



**2016/0397(COD)**

10.11.2017

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (COM(2016)0815 – C8-0521/2016 – 2016/0397(COD))

Committee on Employment and Social Affairs

Rapporteur: Guillaume Balas

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▯ symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (COM(2016)0815 – C8-0521/2016 – 2016/0397(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0815),
  - having regard to Article 294(2), and Article 48 of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0521/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the French Senate, asserting that the draft legislative act does not comply with the principle of subsidiarity,
  - having regard to the opinion of the European Economic and Social Committee of 7 July 2017<sup>1</sup>,
  - having regard to the opinion of the Committee of the Regions of 12 July 2017<sup>2</sup>,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Employment and Social Affairs and the opinion of the Committee on Petitions (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

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<sup>1</sup> OJ C 345, 13.10.2017, p. 85.

<sup>2</sup> OJ C 342, 12.10.2017, p. 65.

## Amendment 1

### Proposal for a regulation Citation 4 a (new)

*Text proposed by the Commission*

*Amendment*

– ***Having regard to the opinion of the Committee of the Regions <sup>1a</sup>,***

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<sup>1a</sup> ***OJ C 342, 12.10.17, p. 65.***

Or. en

## Amendment 2

### Proposal for a regulation Recital 1

*Text proposed by the Commission*

*Amendment*

(1) A modernised system of social security coordination started to apply from 1 May 2010 with Regulations (EC) No 883/2004 and (EC) No 987/2009.

(1) A modernised system of social security coordination started to apply from 1 May 2010 with Regulations (EC) No 883/2004 and (EC) No 987/2009, ***with the exception of the provisions on the introduction of the Electronic Exchange of Social Security Information (EESSI) system, intended to help the competent authorities and institutions exchange information more rapidly and more securely.***

Or. fr

## Amendment 3

### Proposal for a regulation Recital 3

*Text proposed by the Commission*

*Amendment*

(3) It has emerged from evaluations and discussions within the Administrative Commission for the Coordination of Social

(3) It has emerged from evaluations and discussions within the Administrative Commission for the Coordination of Social

Security Systems that in the areas of long-term care benefits, unemployment benefits and family benefits the modernisation process should continue.

Security Systems that in the areas of long-term care benefits, unemployment benefits and family benefits the modernisation process should continue *in order, in particular, to ensure that Union citizens can exercise their rights under the regulations and to facilitate the uniform application of Union law through coordination and the exchange of experience and best administrative practices by promoting the use of new technologies.*

Or. fr

#### Amendment 4

##### Proposal for a regulation

##### Recital 4

*Text proposed by the Commission*

(4) It remains essential that the coordination rules keep pace with the evolving legal and societal context in which they operate by further facilitating the exercise of citizens' rights while at the same time ensuring legal clarity, a fair and equitable distribution of the financial burden among the institutions of the Member States involved and administrative simplicity and enforceability of the rules.

*Amendment*

(4) It remains essential that the coordination rules keep pace with the evolving legal, *technological* and societal context in which they operate by further facilitating the exercise of citizens' rights while at the same time ensuring legal clarity, a fair and equitable distribution of the financial burden among the institutions of the Member States involved and administrative simplicity and enforceability of the rules, *in particular by optimising tools and electronic information exchange between the competent authorities and institutions.*

Or. fr

#### Amendment 5

##### Proposal for a regulation

##### Recital 6 a (new)

**(6a)** *On 13 September 2017, the President of the Commission said in his State of the Union speech that ‘in a Union of equals, there can be no second-class workers’ and that it is ‘absurd to have a Banking Authority to police banking standards, but no common Labour Authority for ensuring fairness in our single market’. In its resolution of 14 September 2016 on social dumping in the European Union, Parliament encouraged ‘the Member States to create, where applicable, ad hoc bilateral task forces and, where needed, a multilateral task force including national competent authorities and labour inspectors, to carry out, subject to the approval of all the Member States concerned, on-the-spot cross-border checks, in accordance with the national law of the Member States in which the controls take place, in suspected cases of social dumping, work under illegal conditions or fraud, and to identify ‘letterbox companies’, fraudulent recruitment agencies and abuses of the rules that result in exploitation of workers’.*

Or. fr

## **Amendment 6**

### **Proposal for a regulation**

#### **Recital 6 b (new)**

**(6b)** *In its resolution of 14 January 2014 on effective labour inspections as a strategy to improve working conditions in Europe, Parliament pointed out ‘that a system of electronic networking of all relevant social security authorities, along the lines of the Belgian “Crossroads Bank*



*for Social Security”, making it easier for them to exchange data, is a useful tool for giving national labour inspectorates access to data they need in order to make inspections’ and called on ‘the Commission to investigate the benefits of introducing, and – if appropriate – to make available, a forgery-proof European social security card or other EU-wide electronic document, on which could be stored all the data needed to verify the bearer’s employment relationship, such as details on his or her social security status and working hours, and which would be subject to strict data-protection rules, particularly where privacy-sensitive personal data is processed’.*

Or. fr

#### **Amendment 7**

##### **Proposal for a regulation Recital 6 c (new)**

*Text proposed by the Commission*

*Amendment*

*(6c) In its resolution of 15 March 2017 on obstacles to EU citizens’ freedom to move and work in the internal market, Parliament called for ‘resolute effective steps towards a coordinated system of aggregated social contributions and benefits for every individual across the EU, such as a social security card aimed at facilitating the traceability of social security contributions and entitlements’.*

Or. fr

#### **Amendment 8**

##### **Proposal for a regulation Recital 7**

*Text proposed by the Commission*

(7) In order to ensure clarity regarding the terminology in EU law, the term “posting” should only be used for the posting of workers within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>34</sup>. In addition, to achieve consistency in treatment between employed and self-employed persons it is necessary that the special rules for the determination of applicable legislation in the cases of workers who are temporarily posted *or sent* to another Member State should apply consistently to both employed and self-employed persons.

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<sup>34</sup> OJ L **018**, 21.01.1997 p. 1.

*Amendment*

(7) In order to ensure clarity regarding the terminology in EU law, the term “posting” should only be used for the posting of workers within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>34</sup>. In addition, to achieve consistency in treatment between employed and self-employed persons it is necessary that the special rules for the determination of applicable legislation in the cases of workers who are temporarily posted to another Member State should apply consistently to both employed and self-employed persons.

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<sup>34</sup> OJ L **18**, 21.1.1997, p. 1.

