



24.4.2018

OPINION

of the Committee on Petitions

for the Committee on Employment

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))

Rapporteur: Soledad Cabezón Ruiz

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SHORT JUSTIFICATION

On the 13th of December 2016, the European Commission published its 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. The proposal aims at modernising and simplifying the existing rules for social security coordination to respond to the social and economic reality in the Member States, and enhance the exercise of citizens' rights under these regulations.

The rapporteur is of the view that any amendment to the existing rules concerning social security coordination should be governed by the common values of universality, equity and solidarity, especially with regard to access to health care benefits. In particular, students and disabled persons should retain the portability of their social security rights and entitlements when moving from one Member State to another without discrimination.

In this regard, the rapporteur takes note of the new chapter on long-term care benefits proposed by the Commission, and welcomes the fact that disability benefits are now clearly covered by this chapter; she suggests that the Administrative Commission work closely with associations of beneficiaries, including representatives of disability organisations, when determining the detailed list of benefits covered under this chapter. The rapporteur also stresses the need to ensure the swift implementation of the European Disability Card in all EU Member States, and calls on the Administrative Commission to promote the adoption of a common disability definition and criteria for the purpose of social security coordination. The rapporteur hopes that the implementation of the European Disability Card will allow for discussions on the benefits covered by the card, with a view to include further important benefits in the area of care, health care and assistance, for people with disability to fully enjoy their freedom of movement within the EU.

The Petitions Committee is regularly seized with petitions concerning all social security areas in cross-border situations. Issues relating to the portability of pension rights and benefits have been regularly brought to the attention of the PETI Committee, in particular concerning the long delays suffered in obtaining adequate information from the competent authorities, as well as concerning the calculation of pension benefits for citizens who have worked in more than one Member State. The rapporteur proposes establishing time-limits for the institutions of the competent Member States to determine the habitual residence of claimants, to calculate the amount of benefits and to resolve possible differences of views with other Member States. Access to tailored and concise information in this often complex field is also paramount to ensure that citizens can exercise their freedom to move and work within the EU without discrimination.

These proposals would contribute to the objectives set by the Commission to enhance the exercise of citizens' rights while ensuring legal clarity and enforceability of the rules in the field of social security coordination, and respecting the overarching values of universality, equity and solidarity which are shared across the European Union.

AMENDMENTS

The Committee on Petitions calls on the Committee on Employment and Social Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) The definitions and criteria for determining disability and invalidity differ widely across the Member States, which can constitute a major obstacle to the mutual recognition of national decisions on disability and invalidity issues, in particular as regards access to specific services and facilities, and can put people with a disability or invalidity at a particular disadvantage in the field of social security when moving from one Member State to another. It is therefore necessary, with a view to facilitating the travel and movement of persons with a disability or invalidity from one Member State to another, to ensure the adoption of a common European definition in line with the UNCRPD and a mutual recognition of disability status between Member States, in particular through the swift implementation of the European Disability Card in all Member States which will be connected to the European Health Insurance Card and the European Social Security Card.

Amendment 2

Proposal for a regulation

Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) In order to ensure the effective implementation and enforcement of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), and guarantee the portability of disability benefits, the adoption of common definition, criteria and methods of evaluation of disability (percentage of disability) for the purpose of social security coordination should be promoted.

Amendment 3

Proposal for a regulation

Recital 3 c (new)

Text proposed by the Commission

Amendment

(3 c) It is important to respect the common values and principles of Union's health systems as referred to in the Council Conclusions of 22 June 2006 on Common values and principles in European Union Health Systems^{1a}, in particular the overarching values of universality, access to good quality care, equity and solidarity. This is particularly significant for categories of citizens who are neither employed, nor looking for a job, such as students, whose mobility should be preserved through their appropriate access to social security benefits, including health insurance, in the host Member State. As stated by the Council, "universality means that no-one is barred access to health care; solidarity is closely linked to the financial arrangement of our national health systems and the need to ensure accessibility to all; equity relates to equal access according to need, regardless of ethnicity, gender, age, social status or

ability to pay.”

^{1a} OJ C 146, 22.6.2006, p.1.

Amendment 4

Proposal for a regulation Recital 4 a (new)

Text proposed by the Commission

Amendment

(4 a) In its resolution of 15 March 2017 on obstacles to EU citizens’ freedom to move and work in the internal market^{1a}, the European Parliament stressed the need “to ensure the portability of social security benefits (e.g. state pensions, health insurance, unemployment benefits and family benefits) and consequently reduce barriers to labour mobility in the Union” and called for “resolute effective steps towards a coordinated system of aggregated social contributions and benefits for each individual across the Union, such as a social security card to facilitate the tractability of social security contributions and entitlements”.

