

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (80) 554 final

Brussels, 2nd October 1980

PROPOSAL FOR A DECISION OF THE COUNCIL

concerning common action within the framework of
the International Labour Organization

(Presented by the Commission to the Council)

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EXPLANATORY MEMORANDUM

1. In conjunction with the Council of Europe, the International Labour Office has drafted a European Agreement concerning the Provision of Medical Care to Persons during Temporary Stay. Any European State that is a member of the ILO may accede to the Agreement.

The preparation and drafting of the text by international experts has virtually been completed. A Governmental Conference will be held in Geneva from 14-18 October 1980. At the conclusion of the Conference the States concerned will sign the Agreement. Subsequently, the Agreement will have to be ratified by the signatory States.

The purpose of the Agreement is to guarantee the provision of medical care to persons during temporary residence, in particular to tourists, students, trainees and persons on business trips whose condition requires such care in a country other than the one in which they are entitled to social security protection in the event of sickness, maternity or accident.

2. The Regulations made in pursuance of Article 51 of the EEC Treaty also make provision for the granting of medical treatment in the case of temporary residence (EEC Council Regulations Nos 1408/71 and 574/72).

The European Agreement, however, goes a step further, as under the terms of Article 2 thereof:

- it covers all insured persons and not solely employed persons;
- it does not lay down a nationality condition;
- it applies to all the European States that belong to the ILO.

3. In respect of nationals of the Member States who work as employed persons, as well as the members of their families, who move within the Community, the Agreement cannot replace the aforementioned Community

Regulations since sole Article 51 of the EEC Treaty confers sole jurisdiction on the Community in respect of these persons.

The same applies to the Agreements that the Community has concluded with certain European States (Turkey, Portugal, Yugoslavia), which include provisions on social security, in particular the provision of medical care to persons during temporary residence.

4. Article 3 of the Agreement provides that the Agreement replaces only such social security Conventions as are mentioned in Annex II to the Agreement by mutual agreement between the contracting parties.

Bearing this in mind, the Member States must ensure that provisions made in pursuance of the EEC Treaty are not mentioned in Annex II to the Agreement.

For the implementation of this common action, the Commission proposes that, in accordance with Article 116 of the EEC Treaty, the Council adopt a decision.

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Proposal for a
COUNCIL DECISION

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,
and in particular Articles 51 and 116 thereof;

Having regard to the proposal from the Commission;

Whereas Article 51 of the Treaty provides that the Council shall adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; whereas pursuant to this Article the Council has adopted Regulation (EEC) No 1408/71 of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community¹ and Regulation (EEC) No 574/72² on the procedure for implementing the preceding Regulation;

Whereas, moreover, the Community has concluded agreements with a number of European States laying down social security provisions for workers who are nationals of those States and who move within the Community;

Whereas the European Agreement concerning the Provision of Medical Care to Persons during Temporary Residence, which has been drafted by the International Labour Office and to which all European States which are members of the International Labour Organization may accede, covers, inter alia, the persons and matters referred to in Article 51 of the EEC Treaty and the agreements concluded by the Community with European non-member countries;

Whereas, however, under Article 3 of the European Agreement concerning the Provision of Medical Care to Persons during Temporary Residence, that

¹OJ No L 149, 5.7.1971, p. 2.

²OJ No L 74, 27.3.1972, p. 1.

Agreement replaces the corresponding provisions of any social security Convention only if such provisions are mentioned in Annex II to the Agreement, by mutual agreement between the contracting parties concerned;

Whereas the replacement of the Community provisions referred to by the Agreement should be avoided; whereas consequently the Member States should see that such provisions are not mentioned in Annex II of the Agreement;

HAS DECIDED AS FOLLOWS:

Sole Article

1. When Annex II to the European Agreement concerning the Provision of Medical Care to Persons during Temporary Residence is being drafted, the Member States shall ensure that the provisions adopted in pursuance of the EEC Treaty in this field are not mentioned in the said Annex.
2. When signing the Agreement, each Member State shall declare that the Agreement cannot be applied in its dealings with the other Member States of the Community.

Done at Brussels

For the Council