Or. fr

## **Amendment 9**

### **Proposal for a regulation Recital 8**

*Text proposed by the Commission*

(8) In the area of unemployment benefits, the rules on the aggregation of periods of insurance should be applied uniformly by all Member States. With the exception of cross-border workers referred to in Article 65(2), the rules on the aggregation of periods for the purpose of conferring entitlement to unemployment benefits should be subject to the condition that an insured person has most recently completed at least *three months* of insurance in that Member State. The previously competent Member State should become competent for *all* insured persons

*Amendment*

(8) In the area of unemployment benefits, the rules on the aggregation of periods of insurance should be applied uniformly by all Member States. With the exception of cross-border workers referred to in Article 65(2), the rules on the aggregation of periods for the purpose of conferring entitlement to unemployment benefits should be subject to the condition that an insured person has most recently completed at least *one month* of insurance in that Member State. The previously competent Member State should become competent for insured persons who do not

who do not satisfy this condition. In this case, registration with the employment services of the Member State of most recent insurance should have the same effect as registration with the employment services of the Member State, where the unemployed person had been previously insured.

satisfy this condition *by taking into account the period of insurance completed by the person in the Member State of last activity for the purposes of aggregating periods of insurance*. In this case, registration with the employment services of the Member State of most recent insurance should have the same effect as registration with the employment services of the Member State, where the unemployed person had been previously insured.

Or. fr

## Amendment 10

### Proposal for a regulation

#### Recital 9

##### *Text proposed by the Commission*

(9) Following the recommendations in the EU Citizenship Report 2013<sup>35</sup>, there is a need to extend the *minimum* duration of export of unemployment benefits *from three to six months* in order to improve the opportunities for unemployed persons moving to another Member State to look for work and their chances for reintegration into the labour market and to address skills mismatches across borders.

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<sup>35</sup> COM(2013) 269 final.

##### *Amendment*

(9) Following the recommendations in the EU Citizenship Report 2013<sup>35</sup>, *and in order to give tangible effect to the European social rights pillar<sup>35a</sup> in connection with active support for employment*, there is a need to extend the duration of export of unemployment benefits *until exhaustion of the rights acquired by the job seeker* in order to improve the opportunities for unemployed persons moving to another Member State to look for work and their chances for reintegration into the labour market and to address skills mismatches across borders.

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<sup>35</sup> COM(2013) 269 final.

<sup>35a</sup> *See the European Parliament resolution of 19 January 2017 on a European Pillar of Social Rights.*

Or. fr

## Amendment 11

### Proposal for a regulation Recital 10 a (new)

*Text proposed by the Commission*

*Amendment*

***(10a) The new provisions on unemployment benefit for cross-border workers could in some cases worsen the conditions for their return to the labour market. It is essential, therefore, to enhance administrative cooperation between the competent authorities responsible for supporting cross-border workers and for the regulatory framework to facilitate, for example, the steps to be completed in the Member State of residence, by clarifying the competence of the public employment service responsible for providing support to them, and for exchanges between the competent institution of the Member State of last activity and the job seeker to be conducted in the language of the latter.***

Or. fr

## Amendment 12

### Proposal for a regulation Recital 10 b (new)

*Text proposed by the Commission*

*Amendment*

***(10b) Member States may provide for the introduction of differential supplements to bridge the gap between unemployment benefits paid by the Member State of last activity and the Member State of residence.***

Or. fr

## Amendment 13

### Proposal for a regulation Recital 10 c (new)

*Text proposed by the Commission*

*Amendment*

***(10c) It is also important to strengthen cooperation between the competent authorities and to clarify the regulatory framework applicable in order to ensure that Member States – of last activity, of previous activity and/or of residence – do not declare themselves not competent to pay unemployment benefits, to the detriment of insured persons.***

Or. fr

## Amendment 14

### Proposal for a regulation Recital 15

*Text proposed by the Commission*

*Amendment*

(15) With a view to expediting the procedure for the verification and withdrawal of documents (in particular concerning the social security legislation which applies to the holder) in case of fraud and error, it is necessary to strengthen the collaboration and the exchange of information between the issuing institution and the institution requesting a withdrawal. Where there is doubt about the validity of a document or about the correctness of supporting evidence or where there is a difference of views between Member States concerning the determination of the applicable legislation, it is in the interest of the Member States and the persons concerned that the institutions concerned reach an agreement within a reasonable period of time.

(15) With a view to expediting the procedure for the verification, ***rectification*** and withdrawal of documents (in particular concerning the social security legislation which applies to the holder) in case of fraud and error, it is necessary to strengthen the collaboration and the exchange of information between the issuing institution and the institution requesting a withdrawal. Where there is doubt about the validity of a document or about the correctness of supporting evidence or where there is a difference of views between Member States concerning the determination of the applicable legislation, it is in the interest of the Member States and the persons concerned that the institutions concerned reach an agreement within a reasonable period of time. ***In the absence of a response within the specified deadline, the requesting***

*institution shall become competent to determine the legislation applicable.*

Or. fr

## **Amendment 15**

### **Proposal for a regulation Recital 16**

*Text proposed by the Commission*

(16) To ensure the effective and efficient operation of the coordination rules it is necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in order to provide a greater parity with the conditions that apply to persons who are posted *or sent* to pursue economic activity in a single Member State. Moreover, the posting rules providing for the continuation of the applicable legislation should only apply to persons who had a prior link to the social security system of the Member State of origin.

*Amendment*

(16) To ensure the effective and efficient operation of the coordination rules it is necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in order to provide a greater parity with the conditions that apply to persons who are posted to pursue economic activity in a single Member State. Moreover, the posting rules providing for the continuation of the applicable legislation should only apply to persons who had a prior link to the social security system of the Member State of origin *involving membership of at least six months*.

Or. fr

## **Amendment 16**

### **Proposal for a regulation Recital 21 a (new)**

*Text proposed by the Commission*

*Amendment*

***(21a) The European Data Protection Supervisor has been consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and has adopted an opinion<sup>1a</sup>.***

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## **Amendment 17**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 3**

Regulation (EC) No 883/2004

Recital 5c

#### *Text proposed by the Commission*

(5c) Notwithstanding the limitations on the right to equal treatment for economically inactive persons, that arise from the Directive 2004/38/EC or otherwise by virtue of Union law, nothing within this Regulation should restrict the fundamental rights recognised in the Charter of Fundamental Rights of the European Union, notably the right to human dignity (Article 1), the right to life (Article 2) and the right to healthcare (Article 35).

