

DECISION No P1**of 12 June 2009****on the interpretation of Articles 50(4), 58 and 87(5) of Regulation (EC) No 883/2004 of the European Parliament and of the Council for the award of invalidity, old-age and survivors' benefits****(Text of relevance to the EEA and to the EC/Switzerland Agreement)****(2010/C 106/07)**

THE ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS,

Member States have already been taken into account for the award of the benefit and no periods have been acquired following the award of the initial benefit.

Having regard to Article 72(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽¹⁾, under which the Administrative Commission is responsible for dealing with all administrative questions or questions of interpretation arising from the provisions of Regulation (EC) No 883/2004 and 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 ⁽²⁾,

However, where additional conditions apply (other than the fulfilment of insurance periods), such as the attainment of the age required for the award of the benefit or a change in the number of children to be taken into account, this shall automatically require a new calculation to be made.

Having regard to Articles 50(4), 58 and 87(5) of Regulation (EC) No 883/2004,

2. The institution which makes a new calculation of a benefit which was previously awarded by it shall, for the calculation, take into account all the periods of insurance and/or residence, as well as any other condition which the beneficiary fulfils under its own legislation and under the legislation of the other Member States on the date of the award of the recalculated benefit.

Whereas it is necessary to clarify the application of Article 50(4), Article 58 and Article 87(5) of Regulation (EC) No 883/2004 and to provide the necessary guidance to the institutions tasked with the implementation of these provisions,

Acting in accordance with the conditions laid down in Article 71(2) of Regulation (EC) No 883/2004,

3. The relevant day shall be the day on which the risk materialised in the Member State where conditions for entitlement were last satisfied.

HAS DECIDED AS FOLLOWS:

I. Application of Article 50(4) of Regulation (EC) No 883/2004

1. The institution which pays a benefit shall automatically make a new calculation when it is informed that the beneficiary satisfies the conditions for the award of a benefit under the legislation of another Member State.

A new calculation shall not be made in the situation where the periods completed under the legislation of the other

II. Application of Article 58 of Regulation (EC) No 883/2004

4. The institution which awards a supplement in accordance with Article 58 of Regulation (EC) No 883/2004 shall notify the competent institution of any other Member State under whose legislation the beneficiary is entitled to a benefit awarded in accordance with the provisions of Chapter 5 of the Regulation.
5. The competent institution of any other Member State which provides benefits under Chapter 5 of Regulation (EC) No 883/2004 to the beneficiary shall every January notify the institution paying the supplement of the amount of the benefits it pays to the beneficiary as of 1 January of that same year.

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

III. Application of Article 87(5) of Regulation (EC) No 883/2004

6. When a person makes an application for the review of an invalidity pension under the provisions of Article 87(5) of Regulation (EC) No 883/2004, it shall not be necessary to carry out a new medical examination, provided that the information contained in the beneficiary's file can be regarded as adequate.

Where this is not the case, the institution concerned may request that a new medical examination is carried out.

IV. Publication and entry into force

7. This Decision shall be published in the *Official Journal of the European Union*. It shall apply from the date of entry into force of Regulation (EC) No 987/2009.

The Chair of the Administrative Commission

Gabriela PIKOROVÁ
