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Title

Advances of maintenance allowances

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References:

- **Recital(s):** ---36 BR -
- **BR :** ---Article 1 (z), annex I
- **IR:** ---
- **AC Decision (s) :** ---
- **ECJ CASE Law:**--- Case C-255/99, **Humer**; Case C-302/02, **Nils Laurin Effing** .

Comments:

- Advances of maintenance allowances have been dealt with in two ECJ Judgments, Case C-255/99, Humer and Case C-302/02 Effing. The Court considered these benefits as family benefits in the meaning of Article 4(1)(h) of Regulation No 1408/71;
- However, having taken into account the specific nature of these benefits, the co-legislator chose to exclude these benefits from the scope of the coordination Regulations. Recital 36 BR states as follows : *Advances of maintenance allowances are recoverable advances intended to compensate for a parent's failure to fulfil his/her legal obligation of maintenance to his/her own child, which is an obligation derived from family law. Therefore, these advances should not be considered as a direct benefit from collective support in favour of families. Given these particularities, the coordinating rules should not be applied to such maintenance allowances. Annex I BR contains a list of those benefits.*
- It is important to stress that, with regard to Community law, and in particular Regulation 1612/68 and Article 39 EC, , advances of maintenance allowances should in certain situations also be paid to a person who does not reside in the Member State in which such an advantage is provided. Principles of equal treatment and non discrimination on grounds of nationality support these provisions.

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To go further:

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