with a view to simplification, transparency and equal treatment:

a common approach was followed in order to ensure that entries in respect of different Member States which were of a similar nature, or which pursued the same objective, were in principle dealt with in a similar manner.

- as the aim of Regulation (EC) No 883/2004 is to coordinate social security legislation for which Member States are exclusively responsible, entries which are not compatible with its purpose or objectives, and entries seeking solely to clarify the interpretation of national legislation, have not been included in that Regulation.

- where requests for entries into Annex XI raised issues that were common to several Member States, those issues were dealt with at a more general level, either by clarification in the body of Regulation (EC) No 883/2004 or in another of its Annexes, or through a provision in the implementing Regulation [referred to in Article 89 of Regulation (EC) No 883/2004

### Amendment of the annexes

- : a speedier and lighter procedure to update some of the annexes is provided in Article 92 IR. This "fast track procedure" via a Commission regulation applies only where no I points touching upon rights of individuals are at stake. So, a contrario, the procedure does not concern annexes I, II; III; IV; V and X of the BR where some rights may be affected. In these circumstances the co decision procedure remains: [http://ec.europa.eu/codecision/stepbystep/index\\_fr.htm](http://ec.europa.eu/codecision/stepbystep/index_fr.htm). Attachment 2 to this note sets out which amendment procedure applies to which annex.

- **comparison between 1408/71 and 574/72 annexes and BR and IR annexes** : Attachment 3 contains a table of the annexes of both regulations BR and IR, as compared with the annexes of former regulations 1408/71 and 574/72

- **An electronically edited annex 4 IR to identified the entities enable to deal with coordination matters in the Member states.** Annex 4 describes the content of the electronic directory (see note on electronic directory) which is accessible to the public. This directory according to Article 88 paragraph 4 IR will allow clerks as well as citizens to have the details of entities they can contact as they are entitled to deal with coordination matters in their MS. In particular contain the list of the **liaison bodies** defined in Article 1 2 (b) IR which are designated to respond to requests for information and assistance for the application of both regulation BR and IR .

### To go further:

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## Attachment 1 to note on "Annexes"

<b>Reference to annex in BR and IR</b>		<b>Annex referred to</b>
BR	Recital 37 – special non contributory benefits	X
BR	Recital 42 – non active 43	XI
BR	Art. 1 §2 – family benefits	I
BR	Art. 3 §2 – material scope	XI
BR	Art. 18 §2 – advantage for a family member of a frontier worker	III
BR	Art. 27 §2 – advantage for pensionner	IV
BR	Art. 28 – special rules for retired frontier workers	V
BR	Art. 44 §1 – invalidity benefits	VI
BR	Art. 46 §3	VII
BR	Art. 51 – old-age pension aggregation of periods	XI
BR	Art. 52 §4 – award of benefits	VIII
BR	Art. 54 §2 – overlapping of benefits of the same kind	IX
BR	Art. 56 – additional provisions for the calculation of benefits	XI
BR	Art. 70 §2 – special non contributory cash benefits	X
BR	Art. 83 – implementation of national legislation	XI
BR	Art. 88 §1	Updating of the Annexes
IR	Recital 5	4
IR	Art. 8 §1 – administrative arrangements	II
IR	Art. 8 §2	1
IR	Art. 9 §2	1
IR	Art. 9 §3	5
IR	Art. 32 – special implementing measures	2
IR	Art. 4 §1 – special implementing measures	2
IR	Art. 49 – determination of the degree of invalidity	VII
IR	Art. 63 §1, 2 – identification of the MS concerned	3

IR	Art. 64 §3 – calculation method of the monthly fixed amount	IV
IR	Art. 70 – reimbursement of unemployment benefits	5
IR	Art. 88 §4 – notifications	4
IR	Art. 92 – amendement of the annex	1, 2, 3, 5, 5, VI, VII, VIII, IX...



## Attachment 2

### List of the Annexes to Regulation 883/2004 (BR) and xxx/2009 (IR)

Roman figures correspond to Annexes of Regulation 883/04

Arabic figures correspond to Annexes of the Implementing Regulation

Number	Title	Amendment procedure	
		By a Council Regulation	By a Commission Regulation
I	Advances of maintenance payments and special childbirth and adoption allowances	X	
II	Provisions of conventions which remain in force and which, where applicable, are restricted to the persons covered thereby	X	
III	Restriction of rights to benefits in kind for members of the family of a frontier worker	X	
IV	More rights for pensioners returning to the competent Member State	X	
V	More rights for former frontier workers who return to their previous Member State of activity as an employed or self-employed person (applicable only if the Member State in which the competent institution responsible for the costs of the benefits in kind provided to the pensioner in his/her Member State of residence is situated also appears on the list)	X	
VI	Identification of type a legislation which should be subject to special coordination		X
VII	Concordance between the legislations of Member States on conditions relating to the degree of invalidity		X
VIII	Cases in which the independent benefit is equal to or higher than the pro rata benefit		X
IX	Benefits and agreements which allow the application of article 54		X

