

9.4.2019

A8-0386/ 001-167

**AMENDMENTS 001-167**

by the Committee on Employment and Social Affairs

**Report**

**Guillaume Balas**

**A8-0386/2018**

Coordination of social security systems

Proposal for a regulation (COM(2016)0815 – C8-0521/2016 – 2016/0397(COD))

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**Amendment 1**

**Draft legislative resolution**

**Citation 5**

*Draft legislative resolution*

— having regard to the opinion of the European Economic and Social Committee of 7 July 2017<sup>1</sup>,

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

*Amendment*

— having regard to the opinion of the European Economic and Social Committee of 5 July 2017<sup>1</sup>,

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

**Amendment 2**

**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.

### Amendment 3

#### Proposal for a regulation Recital 1

*Text proposed by the Commission*

(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.

*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, ***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.***

### Amendment 4

#### Proposal for a regulation Recital 3

*Text proposed by the Commission*

(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.

*Amendment*

(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 ***in order to make the rules relating to those benefits fairer, clearer and easier to apply by means of exchanges of experience and best administrative practices. To facilitate such exchanges, the use of new technologies should be promoted.***

### Amendment 5

#### Proposal for a regulation Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) The definitions of, 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 UN Convention on the Rights of Persons with Disabilities (CRPD) and a mutual recognition of disability status between Member States, in particular through the swift implementation of the European Disability Card (EDC) in all Member States which will be connected to the European Health Insurance Card (EHIC) and the European Social Security Card (ESSC).***

## **Amendment 6**

### **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 CRPD, and guarantee the portability of disability benefits, the adoption of common definition, criteria and methods for evaluating disability (the percentage of disability) for the purpose of social security coordination should be promoted.***

## Amendment 7

### Proposal for a regulation Recital 3 c (new)

*Text proposed by the Commission*

*Amendment*

***(3c) It is important to respect the common values and principles of the 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<sup>1a</sup>, 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 work, such as students, whose mobility should be preserved by means of 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 from having access to health care; solidarity is closely linked to the financial arrangement of [the]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".***

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<sup>1a</sup> OJ C 146, 22.6.2006, p. 1.

## Amendment 8

### Proposal for a regulation Recital 4

*Text proposed by the Commission*

*Amendment*

(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

(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.

same time ensuring legal *certainty*, 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 that context, Council Directive 2000/78/EC<sup>1a</sup> and the CRPD, in particular Article 27 of the CRPD, should be duly taken into account. This Regulation is central to the proper functioning of the internal market and the free movement of persons. In that regard, social security coordination should be designed to fit all kinds of social security systems in the Member States.***

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*<sup>1a</sup> Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ L 303, 2.12.2000, p. 16).*

## Amendment 9

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

*Text proposed by the Commission*

*Amendment*

***(4a) The Commission and the Member States should therefore provide transparent, public data, compiled via dedicated, in-depth studies, to enable a rational and effective debate to take place at national and Union level on the actual volume and effective economic and social impact of possible cases of fraud or abuse of national social security systems, as well as on how to strengthen coordination arrangements with a view to increasing confidence in the various public employment services when promoting, or systematically monitoring, the integration of mobile unemployed persons into the labour market.***

## Amendment 10

### Proposal for a regulation Recital 4 b (new)

*Text proposed by the Commission*

*Amendment*

***(4b) Freedom of movement is a cornerstone of the internal market. However, the internal market cannot function in the absence of mutual trust. In order to safeguard the benefits of mobility, the Union must fight abuse, fraud and unfair competition.***

## Amendment 11

### Proposal for a regulation Recital 4 c (new)

*Text proposed by the Commission*

*Amendment*

***(4c) In its resolution of 15 March 2017 on obstacles to EU citizens' freedom to move and work in the internal market, 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".***

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## Amendment 12

### Proposal for a regulation Recital 4 d (new)

*Text proposed by the Commission*

*Amendment*

***(4d) Measures to facilitate the***

*identification and upholding of social security rights and benefits across the Union should be promoted, such as the adoption of a ESSC, which should be associated with the existing EHIC and the EDC and which should cover all social security areas.*

### **Amendment 13**

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

##### **Recital 4 e (new)**

*Text proposed by the Commission*

*Amendment*

*(4e) 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 EHIC 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 14**

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

##### **Recital 4 f (new)**

*Text proposed by the Commission*

*Amendment*

*(4f) Cross-border healthcare is of particular relevance to guarantee an equitable coordination of social security systems. In that regard, the implementation of Directive 2011/24/EU of the European Parliament and of the Council<sup>1a</sup> varies 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.*

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<sup>1a</sup> *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 15