#### *Amendment*

(5c) Notwithstanding the limitations on the right to equal treatment for economically inactive persons **and persons with the right of freedom of movement for the purposes of seeking employment**, that arise from the Directive 2004/38/EC or otherwise by virtue of Union law, nothing within this Regulation should restrict the fundamental rights recognised in the Charter of Fundamental Rights of the European Union, notably the right to human dignity (Article 1), the right to life (Article 2), **the entitlement to social security benefits and social services (Article 34)** and the right to healthcare (Article 35).

## **Amendment 18**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 8**

Regulation (EC) No 883/2004

Recital 47

#### *Text proposed by the Commission*

(47) This Regulation respects fundamental rights and observes the principles recognised in the Charter of

#### *Amendment*

(47) This Regulation respects fundamental rights and observes the principles recognised in the Charter of

Fundamental Rights of the European Union, notably the protection of personal data (Article 8), the freedom to choose an occupation and right to engage in work (Article 15), the right to property (Article 17), the right to non-discrimination (Article 21), the rights of the child (Article 24), the rights of the elderly (Article 25), integration of persons with disabilities (Article 26), the right to family and professional life (Article 33); the right to social security and social assistance (Article 34), the right to health care (Article 35) and the right to freedom of movement and residence (Article 45); and has to be implemented in accordance with those rights and principles.

Fundamental Rights of the European Union, notably the *respect for private and family life (Article 7)*, the protection of personal data (Article 8), the freedom to choose an occupation and right to engage in work (Article 15), the right to property (Article 17), the right to non-discrimination (Article 21), the rights of the child (Article 24), the rights of the elderly (Article 25), integration of persons with disabilities (Article 26), the right to family and professional life (Article 33); the right to social security and social assistance (Article 34), the right to health care (Article 35) and the right to freedom of movement and residence (Article 45); and has to be implemented in accordance with those rights and principles.

Or. en

## Amendment 19

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 8

Regulation (EC) No 883/2004

Recital 48 a (new)

*Text proposed by the Commission*

*Amendment*

***(48a) Nothing within this Regulation limits the independent rights and obligations recognised in the European Social Charter, in particular the right to social security (Article 12), the right to social and medical assistance (Article 13), the right of migrant workers and their families to protection and assistance (Article 19), and the right to protection against poverty and social exclusion (Article 30). This Regulation should be implemented in accordance with those rights and obligations.***

Or. en



## Amendment 20

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 11

Regulation (EC) No 883/2004

Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2. A Member State may require that the access of an economically inactive person residing in that Member State to its social security benefits be subject to the conditions of having a right to legal residence as set out in Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.<sup>44</sup>**

*deleted*

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<sup>44</sup> OJ L 158, 30.4.2004, p. 77.

Or. en

## Amendment 21

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 13

Regulation (EC) No 883/2004

Article 12 – paragraph 1

*Text proposed by the Commission*

*Amendment*

**1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>46</sup> *or sent by that employer to another Member State to perform work on that employer's***

**1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>46</sup> shall continue to be subject to the legislation of the first Member State,**

*behalf* shall continue to be subject to the legislation of the first Member State, provided that ***the anticipated duration of such work does not exceed 24 months and that the person is not posted or sent to replace another employed or self-employed person previously posted or sent within the meaning of this Article.***

provided that:

(a) the anticipated ***or actual*** duration of such work does not exceed [XXX] months and that the person is not posted to replace another employed or self-employed person previously posted within the meaning of this Article; ***and***

(b) ***for a period of at least six months immediately preceding the start of the activity as an employed person, the person concerned is already subject to the legislation of the Member State in which his or her employer is established.***

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<sup>46</sup> OJ L 18, 21.1.1997, p. 1.

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<sup>46</sup> OJ L 18, 21.1.1997, p. 1.

Or. fr

#### *Justification*

*To ensure legal clarity and consistency of the legislative framework it will be necessary to align the provisions on the anticipated or actual duration of the posting in the coordination regulations and Directive 96/71/EC.*

#### **Amendment 22**

##### **Proposal for a regulation**

##### **Article 1 – paragraph 1 – point 13**

Regulation (EC) No 883/2004

Article 12 – paragraph 2

##### *Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the

##### *Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that:

anticipated duration of such activity does not exceed **24** months and that the person is not replacing another posted employed or self-employed person."

(a) the anticipated *or actual* duration of such activity does not exceed *six* months and that the person is not replacing another posted employed or self-employed person, *and*

(b) *for a period of at least six months immediately preceding the start of the activity, the person concerned has already been subject to the legislation of the Member State in which he or she normally pursues his or her activity.*

Or. fr

## Amendment 23

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 13

Regulation (EC) No 883/2004

Article 12 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

*2a. Where a person has been posted in accordance with paragraph 1 or has pursued a self-employed activity in another Member State in accordance with paragraph 2 for at least [XX] months in total, either continuously or with interruptions of not more than three months, no new period under paragraph 1 or paragraph 2 may commence for the same employed or self-employed person and the same Member State until at least six months after the end of the previous period.*

Or. fr

## Amendment 24

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 14 a (new)

Regulation (EC) No 883/2004

Article 15 a (new)

*Text proposed by the Commission*

*Amendment*

**14a.** *The following article is inserted:*

***‘Article 15a***

***Reporters of European media  
organisations posted to another Member  
State***

***Reporters of European media  
organisations posted to another Member  
State may choose between application of  
the legislation of the Member State in  
which they are employed, of the Member  
State of which they are nationals or of the  
Member State in which their principal  
employer is based.’***

Or. fr

## Amendment 25

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 14 b (new)

Regulation (EC) No 883/2004

Article 16 – paragraph 1

*Present text*

*Amendment*

1. Two or more Member States, the competent authorities of these Member States or the bodies designated by these authorities may by common agreement provide for exceptions to Articles 11 to 15 in the interest of certain persons or categories of persons.