^{1a} Texts adopted, P8_TA(2017)0083.

Amendment 5

Proposal for a regulation Recital 4 b (new)

Text proposed by the Commission

Amendment

(4 b) Measures to facilitate the identification and upholding of social security rights and benefits across the Union, such as the adoption of a European Social Security Card, which should be associated with the existing European Health Insurance Card (EHIC), the European Disability Card, and cover all social security areas, should be promoted.

Amendment 6

Proposal for a regulation Recital 4 c (new)

Text proposed by the Commission

Amendment

(4c) In order to improve the mobility of workers, students and job seekers across the Union, it is essential that Member States guarantee access to the European Health Insurance Card to all people, including temporary workers, self-employed persons and those in atypical employment relationships, as well as students and mobile jobseekers, without discrimination.

Amendment 7

Proposal for a regulation Recital 4 d (new)

Text proposed by the Commission

Amendment

(4 d) Cross-border healthcare is of particular relevance to guarantee an equitable coordination of social security systems. In this regard, the implementation of Directive 2011/24/EU of the European Parliament and of the Council^{1a} differs greatly across the Member States. In particular, Article 7 of that Directive should be implemented without discrimination to ensure the freedom of movement for Union citizens and their families.

^{1a} Directive 2011/24/EU of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45).

Amendment 8

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 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.

Amendment 9

Proposal for a regulation

Recital 9

Text proposed by the Commission

(9) ***Following the recommendations in the EU Citizenship Report 2013,***³⁵ 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.

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 all insured persons 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.

Amendment

(9) 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 ***requalification and*** reintegration into the labour market and to address skills mismatches across borders..

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11 a) There is a need to ensure that the competent authorities determine habitual residence for the purpose of establishing social security benefits within a reasonable time-limit.

Amendment 11

Proposal for a regulation
Recital 11 b (new)

Text proposed by the Commission

Amendment

(11b) Individuals should be able to choose their habitual residence for the purpose of establishing social security benefits, with competent authorities certifying it within a reasonable timeframe on the basis of proven sufficient roots to the concerned Member State.

Amendment 12

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) In order to enable a timely update of this Regulation to the developments at the national level, the ***power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and Regulation (EC) No 987/2009. It is of particular importance that the***

(12) In order to enable a timely update of this Regulation to the developments at the national level, the Annexes to this Regulation and Regulation (EC) No 987/2009 ***should be amended on a regular basis.***

Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.³⁶ In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

³⁶ OJ L 123, 12.5.2016, p. 1–14.

Amendment 13

Proposal for a regulation **Recital 13**

Text proposed by the Commission

(13) With a view to supporting Member States in their efforts to combat fraud and error in the application of the coordination rules, it is necessary to establish a further permissive legal basis to facilitate the processing of personal data about persons to whom Regulations (EC) No 883/2004 and (EC) No 987/2009 apply. This would enable a Member State to periodically compare data held by its competent institutions against that held by another Member State in order to identify errors or inconsistencies that require further investigation.

Amendment

(13) With a view to supporting Member States in their efforts to combat fraud and error in the application of the coordination rules, it is necessary to establish a further permissive legal basis to facilitate the processing of personal data about persons to whom Regulations (EC) No 883/2004 and (EC) No 987/2009 apply, ***paying due respect to the relevant Union data protection acquis, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council^{1a}***. This would enable a Member State to periodically compare data held by its competent institutions against that held by another Member State in order to identify errors or inconsistencies that require further investigation.

^{1a} Regulation (EU) 679/2016 of the European Parliament and the Council of 27 April 2016 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 L119, 4.5.2016, p. 1).

Amendment 14

Proposal for a regulation

Recital 15

Text proposed by the Commission

(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.

Amendment

(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 should become competent to determine the legislation applicable.***

Amendment 15

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 883/2004

Recital 5 a

Text proposed by the Commission

(5a) The Court of Justice has held that Member States are entitled to make the

Amendment

deleted

access of economically inactive citizens in the host Member State to social security benefits, which do not constitute social assistance within the meaning of Directive 2004/38/EC subject to a legal right of residence within the meaning of that Directive. The verification of the legal right of residence should be carried out in accordance with the requirement of Directive 2004/38/EC. For these purposes, an economically inactive citizen should be clearly distinguished from a jobseeker whose right of residence is conferred directly by Article 45 of the Treaty on the Functioning of the European Union. In order to improve legal clarity for citizens and institutions, a codification of this case law is necessary.