### Proposal for a regulation Recital 5

*Text proposed by the Commission*

*Amendment*

*(5) It is necessary to guarantee legal certainty by clarifying that access to social security benefits for economically inactive mobile citizens in the host Member State, may be made conditional upon that citizen holding a legal right of residence in that Member State in accordance with 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>33</sup> 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.*

*deleted*

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

## Amendment 16

### Proposal for a regulation Recital 6

*Text proposed by the Commission*

*Amendment*

(6) Long-term care benefits have so far not been included explicitly within the material scope of Regulation (EC) No 883/2004 but coordinated as sickness

(6) Long-term care benefits have so far not been included explicitly within the material scope of Regulation (EC) No 883/2004 but coordinated as sickness

benefits, *leading to legal uncertainty both for institutions and persons claiming long-term care benefits*. There is a need to *develop a stable legal framework appropriate to long-term care benefits within the Regulation* to include a clear definition of such benefits.

benefits. There is a need to include a clear definition of such benefits *concerning long-term care and to update the rules to take into account their specificities. It is important to clarify that both economically inactive people and economically active people can have long-term care needs. The purpose of long-term care benefits is to assist people to carry out their daily activities in order to support their personal autonomy, including at the place of work.*

## Amendment 17

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

*Text proposed by the Commission*

*Amendment*

*(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 was “absurd to have a Banking Authority to police banking standards, but no common Labour Authority for ensuring fairness in [the] single market”. In its resolution of 14 September 2016 on social dumping in the European Union, the European 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”.*

## Amendment 18

### Proposal for a regulation Recital 6 b (new)

*Text proposed by the Commission*

*Amendment*

***(6b) Regulation (EC) No 883/2004 establishes a generally acceptable legal framework. Member States have a moral obligation to seek to reduce, by means of bilateral agreements, any administrative burden experienced by the public. Measures should be taken to set up national institutions responsible for verifying contributions relating to cross-border activities in the relevant Member State, while at the same time ensuring compliance with Union law. Efforts should also be made to develop an electronic information exchange tool for verification purposes, giving national labour inspectorates rapid access to requisite data. This Regulation should, accordingly, remain closely in step with Directive 96/71/EC of the European Parliament and of the Council<sup>1a</sup>.***

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<sup>1a</sup> ***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 (OJ L 18, 21.1.1997, p. 1).***

## Amendment 19

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

*Text proposed by the Commission*

*Amendment*

***(6c) Technological developments offer new opportunities for coordination, exchange of information and enforcement. Along the lines of the Belgian ‘Crossroads Bank for Social***

*Security*<sup>1a</sup> a system of electronic networking of all relevant social security authorities could improve mutual relationships, transparency and accountability.

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<sup>1a</sup> [http://www.ksz.fgov.be/en/international/page/content/websites/international/about\\_tcbss.html](http://www.ksz.fgov.be/en/international/page/content/websites/international/about_tcbss.html)

## **Amendment 20**

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

*Text proposed by the Commission*

*Amendment*

*(6d) In its resolution of 14 January 2014 on effective labour inspections as a strategy to improve working conditions in Europe, the European 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”.*

## **Amendment 21**

### **Proposal for a regulation**

## **Recital 6 e (new)**

*Text proposed by the Commission*

*Amendment*

***(6e) In order to optimise the free movement of persons, it is necessary to take a closer look at the connection between coordination in this area and the coordination of tax systems, taking full account of their individual features and respecting the principle of subsidiarity.***

## **Amendment 22**

**Proposal for a regulation**

**Recital 6 f (new)**

*Text proposed by the Commission*

*Amendment*

***(6f) In its resolution of 15 March 2017 on obstacles to EU citizens' freedom to move and work in the internal market, the European 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".***

## **Amendment 23**

**Proposal for a regulation**

**Recital 6 g (new)**

*Text proposed by the Commission*

*Amendment*

***(6g) Where, owing to a mismatch between social security systems, a group of persons working in a Member State other than their Member State of residence are, as a result of the provisions of Articles 45 to 48 TFEU, placed at a disadvantage in comparison with those who have not availed themselves of freedom of movement for workers, in so***

*far as they are, for a certain period, given a significantly lower level of protection than citizens of the Member State of residence, and where the matter cannot be resolved under the coordination rules, the Member State of residence of those citizens and their families should, in agreement with the Member States concerned, find a way of remedying those disadvantages.*

## Amendment 24

### 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>. **Regulations (EC) No 883/2004 and (EC) No 987/2009 should refer to workers in a posting situation, including those falling within the scope of Directive 96/71/EC, as “sent” rather than “posted”.** 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 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 25

### 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 26

### 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

*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 day* of insurance in that Member State.

*Amendment*

(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 ***promote mobility and*** improve the opportunities for unemployed persons moving to another Member State to look for work and their chances ***to retrain and*** for reintegration into the labour market and to address skills

mismatches across borders.

mismatches across borders.