**14b.** *In Article 16, paragraph 1 shall be replaced by the following:*

**‘1. Two or more Member States, the competent authorities of these Member States or the bodies designated by these authorities may by common agreement provide for exceptions to Articles 11 to 15 in the interest of certain persons or categories of persons *and establish a common social security scheme for the persons referred to in Articles 12 and 13, provided that that scheme is more***

*favourable to them.'*

Or. fr

([http://www.cleiss.fr/pdf/rgt\\_883-2004.pdf](http://www.cleiss.fr/pdf/rgt_883-2004.pdf))

## **Amendment 26**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 14 c (new)**

Regulation (EC) No 883/2004

Article 16 a (new)

*Text proposed by the Commission*

*Amendment*

**14c. The following article is inserted:**

***'Article 16a***

***Prior issuance of document on applicable legislation***

***Prior to a posting, the posting institution shall be required to issue to the host institution a document confirming the social security legislation applicable to the worker, drawn up in accordance with Articles 11 to 16 and Article 19 of Regulation (EC) No 987/2009.'***

Or. fr

## **Amendment 27**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 17**

Regulation (EC) No 883/2004

Article 35a – paragraph 2

*Text proposed by the Commission*

*Amendment*

2. The Administrative Commission shall draw up a detailed list of long-term care benefits which meet the criteria contained in Article 1 (vb) of this Regulation, specifying which are benefits in kind and which are benefits in cash.

2. The Administrative Commission, ***after consulting the social partners, representative associations of beneficiaries and professional bodies concerned,*** shall draw up a detailed list of long-term care benefits which meet the

criteria contained in Article 1 (vb) of this Regulation, specifying which are benefits in kind and which are benefits in cash.

Or. fr

## Amendment 28

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 19

Regulation (EC) No 883/2004

Article 61 – paragraph 1

#### *Text proposed by the Commission*

1. Except in the cases referred to in Article 65(2), the application of Article 6 shall be conditional on the person concerned having most recently completed a period of at least **three months** of insurance, employment, or self-employment in accordance with the legislation under which the benefits are claimed.

#### *Amendment*

1. Except in the cases referred to in Article 65(2), the application of Article 6 shall be conditional on the person concerned having most recently completed a period of at least **one month** of insurance, employment, or self-employment in accordance with the legislation under which the benefits are claimed.

Or. fr

## Amendment 29

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 19

Regulation (EC) No 883/2004

Article 61 – paragraph 2

#### *Text proposed by the Commission*

2. Where an unemployed person does not satisfy the conditions for the aggregation of periods in accordance with paragraph 1 because the total duration of his or her most recently completed periods of insurance, employment or self-employment in that Member State is less than **three months** that person shall be entitled to unemployment benefits in

#### *Amendment*

2. Where an unemployed person does not satisfy the conditions for the aggregation of periods in accordance with paragraph 1 because the total duration of his or her most recently completed periods of insurance, employment or self-employment in that Member State is less than **one month** that person shall be entitled to unemployment benefits in

accordance with the legislation of the Member State where he or she had previously completed such periods under the conditions and subject to the limitations laid down in Article 64a.

accordance with the legislation of the Member State where he or she had previously completed such periods under the conditions and subject to the limitations laid down in Article 64a.

Or. fr

### **Amendment 30**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 20 – point a**

Regulation (EC) No 883/2004

Article 64 – paragraph 1 – point c

#### *Text proposed by the Commission*

(a) In paragraph 1(c) *the word “three” shall be replaced by “six” and the words “of three months up to a maximum of six months” shall be replaced by the words “of six months up to the end of the period of that person's entitlement to benefits”;*

#### *Amendment*

(a) In paragraph 1, *point* (c) shall be replaced by the *following*:

*‘(c) entitlement to unemployment benefits shall be maintained until their expiry;’*

Or. fr

### **Amendment 31**

#### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 20 – point a a (new)**

Regulation (EC) No 883/2004

Article 64 – paragraph 2

#### *Text proposed by the Commission*

#### *Amendment*

*(aa) Paragraph 2 is deleted;*

Or. fr

## Amendment 32

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 20 – point b)

Regulation (EC) No 883/2004

Article 64 – paragraph 3

*Text proposed by the Commission*

(b) *In paragraph 3, the word “three” shall be replaced by “six” and the words “a maximum of six months” shall be replaced by the words “the end of the period of entitlement to benefits”.*

*Amendment*

(b) *Paragraph 3 is deleted.*

Or. fr

## Amendment 33

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 22

Regulation (EC) No 883/2004

Article 65 – paragraph 3 a (new)

*Text proposed by the Commission*

*Amendment*

*3a. The authorities of the competent Member State and of the Member State of residence shall give job seekers clarification as to the competence of the public employment service responsible for providing support to them and ensure that exchanges between the competent institution of the Member State of last activity and the job seeker are carried out in the language of the latter.*

Or. fr

## Amendment 34

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 23 a (new)

Regulation (EC) No 883/2004

Article 71 – paragraph 1



*Present text*

1. The Administrative Commission for the Coordination of Social Security Systems (hereinafter called the Administrative Commission) attached to the European Commission shall be made up of a government representative from each of the Member States, assisted, where necessary, by expert advisers. A representative of the Commission shall attend the meetings of the Administrative Commission in an advisory capacity.

*Amendment*

**23a. In Article 71, paragraph 1 shall be replaced by the following:**

1. The Administrative Commission for the Coordination of Social Security Systems (hereinafter called the Administrative Commission) attached to the European Commission shall be made up of a government representative from each of the Member States, assisted, where necessary, by expert advisers. A representative of the Commission, **a representative of Parliament and, where appropriate, representatives of the social partners, beneficiaries and professional bodies concerned** shall attend meetings of the Administrative Commission in an advisory capacity.

Or. fr

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32004R0883>)

**Amendment 35**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 24**

Regulation (EC) No 883/2004

Article 75a – paragraph 2

*Text proposed by the Commission*

2. In order to ensure the correct determination of the applicable legislation, the competent authorities shall promote **the** cooperation between institutions **and** labour inspectorates in their Member States.

*Amendment*

2. In order to ensure the correct determination of the applicable legislation, the competent authorities shall promote cooperation between **the** institutions **concerned, such as the** labour inspectorates in their Member States.