Justification

The derogation from the principle of equal treatment for more than 700.000 economically inactive mobile citizens constitutes a considerable gap in the coordination of social security systems within the European Union. The proposed changes made by the Commission will neither lead to greater legal clarity nor alleviate the situation of the citizens concerned. Therefore, a cross-reference to Directive 2004/38 should not be introduced into the Regulation.

Amendment 16

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, 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 and social assistance (Article 34)***

and the right to healthcare (Article 35).

Amendment 17

Proposal for a regulation

Article 1 – paragraph 1 – point 5 a (new)

Regulation (EC) No 883/2004

Recital 24 a (new)

Text proposed by the Commission

Amendment

(5a) *After recital 24, the following is inserted:*

“(24a) Nothing within this Regulation should give ground to any Member State other than the competent Member State to refuse residence to economically inactive persons solely on the basis of the application for the branches of social security covered by this Regulation.”

Amendment 18

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EC) No 883/2004

Recital 46

Text proposed by the Commission

Amendment

(46) *In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and Regulation (EC) No 987/2009. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.⁴³ In particular, to ensure equal participation*

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in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁴³ COM(2015) 216 final.

Amendment **19**

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point d

Regulation (EC) No 883/2004

Article 1 – paragraph 1 – point vb

Text proposed by the Commission

(vb) “long-term care benefit” means any benefit in kind, cash or a combination of both for persons who, over an extended period of time, on account of old-age, disability, illness or impairment, require *considerable* assistance from another person or persons to carry out essential daily activities, including to support their personal autonomy; this includes benefits granted to or for the person providing such assistance;”

Amendment

(vb) “long-term care benefit” means any benefit in kind, cash or a combination of both for persons who, over an extended period of time, on account of old-age, disability, illness or impairment, require assistance from another person or persons to carry out essential daily activities, including to support their personal autonomy; this includes benefits granted to or for the person providing such assistance;”

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

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

Amendment

deleted

*right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.*⁴⁴ .

⁴⁴ OJ L 158, 30.4.2004, p. 77.

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

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 services⁴⁶ or sent* by that employer to another Member State to perform work on that employer's 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.

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 by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that:

(a) the anticipated *or actual* duration of such work does not exceed *six* 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; *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.

⁴⁶ *OJ L 018 , 21.01.1997 p. 1.*

Justification

The average duration of a posting is less than four month according to the Commission. Therefore, it is reasonable that after six month the law of the country of employment should apply in terms of social security coverage.

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

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:

(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.*

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. Member States shall ensure that economically inactive mobile citizens and job seekers can access comprehensive sickness insurance cover in the host Member State by allowing such citizens to contribute in a proportionate manner to a sickness insurance or to otherwise fulfil the relevant criteria for access to sickness insurance in the Member State in which they habitually reside.

Justification

Comprehensive sickness insurance is a fundamental right. Inactive mobile citizens should have the possibility to obtain sickness insurance also in their Member State of residence. Member States should be able to rely on binding guidelines when making their sickness insurance system accessible for inactive mobile EU citizens.

Amendment 24

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 properly consulting the social partners concerned as well as representative associations of beneficiaries, including disability organisations, and all relevant stakeholders***, shall draw up ***an exhaustive and*** detailed list of long-term care benefits which meet the criteria contained in Article 1 (vb) of this Regulation, specifying which benefits are in kind and which are benefits in cash.

Amendment 25

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EC) No 883/2004

Article 35a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Administrative Commission shall ensure the swift implementation of the European Disability Card in all Member States, and shall promote the adoption of a common disability definition and criteria for the purpose of this Regulation and of the Implementing Regulation.

Amendment 26

Proposal for a regulation

Article 1 – paragraph 1 – point 18 a (new)

Regulation (EC) No 883/2004

Article 52 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

18 a. In Article 52, the following paragraph is inserted:

“1a. The competent institutions shall calculate and award the benefit due within three months of submission of a request for an award.”

Amendment 27

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EC) No 883/2004

Article 61 – paragraph 1

Text proposed by the Commission

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

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.

a period of at least **one month** of insurance, employment, or self-employment in accordance with the legislation under which the benefits are claimed.

