Regulation (EU) 2019/500 of the European Parliament and of the Council of 25 March 2019 establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom from the Union (Text with EEA relevance)

REGULATION (EU) 2019/500 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 March 2019

establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom from the Union

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 48 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, namely from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.

(2) In the absence of a withdrawal agreement or of an extension of the two-year period after the United Kingdom's notification of its intention to withdraw from the Union, the Union rules on social security coordination provided for in Regulations (EC) No 883/2004[(2)] and (EC) No 987/2009[(3)] of the European Parliament and of the Council will cease to apply to and in the United Kingdom from 30 March 2019.

(3) As a result, persons who, in their capacity as Union citizens, have legitimately exercised the right to freedom of movement or freedom of establishment enshrined in Articles 45 and 49 of the Treaty on the Functioning of the European Union (TFEU) prior to the date of the United Kingdom's withdrawal from the Union, as well as members of their families and survivors, are no longer able to rely on the Union rules on social security coordination as regards their social security entitlements on the basis of facts and events that occurred and periods of insurance, employment, self-employment or residence that were completed before the withdrawal date, and that involved the United Kingdom. Stateless persons and refugees who are or have been subject to the legislation of one

or more Member States and who are or have been in situations involving the United Kingdom, as well as members of their families and survivors, will equally be affected.

(4) To achieve the aim of safeguarding social security entitlements for the persons concerned, Member States should continue applying the Union principles of equality of treatment, assimilation and aggregation as laid down by Regulations (EC) No 883/2004 and (EC) No 987/2009, as well as the rules of those Regulations that are necessary to give effect to those principles, as regards persons covered, facts or events that occurred, and periods that were completed prior to the withdrawal of the United Kingdom from the Union.

(5) This Regulation does not affect existing social security conventions and agreements between the United Kingdom and one or more Member States which are in compliance with Article 8 of Regulation (EC) No 883/2004 and Article 9 of Regulation (EC) No 987/2009. This Regulation is without prejudice to the possibility for the Union or the Member States to take measures addressing administrative cooperation and the exchange of information with the competent institutions in the United Kingdom for the purpose of giving effect to the principles of this Regulation. Furthermore, this Regulation does not affect any competence of either the Union or the Member States to conclude social security conventions and agreements with third countries or with the United Kingdom that cover the period after the day on which the Treaties cease to apply to the United Kingdom.

(6) This Regulation does not affect any rights that were acquired or were in the process of being acquired in accordance with the legislation of a Member State during the period before the date of application of this Regulation. Good cooperation is necessary for such rights to be protected and upheld. It is important to ensure that appropriate and timely information is available to the persons concerned.

(7) Since the objective of this Regulation, namely to achieve the uniform unilateral application of the social security principles of equality of treatment, assimilation and aggregation, cannot be sufficiently achieved by the Member States but can rather, by reason of coordinating their response, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 TEU. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(8) In view of the fact that, in the absence of a withdrawal agreement or of an extension of the two-year period after the United Kingdom's notification of its intention to withdraw from the Union, the Treaties will cease to apply to the United Kingdom from 30 March 2019, and in view of the need to provide legal certainty, it was considered appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the TFEU and to the Treaty establishing the European Atomic Energy Community.

(9) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union* and should apply from the day following that on which the Treaties cease to apply to the United Kingdom,

unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date,

HAVE ADOPTED THIS REGULATION:

Article 1

Definitions

For the purposes of this Regulation, the definitions laid down in Article 1 of Regulation (EC) No 883/2004 and Article 1 of Regulation (EC) No 987/2009 apply.

Article 2

Persons covered

This Regulation applies to the following persons:

(a) nationals of a Member State, stateless persons and refugees who are or have been subject to the legislation of one or more Member States and who are or have been in a situation involving the United Kingdom before the date of application of this Regulation, as well as members of their families and survivors;

(b) nationals of the United Kingdom who are or have been subject to the legislation of one or more Member States before the date of application of this Regulation, as well as members of their families and survivors.

Article 3

Matters covered

This Regulation applies to all branches of social security provided for in Article 3 of Regulation (EC) No 883/2004.

Article 4

Equality of treatment

The principle of equality of treatment as laid down in Article 4 of Regulation (EC) No 883/2004 shall apply to the persons referred to in Article 2 of this Regulation as regards any situation that has occurred before the date of application of this Regulation.

Article 5

Assimilation and aggregation

1 The principle of assimilation as laid down in Article 5 of Regulation (EC) No 883/2004 shall apply as regards benefits or income acquired and facts or events that have occurred in the United Kingdom before the date of application of this Regulation.