Or. fr

## Amendment 36

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 25

Regulation (EC) No 883/2004

Article 76a – paragraph 1 – indent 1

*Text proposed by the Commission*

– the issuance, the format and the contents of a portable document certifying the social security legislation which applies to the holder,

*Amendment*

– the issuance, the ***forgery-proof electronic*** format and the contents, ***with mandatory information***, of a portable document certifying the social security legislation which applies to the holder ***and including a single European social security number***,

Or. fr

## Amendment 37

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 25

Regulation (EC) No 883/2004

Article 76a – paragraph 1 – indent 3

*Text proposed by the Commission*

– the elements to verified before the document can be issued,

*Amendment*

– the elements to ***be*** verified before the document can be issued, ***rectified or withdrawn***,

Or. fr

## Amendment 38

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 25

Regulation (EC) No 883/2004

Article 76a – paragraph 1 – indent 4

*Text proposed by the Commission*

– the withdrawal of the document ***when its accuracy and validity is contested by the competent institution of the***

*Amendment*

– the withdrawal of the document:

*Member State of employment.*

- when its accuracy and validity is contested by the competent institution of the Member State of employment,
- *in the absence of a response from the issuing institution within the specified deadline.*

Or. fr

**Amendment 39**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 25 a (new)**

Regulation (EC) No 883/2004

Article 79

*Present text*

Article 79

Funding of activities in the social security field

In connection with this Regulation and the Implementing Regulation, the European Commission may fund in full or in part:

*Amendment*

**25a. Article 79 shall be replaced by the following:**

‘Article 79

Funding of activities in the social security field

In connection with this Regulation and the Implementing Regulation, the European Commission:

***(a) shall contribute to the funding of:***

***(i) the establishment of an electronic networking system of competent institutions using the Crossroads Bank for Social Security\* model as an example;***

***(ii) an EU-wide forgery-proof European social security card on which are stored all the data needed to verify the bearer’s employment relationship, such as details on his or her pay, social security status, working hours and, where applicable, specific rules on posting, and which would be subject to strict data-protection rules, particularly where privacy-sensitive personal data is processed; and***

(a) activities aimed at improving exchanges of information between the social security authorities and institutions of the Member States, particularly the electronic exchange of data;

(b) any other activity aimed at providing information to the persons covered by this Regulation and their representatives about the rights and obligations deriving from this Regulation, using the most appropriate means.

(b) may fund in full or in part:

(i) activities aimed at improving exchanges of information between the social security authorities and institutions of the Member States, particularly the electronic exchange of data;

(ii) any other activity aimed at providing information to the persons covered by this Regulation and their representatives about the rights and obligations deriving from this Regulation, using the most appropriate means.

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\* <https://www.ksz-bcss.fgov.be/fr>

Or. fr

([http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004R0883R\(01\)](http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32004R0883R(01)))

## Amendment 40

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 3

Regulation (EC) No 987/2009

Recital 26

#### *Text proposed by the Commission*

(26) In order to protect the rights of the persons concerned Member States should ensure that any data requests and responses are necessary and proportionate for the proper implementation of Regulation (EC) No 883/2004 and this Regulation, in accordance with European Data Protection legislation. There should be no automatic removal of benefit entitlement resulting from the data exchange, and any decision taken on the basis of the data exchange should respect the fundamental rights and freedoms of the individual concerned in that it is based on sufficient evidence and is subject to a fair appeal procedure.

#### *Amendment*

(26) In order to protect the rights of the persons concerned Member States should ensure that any data requests and responses are necessary and proportionate for the proper implementation of Regulation (EC) No 883/2004 and this Regulation, in accordance with European Data Protection legislation. ***The relevant EU data protection acquis, in particular Regulation (EU) 679/2016 of the European Parliament and of the Council\* shall apply to the processing of personal data pursuant to this Regulation.*** There should be no automatic removal of benefit entitlement resulting from the data exchange, and any decision taken on the basis of the data exchange should respect the fundamental rights and freedoms of the

individual concerned in that it is based on sufficient evidence and is subject to a fair appeal procedure.

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**\* Regulation (EU) 679/2016 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).**

Or. en

#### *Justification*

*In line with the comments of the European Data Protection Supervisor on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004.*

#### **Amendment 41**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 1 – point 4**

Regulation (EC) No 987/2009

Article 1 – paragraph 2 – point e a

##### *Text proposed by the Commission*

(ea) ‘fraud’ means any intentional act or omission to act, in order to obtain or receive social security benefits or to ***avoid to pay*** social security ***contributions***, contrary to the law of ***a*** Member State;

##### *Amendment*

(ea) ‘fraud’ means any intentional act or omission to act, in order to obtain or receive social security benefits, ***to avoid paying social security contributions*** or to ***circumvent the membership rules of a Member State’s*** social security ***scheme***, contrary to the law of ***the*** Member State, ***the basic regulation or the implementing regulation***;

Or. fr

## Amendment 42

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 5

Regulation (EC) No 987/2009

Article 2 – paragraph 5

*Text proposed by the Commission*

5. When a person's rights or obligations to which the basic and implementing Regulations apply have been established or determined, the competent institution may request the institution in the Member State of residence or stay to provide personal data about that person. The request and any response shall **concern** information which enables the competent Member State to identify any inaccuracy in the facts on which a document or a decision determining the rights and obligations of a person under the basic or implementing Regulation is based. The request can also be made where there is no existing doubt about the validity or accuracy of the information contained in the document or on which the decision is based in a particular case. The request for information and any response must be necessary and proportionate.

*Amendment*

5. When a person's rights or obligations to which the basic and implementing Regulations apply have been established or determined, the competent institution may request the institution in the Member State of residence or stay to provide personal data about that person. The request and any response shall **be limited to** information which enables the competent Member State to identify any inaccuracy in the facts on which a document or a decision determining the rights and obligations of a person under the basic or implementing Regulation is based. The request can also be made where there is no existing doubt about the validity or accuracy of the information contained in the document or on which the decision is based in a particular case. The request for information and any response must be necessary and proportionate.

Or. en

### *Justification*

*In line with the comments of the European Data Protection Supervisor on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004.*

## Amendment 43

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 5

Regulation (EC) No 987/2009

Article 2 – paragraph 6

*Text proposed by the Commission*

6. The Administrative Commission shall draw up a detailed list of the types of data requests and responses which can be made under paragraph 5 **and** the European Commission shall give such list the necessary publicity. Only data requests and responses which are listed shall be permitted.

*Amendment*

6. The Administrative Commission shall draw up a detailed list of the types of data requests and responses which can be made under paragraph 5, **identify which entities are to be entitled to make such requests and establish the applicable procedures and safeguards.** The European Commission shall give such list the necessary publicity. Only data requests and responses which are listed shall be permitted.

Or. en

*Justification*

*In line with the comments of the European Data Protection Supervisor on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004.*

**Amendment 44**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 987/2009

Article 5 – paragraph 1

*Text proposed by the Commission*

1. Documents issued by the institution of a Member State and showing the position of a person for the purposes of the application of the basic Regulation and of the implementing Regulation, and supporting evidence on the basis of which the documents have been issued, shall be accepted by the institutions of the other Member States for as long as they have not been withdrawn or declared to be invalid by the Member State in which they were issued. Such documents shall only be valid if all sections indicated as compulsory are filled in.

