

DECISION No 167
of 2 December 1997
amending Decision No 146 of 10 October 1990 concerning the interpretation of
Article 94(9) of Regulation (EEC) No 1408/71

(Text with EEA relevance)

(98/442/EC)

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS,

Having regard to Article 81(a) of Council Regulation 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, under which it is responsible for dealing with all administrative questions and questions of interpretation arising from the provisions of Regulation (EEC) No 1408/71 and subsequent Regulations,

Having regard to Council Regulation (EEC) No 3427/89 of 30 October 1989 which introduces a uniform solution for all the Member States to the problem of the payment of family benefits to members of the family not residing in the territory of the competent State,

Having regard to Article 94(9) of Regulation (EEC) No 1408/71, as amended by Regulation (EEC) No 3427/89, which provides that the family allowances received by employed persons employed in France in respect of the members of their families residing in another Member State on the date of 15 November 1989 shall continue to be paid at the rates, within the limits and according to the procedures applicable on that date, as long as their amount exceeds that of the benefits that would be due as from the date of 16 November 1989 and as long as the persons concerned are subject to French legislation, without taking account *inter alia* of interruptions during periods of receipt of unemployment benefits,

Whereas the wording of the second subparagraph of paragraph 1(c) of Decision No 146 ⁽¹⁾ adds to the conditions laid down in Article 94(9) of Regulation (EEC) No 1408/71 in respect of not taking account of periods of unemployment; whereas it refers to unemployment benefits under French legislation;

Whereas this restriction, which is not consistent with the provisions of Regulation (EEC) No 1408/71, should be removed;

Acting in accordance with the conditions laid down in Article 80(3) of Regulation (EEC) No 1408/71,

HAS DECIDED AS FOLLOWS:

1. The second subparagraph of paragraph 1(c) of Decision No 146 of 10 October 1990 concerning the interpretation of Article 94(9) of Regulation (EEC) No 1408/71 shall be replaced as follows:

‘With regard to the condition, laid down in Article 94(9), of the person concerned remaining subject to French legislation, no account shall be taken of interruptions of work of less than one month or of periods of temporary suspension of work due to

⁽¹⁾ OJ L 235, 23. 8. 1991, p. 9.

illness, maternity, accident at work, occupational disease or unemployment, with the continued receipt of pay or receipt of corresponding benefits, except for pensions and annuities or because of paid leave, a strike or a lock out'.

2. This Decision shall be applicable from 1 September 1991.

Georges SCHROEDER

*The Chairman of the Administrative
Commission*