Amendment 28

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 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..

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.

Amendment 29

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) is replaced by the following:

“(c) entitlement to unemployment benefits shall be maintained until their

expiry;”

Amendment 30

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

(a a) Paragraph 2 is deleted;

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32004R0883&from=EN>)

Amendment 31

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

Amendment

(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”.

(b) Paragraph 3 is deleted

Amendment 32

Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 71 – paragraph 1

Present text

Amendment

1. The Administrative Commission for the Coordination of Social Security Systems (hereinafter called the

23 a. In Article 71, paragraph 1 is 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 European Commission shall attend the meetings of the Administrative Commission in an advisory capacity.

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 European Commission, ***a representative of the European Parliament and, where appropriate, representatives of the social partners as well as beneficiaries, including representatives of disability organisations*** shall attend the meetings of the Administrative Commission in an advisory capacity.

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02004R0883-20140101&from=EN>)

Amendment 33

Proposal for a regulation

Article 1 – paragraph 1 – point 25

Regulation (EC) No 883/2004

Article 76 a – 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 State of employment.

Amendment

– the withdrawal of the document:

– when its accuracy and validity is contested by the competent institution of the Member State of employment;

– ***when the issuing institution fails to respond within the specified deadline.***

Amendment 34

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Regulation (EC) No 883/2004

Article 88

27. Article 88 shall be replaced by the following: **deleted**

‘Article 88

Delegating the power to update the Annexes

The European Commission is empowered to adopt delegated acts in accordance with Article 88a to periodically amend the Annexes to this Regulation and the implementing Regulation following a request from the Administrative Commission.

Article 88a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article

2. The delegation of power referred to in Article 88 shall be conferred on the European Commission for an indeterminate period of time from the [the date of entry into force of the Regulation (EU) xxxx].

3. The delegation of the power referred to in Article 88 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on

Better Law-Making of 13 April 2016

5. *As soon as it adopts a delegated act, the European Commission shall notify it to the European Parliament and to the Council simultaneously.*

6. *A delegated act adopted pursuant to Article 88 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiring of that period, the European Parliament and the Council have both informed the European Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.*

Amendment 35

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 987/2009

Article 1 – paragraph 2 – point ea

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, **causing prejudice to institutions** in order to obtain or receive social security benefits or 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**

Amendment 36

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, **while fully complying with privacy requirements**. The request and any response shall **be confined 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 **substantiated**, necessary, and proportionate.

Amendment 37

Proposal for a regulation

Article 2 – paragraph 1 – point 7 a (new)

Regulation (EC) No 987/2009

Article 6 – paragraph 3

Present text

3. Where no agreement is reached between the institutions or authorities concerned, the matter **may** be brought before the Administrative Commission by the competent authorities no earlier than one month after the date on which the difference of views, as referred to in paragraph 1 or 2 arose. The Administrative Commission shall seek to reconcile the

Amendment

7 a. In Article 6, paragraph 3 is replaced by the following:

3. Where no agreement is reached between the institutions or authorities concerned **within three months of the date on which the difference of views arises**, the matter **shall** be brought before the Administrative Commission by the competent authorities no earlier than one month after the date on which the difference of views, as referred to in

points of view within six months of the date on which the matter was brought before it.

paragraph 1 or 2 arose. The Administrative Commission shall seek to reconcile the points of view within six months of the date on which the matter was brought before it.

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1517319430937&uri=CELEX:32009R0987>)

Amendment 38

Proposal for a regulation

Article 2 – paragraph 1 – point 7 b (new)

Regulation (EC) No 987/2009

Article 7 – paragraph 1 a (new)

Text Proposed by the Commission

Amendment

7 b. In Article 7, the following paragraph is inserted:

“1a. The provisional calculation of a benefit or contribution referred to in paragraph 1 shall be made no later than one month after the submission of the request by the person concerned.”