*Amendment*

1. Documents issued by the institution of a Member State and showing the position of a person for the purposes of the application of the basic Regulation and of the implementing Regulation, and supporting evidence on the basis of which the documents have been issued, shall be accepted by the institutions of the other Member States for as long as they have not been withdrawn or declared to be invalid by the Member State in which they were issued. Such documents shall only be valid if all sections indicated as compulsory are filled in. **However, such documents are not required to be accepted where they**

*have not been withdrawn due to a breach of the principle of sincere cooperation by the issuing Member State.*

Or. en

## **Amendment 45**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 987/2009

Article 5 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*1a. Where not all sections of documents, as referred to in paragraph 1, indicated as compulsory are filled in, the institution of the Member State that receives the document shall, without delay, notify the issuing institution of the defect in the document. The issuing institution shall, as soon possible, rectify the document or confirm that the conditions of issuing the document are not fulfilled. If the missing information is not provided within five working days of notification of the defect, the requesting institution may proceed as if the document had never been issued and, if it does so, shall inform the issuing institution accordingly.*

Or. en

## **Amendment 46**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 987/2009

Article 5 – paragraph 2 – point a

*Text proposed by the Commission*

*Amendment*

a) When receiving such a request, the

a) When receiving such a request, the



issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it or rectify it, within **25** working days from the receipt of the request. Upon detection of an irrefutable case of fraud committed by the applicant of the document, the issuing institution shall withdraw or rectify the document immediately and with retroactive effect.

issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it or rectify it, within **15** working days from the receipt of the request. Upon detection of an irrefutable case of fraud committed by the applicant of the document, the issuing institution shall withdraw or rectify the document immediately and with retroactive effect.

Or. en

## **Amendment 47**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 987/2009

Article 5 – paragraph 2 – point c a (new)

*Text proposed by the Commission*

*Amendment*

***(ca) The absence of response by the issuing institution to the requesting institution shall constitute a breach of the principle of sincere cooperation by the issuing Member State.***

Or. en

## **Amendment 48**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 7**

Regulation (EC) No 987/2009

Article 5 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

***2a. In the absence of a response from the issuing institution, the requesting authority may reject, rectify or reclassify the documents issued by the institution of a Member State attesting to a person's situation for the purposes of the application of the basic regulation and the***

## Amendment 49

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 8 – point a

Regulation (EC) No 987/2009

Article 14 – paragraph 1

#### *Text proposed by the Commission*

1. For the purposes of the application of Article 12(1) of the basic Regulation, a ‘person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>52</sup> or sent by that employer to another Member State’ shall include a person who is recruited with a view to being posted or sent to another Member State, provided that immediately before the start of his employment, the person concerned *is* already subject to the legislation of the *sending* Member State in accordance with Title *II of the basic Regulation*.

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<sup>52</sup> OJ L 018 , 21.01.1997 p. 1.

#### *Amendment*

1. For the purposes of the application of Article 12(1) of the basic Regulation, a ‘person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>52</sup> or sent by that employer to another Member State’ shall include a person who is recruited with a view to being posted or sent to another Member State, provided that, immediately before the start of his employment, the person concerned *has* already *been* subject, *for a period of at least six months*, to the legislation of the Member State *where the employer is established*, in accordance with *this* Title.

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<sup>52</sup> OJ L 018 , 21.01.1997 p. 1.

## Amendment 50

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 8 – point a a (new)

*Present text*

2. For the purposes of the application of Article 12(1) of the basic Regulation, the words ‘which normally carries out its activities there’ shall refer to an employer that ordinarily performs substantial activities, other than purely internal management activities, in the territory of the Member State in which it is established, taking account of all criteria characterising the activities carried out by the undertaking in question. The relevant criteria must be suited to the specific characteristics of each employer and the real nature of the activities carried out.

*Amendment*

**(aa) paragraph 2 is replaced by the following:**

“2. For the purposes of the application of Article 12(1) of the basic Regulation, the words ‘which normally carries out its activities there’ shall refer to an employer that ordinarily performs substantial activities, other than purely internal management activities, in the territory of the Member State in which it is established, taking account of all criteria characterising the activities carried out by the undertaking in question, ***such as the turnover achieved in the posting State where such turnover is at least 25 % of the total annual turnover.*** The relevant criteria must be suited to the specific characteristics of each employer and the real nature of the activities carried out.”

Or. en

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:284:0001:0042:en:PDF>)

## **Amendment 51**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 8 – point a b (new)**

Regulation (EC) No 987/2009  
Article 14 – paragraph 3

*Present text*

3. For the purposes of the application of Article 12(2) of the basic Regulation, the words ‘who normally pursues an activity as a self-employed person’ shall refer to a person who habitually carries out substantial activities in the territory of the

*Amendment*

**(ab) paragraph 3 is replaced by the following:**

“3. For the purposes of the application of Article 12(2) of the basic Regulation, the words ‘who normally pursues an activity as a self-employed person’ shall refer to a person who habitually carries out substantial activities in the territory of the

Member State in which he is established. In particular, that person must have already pursued *his* activity for some time before the date when he wishes to take advantage of the provisions of that Article and, during any period of temporary activity in another Member State, must continue to fulfil, in the Member State where he is established, the requirements for the pursuit of his activity in order to be able to pursue it on his return.

Member State in which he is established. In particular, that person must have already pursued *a sufficient* activity for some time before the date when he wishes to take advantage of the provisions of that Article and, during any period of temporary activity in another Member State, must continue to fulfil, in the Member State where he is established, the requirements for the pursuit of his activity in order to be able to pursue it on his return.”