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

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

## Amendment 27

### Proposal for a regulation Recital 10

#### *Text proposed by the Commission*

(10) There is a need to ensure greater parity of treatment for frontier and cross-border workers by ***ensuring frontier workers receive*** unemployment benefits from the Member State of last activity ***provided that they have worked in that Member State for at least the past twelve months.***

#### *Amendment*

(10) There is a need to ensure greater parity of treatment for frontier and cross-border workers by ***giving them the choice between receiving*** unemployment benefits from the Member State of last activity ***or from their Member State of residence, in order to enhance the probability of their finding employment in the Member State where their chances of doing so are the highest.***

## Amendment 28

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

#### *Text proposed by the Commission*

#### *Amendment*

***(10a) It is also important to strengthen cooperation between national competent authorities and to clarify the regulatory framework applicable in order to ensure that the Member State of last activity, the Member States of previous activities and the Member State of residence do not each declare themselves not to be competent to pay benefits, to the detriment of insured persons. Communication between the competent authority of the Member State of last activity and the job seeker should be conducted in the job seeker's language. It is also necessary that cross-border job seekers also have the***

*possibility to make themselves available to a cross-border employment service, providing that such a service exists in the geographic area corresponding to the area of their job research.*

#### **Amendment 29**

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

*Text proposed by the Commission*

*Amendment*

*(10b) While coordination rules cannot prevent mobile citizens from having a lower level of protection than non-mobile citizens, Member States are encouraged to find bilateral solutions in accordance with Article 16 of Regulation (EC) No 883/2004 as amended by this Regulation.*

#### **Amendment 30**

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

*Text proposed by the Commission*

*Amendment*

*(10c) Member States should be able to 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.*

#### **Amendment 31**

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

*Text proposed by the Commission*

*Amendment*

*(10d) It is necessary to develop cross-border placement services in order to support applicants in their search for new employment that are as close as possible*

*to the realities of border areas.*

## Amendment 32

### Proposal for a regulation

#### Recital 11

*Text proposed by the Commission*

(11) Family benefits intended to replace income **during** child-raising **periods** are designed to meet the individual and personal needs of the parent subject to the legislation of the competent Member State and therefore are distinguishable from other family benefits as they are intended to compensate a parent for loss of income or salary during time spent raising a child rather than solely meeting general family expenses.

*Amendment*

(11) Family benefits **in cash which are primarily** intended to replace **or grant additional**, income **that is not earned, whether in part of in full, or that the person cannot earn, due to** child-raising are designed to meet the individual and personal needs of the parent subject to the legislation of the competent Member State and therefore are distinguishable from other family benefits as they are intended to compensate a parent for loss of income or salary during time spent raising a child rather than solely meeting general family expenses.

## Amendment 33

### Proposal for a regulation

#### Recital 11 a (new)

*Text proposed by the Commission*

*Amendment*

**(11a) 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 34

### Proposal for a regulation

#### Recital 12

*Text proposed by the Commission*

(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 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.<sup>36</sup> 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.**

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<sup>36</sup> OJ L 123, 12.5.2016, p. 1–14.

## **Amendment 35**

### **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

*Amendment*

(12) In order to enable timely **updates** of this Regulation **in line with** developments at the national level, the Annexes to this Regulation and **to** Regulation (EC) No 987/2009 **should be amended periodically.**

*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 facilitate the processing of personal data about persons to whom Regulations (EC) No 883/2004 and (EC) No 987/2009 apply, **while complying fully, without exception, with the Union acquis on the protection of personal data, particularly Regulation**

institutions against that held by another Member State in order to identify errors or inconsistencies that require further investigation.

*(EU) 2016/679 of the European Parliament and of the Council<sup>1a</sup>*. 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.

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*<sup>1a</sup> Regulation (EU) 2016/679 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 36

### 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 sent to pursue economic activity in a single Member State. Moreover, the 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 37

### Proposal for a regulation Recital 16 a (new)

***(16a) In order to strengthen the link between the substantial activity of the undertaking and the legislation applicable to the person seconded by that undertaking to another Member State on a temporary basis, it is important to stress that the substantial activity must be characterised, inter alia, by a share of more than 25 % of the annual turnover in the Member State from which the person is seconded.***

### **Amendment 38**

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

##### **Recital 17**

*Text proposed by the Commission*

***(17) Implementing powers should be conferred on the European Commission in order to ensure uniform conditions for the implementation of Articles 12 and 13 of Regulation (EC) No 883/2004. Those powers should be exercised in accordance with Article 5 of Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers.<sup>37</sup>***

*Amendment*

***(17) In order to supplement this Regulation by establishing a standard procedure for the determination of situations in which the documents are to be issued and those in which the document are to be withdrawn because the competent institution of the Member State of employment contests its accuracy or validity, 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 Commission in respect of the implementation of Articles 12 and 13 of Regulation (EC) No 883/2004 as amended by this Regulation. 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 of 13 April 2016 on Better Law-Making<sup>37</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the***

European Parliament and the 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.*

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<sup>37</sup> OJ L 55, 28.2.2011, p. 13.