Amendment 39

Proposal for a regulation

Article 2 – paragraph 1 – point 7 c (new)

Regulation (EC) No 987/2009

Article 11 – paragraph 1

Present text

Amendment

1. Where there is a difference of views between the institutions of two or more Member States about the determination of the residence of a person to whom the basic Regulation applies, these institutions shall establish by common agreement the centre of interests of the person concerned, based on an overall assessment of all available

7 c. In Article 11, paragraph 1 is replaced by the following:

1. Where there is a difference of views between the institutions of two or more Member States about the determination of the residence of a person to whom the basic Regulation applies, these institutions shall, ***no later than three months after the difference of views arises***, establish by common agreement the centre of interests of the person concerned,

information relating to relevant facts,
which may include, as appropriate:

based on an overall assessment of all
available information relating to relevant
facts, which may include, as appropriate:

(<http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32009R0987&from=EN>)

Amendment 40

Proposal for a regulation

Article 2 – paragraph 1 – point 11

Regulation (EC) No 987/2009

Article 19 – paragraph 4

Text proposed by the 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. Further details shall be laid down by decision of the Administrative Commission.

Amendment

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, *without in any way infringing privacy requirements. 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, *solely* 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.

Amendment 41

Proposal for a regulation

Article 2 – paragraph 1 – point 26 a (new)

Regulation (EC) No 987/2009

Article 67 – paragraph 5

Present text

Amendment

5. The claims shall be paid to the liaison body of the creditor Member State referred to in Article 66 of the implementing Regulation by the debtor institution within **18** months of the end of the month during which they were introduced to the liaison body of the debtor Member State. This does not apply to the claims which the debtor institution has rejected for a relevant reason within that period.

(26a) Article 67 paragraph 5 is replaced by the following:

5. The claims shall be paid to the liaison body of the creditor Member State referred to in Article 66 of the implementing Regulation by the debtor institution within **12** months of the end of the month during which they were introduced to the liaison body of the debtor Member State. This does not apply to the claims which the debtor institution has rejected for a relevant reason within that period.

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2009R0987:20130108:EN:HTML>)

Justification

The current time period of 18 month should be reduced to 12 month in order to lessen the cost pressure on the liaison body pre-financing a benefit.

Amendment 42

Proposal for a regulation

Article 2 – paragraph 1 – point 40 a (new)

Regulation (EC) No 987/2009

Article 89 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

40 a. In Article 89, the following paragraph is inserted:

‘1a. The institutions of the competent authorities shall make available to citizens upon request a copy of their personal file, together with concise and tailored information on the rules determining the competent authorities and their rights and entitlements under the basic Regulation and under the implementing Regulation.’

(<http://eur-lex.europa.eu/legal->

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Coordination of social security systems
References	COM(2016)0815 – C8-0521/2016 – 2016/0397(COD)
Committee responsible Date announced in plenary	EMPL 19.1.2017
Opinion by Date announced in plenary	PETI 19.1.2017
Rapporteur Date appointed	Soledad Cabezón Ruiz 10.2.2017
Discussed in committee	21.2.2018
Date adopted	24.4.2018
Result of final vote	+: 26 –: 0 0: 1
Members present for the final vote	Beatriz Becerra Basterrechea, Soledad Cabezón Ruiz, Andrea Cozzolino, Pál Csáky, Rosa Estaràs Ferragut, Eleonora Evi, Peter Jahr, Rikke-Louise Karlsson, Jude Kirton-Darling, Svetoslav Hristov Malinov, Lukas Mandl, Notis Marias, Roberta Metsola, Mirosłavs Mitrofanovs, Marlene Mizzi, Gabriele Preuß, Virginie Rozière, Yana Toom, Jarosław Wałęsa, Cecilia Wikström
Substitutes present for the final vote	Elisabetta Gardini, Kostadinka Kuneva, Ángela Vallina
Substitutes under Rule 200(2) present for the final vote	Rosa D'Amato, Pascal Durand, Mirosłavs Mitrofanovs, Remo Sernagiotto

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

26	+
ALDE	Beatriz Becerra Basterrechea, Yana Toom, Cecilia Wikström
ECR	Notis Marias, Remo Sernagiotto
EFDD	Rosa D'Amato, Eleonora Evi
GUE/NGL	Kostadinka Kuneva, Ángela Vallina
NI	Rikke-Louise Karlsson
PPE	Pál Csáky, Rosa Estaràs Ferragut, Elisabetta Gardini, Peter Jahr, Svetoslav Hristov Malinov, Lukas Mandl, Roberta Metsola, Jarosław Wałęsa
S&D	Soledad Cabezón Ruiz, Andrea Cozzolino, Jude Kirton-Darling, Marlene Mizzi, Gabriele Preuß, Virginie Rozière
VERTS/ALE	Pascal Durand, Miroslavs Mitrofanovs

0	-

1	0
	Sven Schulze

Key to symbols:

+ : in favour

- : against

0 : abstention