Or. en

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:284:0001:0042:en:PDF>)

## Amendment 52

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 8 – point b a (new)

Regulation (EC) No 987/2009

Article 14 – paragraph 10

#### *Present text*

10. *For* the determination of *the* applicable legislation under *paragraphs 8 and 9, the institutions concerned shall take into account the situation projected for the following 12 calendar months.*

#### *Amendment*

*(ba) paragraph 10 is replaced by the following:*

“10. “The determination of applicable legislation under *Article 13 of Regulation (EC) 883/2004 shall apply for a maximum period of 12 months. After expiry of the 12-month period, the determination shall be revised on the basis of the person's situation.*”

Or. en

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:284:0001:0042:en:PDF>)

## Amendment 53

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 11

Regulation (EC) No 987/2009

Article 19 – paragraph 4

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4. Where necessary for the exercise of legislative powers at national or Union level, relevant information regarding the social security rights and obligations of the persons concerned shall be exchanged directly between the competent institutions and the labour inspectorates, immigration or tax authorities of the States concerned this may include the processing of personal data for purposes other than the exercise or enforcement of rights and obligations under the basic Regulation and this Regulation in particular to ensure compliance with relevant legal obligations in the fields of labour, health and safety, immigration and taxation law. Further details shall be laid down by decision of the Administrative Commission.

4. Where necessary for the exercise of legislative powers at national or Union level, relevant information regarding the social security rights and obligations of the persons concerned shall be exchanged directly between the competent institutions and the labour inspectorates, immigration or tax authorities of the States concerned this may include the processing of personal data for purposes other than the exercise or enforcement of rights and obligations under the basic Regulation and this Regulation in particular to ensure compliance with relevant legal obligations in the fields of labour, health and safety, immigration and taxation law. ***The authorities responsible for the social security data shall inform data subjects of the transfer of those data to another public administrative body and of the purpose(s) of the further processing, in accordance with the principle of fair processing set in Article 6 of Directive 95/46/EC of the European Parliament and of the Council\* and Article 5(l)(a) of Regulation (EU) 679/2016 of the European Parliament and of the Council\*\*.*** ***The authorities to which the social security data are transferred shall inform the data subjects of its identity, the purpose(s) of the processing and the categories of data processed in accordance with Article 11(1)(a), (b) and (c) of Directive 95/46/EC and with Article 14(1) of Regulation (EU) 679/2016.*** Further details shall be laid down by decision of the Administrative Commission.

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***\*Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).***

***\*\*b Regulation (EU) 679/2016 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).***

Or. en

### *Justification*

*In line with the comments of the European Data Protection Supervisor on a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004.*

## **Amendment 54**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 11 a (new)**

Regulation (EC) No 987/2009

Article 20 – paragraph 1

#### *Present text*

1. The relevant institutions shall communicate to the competent institution of the Member State whose legislation is applicable to a person pursuant to Title II of the basic Regulation the necessary information required to establish the date on which that legislation becomes applicable and the contributions which that person and his employer(s) are liable to pay under that legislation.

#### *Amendment*

***11a. In Article 20, paragraph 1 shall be replaced by the following:***

‘1. The relevant institutions shall communicate to the competent institution of the Member State whose legislation is applicable to a person pursuant to Title II of the basic Regulation the necessary information required to establish the date on which that legislation becomes applicable and the contributions which that person and his employer(s) are liable to pay under that legislation ***and Directive 96/71/EC for calculating the contributions on the basis of the remuneration paid.*** ’

Or. fr

*(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:284:0001:0042:en:PDF>)*

## Amendment 55

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 12

Regulation (EC) No 987/2009

Article 20a – paragraph 1 – indent 1

*Text proposed by the Commission*

- the issuance, the format and the contents of a portable document certifying the social security legislation which applies to the holder,

*Amendment*

- the issuance, the **forgeries-proof electronic** format and the contents, **with mandatory information**, of a portable document certifying the social security legislation which applies to the holder **and including a single European social security number**,

Or. fr

## Amendment 56

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 12

Regulation (EC) No 987/2009

Article 20a – paragraph 1 – indent 3

*Text proposed by the Commission*

- the elements to verified before the document can be issued,

*Amendment*

- the elements to **be** verified before the document can be issued, **rectified or withdrawn**,

Or. fr

## Amendment 57

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 12

Regulation (EC) No 987/2009

Article 20a – paragraph 1 – indent 4

*Text proposed by the Commission*

- the withdrawal of the document when its accuracy and validity is contested by the competent institution of the Member

*Amendment*

- the withdrawal of the document:

State of employment.

- when its accuracy and validity is contested by the competent institution of the Member State of employment,
- ***in the absence of a response from the issuing institution within the specified deadline.***

Or. fr

## Amendment 58

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 39

Regulation (EC) No 987/2009

Article 85a – paragraph 1 – introductory part

#### *Text proposed by the Commission*

1. By agreement between the applicant party and the requested party and in accordance with the arrangements laid down by the requested party, officials authorised by the applicant party may, with a view to promoting mutual assistance provided for in this Section:

#### *Amendment*

1. By agreement between the applicant party and the requested party and in accordance with the arrangements laid down by the requested party, officials ***and responsible office-holders*** authorised by the applicant party ***or by the European Labour Authority*** may, with a view to promoting mutual assistance provided for in this Section:

Or. fr

## Amendment 59

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 39

Regulation (EC) No 987/2009

Article 85a – paragraph 1 – point b

#### *Text proposed by the Commission*

b) be present during administrative enquiries carried out in the territory of the Member State of the requested party;

#### *Amendment*

b) be present during administrative enquiries carried out in the territory of the Member State of the requested party ***and/or the applicant party;***



## Amendment 60

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 39

Regulation (EC) No 987/2009

Article 85a – paragraph 2

#### *Text proposed by the Commission*

2. In so far as it is permitted under the legislation in force in the Member State of the requested party, the agreement referred to in paragraph 1(b) may provide that officials of the Member State of applicant party may interview individuals and examine records.

#### *Amendment*

2. In so far as it is permitted under the legislation in force in the Member State of the requested party, the agreement referred to in paragraph 1(b) may provide that officials *or responsible office-holders* of the Member State of *the* applicant party *and, if necessary, by the European Labour Authority*, may interview individuals and examine records.

Or. fr

## Amendment 61

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 39

Regulation (EC) No 987/2009

Article 85a – paragraph 3

#### *Text proposed by the Commission*

3. Officials authorised by the applicant party who make use of the possibilities offered by paragraphs 1 and 2 shall at all times be able to produce written authority stating their identity and their official capacity.

#### *Amendment*

3. Officials authorised by the applicant party *or the European Labour Authority* who make use of the possibilities offered by paragraphs 1 and 2 shall at all times be able to produce written authority stating their identity and their official capacity.

Or. fr

## EXPLANATORY STATEMENT

The Commission's proposed revision aims to facilitate mobility by ensuring that individuals do not lose their rights when moving within Europe (EU, Iceland, Liechtenstein, Norway and Switzerland) and to ensure the continuity of social security when moving from one national legislation to another.