X	Special non-contributory cash benefits	X	
XI	Special provisions for the application of the legislation of the Member States	X	
1	Implementing provisions for bilateral agreements remaining in force and new bilateral implementing agreements (referred to in Article 8(1) and Article 9(2) of the implementing Regulation)		X
2	Special schemes for civil servants (referred to in Articles 31 and 41 of the implementing Regulation)		X
3	Member States claiming the reimbursement of the cost of benefits in kind on the basis of fixed amounts (referred to in Article 63(1) of the implementing Regulation)		X
4	Details of the database referred to in Article 88(4) of the implementing Regulation		X
5	Member States determining, on a reciprocal basis, the maximum amount of reimbursement referred to in the third sentence of Article 65(6) of the basic Regulation, on the basis of the average amount of unemployment benefits provided under their legislations in the preceding calendar year (referred to in Article 70 of the implementing Regulation)		X



## Attachment 3 - Comparison between the Annex of Regulation (EC) 1408/71 and the Annex of Regulation (EC) 883/2004

<p><b>COUNCIL REGULATION (EC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (8) (9) (10) (11)</b></p>	<p><b>REGULATION (EC) No 883/2004 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on the coordination of social security systems</b></p>
<p><b>Annex I:</b> Persons covered by the Regulation</p>	<p><b>No equivalent as superfluous due to the extension of the personal scope – see Art. 2 BR.</b></p>
<p><b>Annex II (I):</b> Special schemes for self-employed persons excluded from the scope of the Regulation pursuant to the fourth subparagraph of Article 1 (j).</p>	<p><b>No equivalent on grounds of Simplification:</b> - fewer exceptions to general rules.</p>
<p><b>Annex II (II):</b> Special childbirth or adoption allowances excluded from the scope of the Regulation under the terms of Article 1 (u) (i)</p>	<p><b>Annex I (II):</b> Special childbirth and adoption allowances</p>
<p><b>Annex II (III):</b> Special non-contributory benefits within the meaning of Article 4 (2b) which do not fall within the scope of the Regulation</p>	<p>This category does not exist anymore in new Annex X, taking into account recent case law of the Court ( C- 286/03 Hosse)</p>
<p><b>Annex II (a):</b> Special non-contributory cash benefits</p>	<p><b>Annex X:</b> Special non-contributory cash benefits</p>
<p><b>Annex III:</b> Provisions of social security conventions remaining applicable notwithstanding article 6 of the regulation – Provisions of social security conventions remaining which to not apply to all persons to whom the regulation applies</p>	<p><b>Annex II:</b> Provisions of conventions which remain in force and which, where applicable, are restricted to the persons covered thereby. (On the basis of the same criteria laid down in Regulation 1408/71 as amended by Regulation 647/05)</p>
<p><b>Annex IV (a):</b> Legislations referred to in Article 37 (1) of the Regulation under which the amount of invalidity benefits is independent of the length of periods of insurance</p>	<p><b>Annex VI:</b> has a different function. Old annex IV a) was declaratory whereas the entries in new annex VI reflect a choice of the M. S. concerned.</p>
<p><b>Annex IV (b):</b> Special schemes for self-employed persons within the meaning of Articles 38 (3) and 45 (3) of Regulation No 1408/71</p>	<p><b>No equivalent on grounds of simplification:</b> fewer exceptions to general rules.</p>

<b>Annex IV (c):</b> Cases referred to in Article 46 (1) (b) of the Regulation where the calculation of benefit in accordance with Article 46 (2) of the Regulation may be waived	<b>Annex VIII:</b> Part I - The conditions for being included in this part of the Annex have been strengthened. Part II of this Annex includes cases where the pro-rata calculation does not apply.
<b>Annex IV (d):</b> Benefits and agreements referred to in Article 46b(2) of the Regulation	<b>Annex IX:</b>
<b>Annex V:</b> Concordance between the legislations of Member States on conditions relating to the degree of invalidity	<b>Annex VII:</b> Concordance between the legislations of Member States on conditions relating to the degree of invalidity
<b>Annex VI:</b> Special procedures for applying the legislations of certain Member States	<b>Annex XI:</b> Special provisions for the application of the legislation of the Member States
<b>Annex VII:</b> Instances in which a person shall be simultaneously subject to the legislation of two Member States	<b>No equivalent on grounds of simplification:</b> - fewer exceptions to the general principle that one legislation only is applicable
<b>Annex VIII:</b> Schemes that provide only for family allowances or supplementary or special allowances for orphans	<b>No equivalent as superfluous:- see Art. 69 BR.</b>
-	<b>Annex I (I):</b> Advances of maintenance allowances. New annex as a reaction to case law. (see recital 36 BR)
-	<b>Annex III:</b> Restriction of rights to benefits in kind for members of the family of a frontier worker. Art. 18 §2 .
-	<b>Annex IV:</b> More rights for pensioners returning to the competent Member State. Art. 27§2. New annex.
-	<b>Annex V:</b> More rights for former frontier workers who return to their previous Member State of activity as an employed or self-employed person (applicable only if the member State in which the competent institution responsible for the costs of the benefits in kind provided to the pensioner in his/her Member State of residence is situated also appears on the list) Art. 28 BR