The Commission is seeking to change three aspects of the coordination of unemployment benefits:

(1) Extending the period for exporting unemployment benefits from three to six months, with the option for Member States to extend the period until the rights are extinguished. The rapporteur supports this proposal and proposes extending the exporting period until the entitlement to unemployment benefit expires. According to a study carried out for the Commission, a longer unemployment benefit export period increases the chances of an unemployed person finding a job.

(2) The job seeker's Member State of last activity will have to take account of insurance periods completed elsewhere if the job seeker worked in that country for at least three months. Otherwise, it is the Member State where the job seeker previously pursued his or her activity which will have to pay those benefits. The current situation is quite confusing for the Member States' competent institutions. The rapporteur would point out that one of the basic principles of this legislation is aggregation, which is why he proposes reducing to one month the minimum activity period before aggregation in the Member State of last activity.

(3) Finally, in the case of cross-border workers the Member State of last employment will be required to pay unemployment benefits if the cross-border worker worked there for at least 12 months. Under the current rules, the Member State of residence is competent, even though cross-border workers pay social security contributions in the country of activity.

It seems legitimate for the country receiving the social security contributions also to be responsible for paying unemployment benefits. However, the rapporteur would like to see clarifications regarding these provisions so that the changes proposed by the Commission do not create practical, administrative, linguistic or training difficulties, as well as clarifications regarding the competence of the public employment service.

The Commission proposes creating a specific chapter on long-term care based on the approach taken for sickness benefits. While the rapporteur is in principle in favour of this initiative, he would like the Administrative Commission to work more closely with representatives of the social partners, professional organisations and beneficiaries concerned, particularly on drawing up the list of benefits covered under this new chapter.

The proposal aims to incorporate recent Court of Justice case-law on the conditions of access to social security benefits of economically inactive mobile citizens. The rapporteur notes the case-law but considers that it is not the task of EU legislators to codify decisions taken by the Court.

The rapporteur also supports the Commission in its intention to standardise the issuance procedures, format and content of portable documents certifying membership of a social security scheme and to specify the situations in which such a document is issued and the procedures for its withdrawal when its accuracy and validity is contested by the institution of the Member State of employment. He proposes enhancing cooperation between the competent authorities and considers that the principle of sincere cooperation should be strengthened by

laying down shorter response times, and also that the lack of a response should entail responsibility shifting between the competent authorities.

In order to optimise exchanges between administrations and to protect those covered by the regulations, he supports the setting up of new arrangements (e.g. the Crossroads Bank for Social Security) and an operational electronic network linking social security institutions (European social security e-card and number), and would like to see the digitisation of the documents covered by the regulations.

The rapporteur also considers it essential to clarify the regulatory framework applicable to posted workers (obligatory minimum period of membership of the social security scheme of the posting state, issuance of the portable document before the start of the posting, etc.), self-employed workers and people engaged in multiple activities.

Finally, the rapporteur opposes the indexation of family benefits in the place of residence of the children: even if the data are incomplete and do not cover all the countries affected by the coordination regulation, less than 1% of total family allowances are paid to children residing in a Member State other than that in which their parent or parents work. In that context, an indexation system which localised and updated the amount of benefits depending on the place of residence of the children would involve setting up a complex and costly system having implications for public finances.

The rapporteur hopes that the discussions on the revision of the coordination regulations moves away from posturing and accusations of ‘benefit tourism’, ‘widespread fraud’ and ‘disguised protectionism’. This revision must ensure the continuity of citizens’ social rights, while promoting efficient mobility in Europe.

**ANNEX: LIST OF ENTITIES OR PERSONS  
FROM WHOM THE RAPPORTEUR HAS RECEIVED INPUT**

The rapporteur would like to make it known that he was contacted during the preparation of the report amongst others by the following stakeholder representatives and lobbyists.

<b>Entity and/or person</b>
Arnaud Emériau Délégué permanent, Représentation des Institutions Françaises de sécurité sociale auprès de l'UE (REIF)
Delphine Rudelli UIMM, Directeur "Relations européennes et internationales"
Chiara Lorenzini Policy Adviser, Fédération européenne des travailleurs du bâtiment et du bois
Jean-Francois Macours Conseiller juridique, Fédération générale du travail de Belgique
Isabelle Ory, Journaliste. Correspondante à Bruxelles. <a href="#">rtsinfo</a> , <a href="#">Europe1</a> , <a href="#">Le Figaro</a>
Henri Lourdelle Conseiller, <a href="#">Fédération Européenne des Retraités et des Personnes Agées</a>
Claire Champeix Policy Officer, Eurocarers – European Association Working for Carers
Liina Carr, Confederal Secretary Claude Denagtergal, Advisor Administrative assistant, European Trade Union Confederation
Eugenio Quintieri Secretary General, European Builders Confederation EBC
Gilles Kounowski Directeur des Relations Européennes, Internationales et de la coopération, Caisse nationale des allocations familiales
Rebekah Smith Senior Adviser; Social Affairs Department, Business Europe
Werner Buelen European Federation of Building and Woodworkers (EFBWW)
Arsène Schmitt Président du Comité de Défense des Travailleurs Frontaliers de la Moselle
Kaare Barslev Minister Counsellor, Permanent Representation of Denmark to the EU
Jordi Curell, director of Labour Mobility at the Directorate-General for Employment, Social Affairs and Inclusion European Commission
Stefanie Klein, Deutsche Verbindungsstelle
Myriam Diallo, Conseillère Federation Francaise Du Batiment
Patrick Liébus, Président de la Confédération de l'artisanat et des petites entreprises du bâtiment (CAPEB)

Cécile Sauveur, Directrice du pôle juridique et social , CAPEB
Claude Denagtergal Advisor, European Trade Union Confederation
Dr. David Pascal Dion Head of unit, DG Employment, Social Affairs and Inclusion European Commission
Thomas Heidener Head of Office, Danish Trade Union Office
Kaia Iva Estonian Minister of Social Protection
Philip Von Brocksdorff Groupe des Travailleurs, Malte, rapporteur du CESE sur la communication concernant la proposition de nouveau règlement pour coordonner les régimes de sécurité sociale dans l'UE
Judite Berkemeier Secrétariat du Comité économique et social européen/Section SOC
Garance Pineau Directeur adjoint, Direction des Relations Sociales Mouvement des entreprises de France - MEDEF