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<sup>37</sup> OJ L 123, 12.5.2016, p. 1.

### **Amendment 39**

#### **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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<sup>1a</sup>. OJ C 91, 26.4.2007, p. 15.

### **Amendment 40**

#### **Proposal for a regulation Article 1 – paragraph 1 – point 1 Regulation (EC) No 883/2004 Recital 2 – second sentence**

*Text proposed by the Commission*

*Amendment*

*1. A second sentence is added in  
Recital 2 as follows:*

*deleted*

*‘Article 21 Treaty of the Functioning of  
the European Union guarantees every  
Union citizen the right to free movement  
subject to the limitations and conditions  
laid down in the Treaties and by the  
measures adopted to give them effect.’*

## Amendment 41

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Recital 5

*Text proposed by the Commission*

2. *In Recital 5, after “the different national legislation for the persons concerned” the following wording is inserted:*

*”, subject to the conditions as regards the access to certain social security benefits by economically inactive mobile EU citizens in the host Member State 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>40</sup>”*

*Amendment*

2. *Recital 5 is replaced by the following:*

*“(5) It is necessary, within the framework of such coordination, to guarantee within the Union equality of treatment under the different national legislation for the persons concerned and to support citizens in the exercise of their Treaty rights to free movement, not least by ensuring clarity in terms of the Member State responsible for ensuring their access to, and coverage by, the relevant social security system.”*

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<sup>40</sup> *OJ L 158, 30.4.2004, p. 77*

### *Justification*

*Recital (5) emphasises the obligation to ensure equality of treatment which is contained in Article 4 of Regulation 883/2004. It is not appropriate at this point in time to add limitations to this principle given that the case law in this area is still evolving. This suggested amendment also reflects the position of the Council (ST 13139/2017) that recital (5) of Regulation 883/2004 should not be amended. Moreover, there are circumstances in which the principle of equality of treatment applies without Directive 2004/38 also applying, for example as regards the exportability of benefits where a citizen is not residing in the competent Member State. All references to economically inactive citizen, social security benefits and Directive 2004/38 should therefore be deleted.*

## Amendment 42

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Recital 5a

*Text proposed by the Commission*

*Amendment*

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

***deleted***

#### **Amendment 43**

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

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

Regulation (EC) No 883/2004

Recital 5b

*Text proposed by the Commission*

*Amendment*

(5b) Member States should ensure that economically inactive EU mobile citizens are not prevented from satisfying the condition of having comprehensive sickness insurance cover in the host Member State, as laid down in Directive 2004/38/EC. This ***may*** entail allowing such citizens to contribute in a proportionate manner to a scheme for sickness coverage in the Member State in which they habitually reside.

(5b) Member States should ensure that economically inactive EU mobile citizens are not prevented from satisfying the condition of having comprehensive sickness insurance cover in the host Member State, as laid down in Directive 2004/38/EC. This ***should at least*** entail allowing such citizens to contribute in a proportionate manner to a scheme for sickness coverage ***or otherwise to 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 44**

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

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

Regulation (EC) No 883/2004

Recital 5c

*Text proposed by the Commission*

*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) and the right to healthcare (Article 35).*

*deleted*

### **Amendment 45**

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

#### **Article 1 – paragraph 1 – point 4 a (new)**

Regulation (EC) No 883/2004

Recital 20

*Present text*

*Amendment*

(20) In the field of sickness, maternity and equivalent paternity benefits, insured persons, as well as the members of their families, living or staying in a Member State other than the competent Member State, should be afforded protection.

**4a. Recital 20 is replaced by the following:**

“(20) In the field of sickness, **long-term care**, maternity and equivalent paternity benefits, insured persons, as well as the members of their families, living or staying in a Member State other than the competent Member State, should be afforded protection.”

## Amendment 46

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Recital 24

#### *Text proposed by the Commission*

(24) **Long-term** care benefits for insured persons and members of their families **need** to be coordinated **according to specific rules which, in principle, follow the rules applicable to sickness benefits, in line with the case law of the Court of Justice**. It is also necessary to provide for specific provisions in case of overlapping of long-term care benefits in kind and in cash.

#### *Amendment*

(24) **In accordance with the case-law of the Court of Justice of the European Union, long-term** care benefits for insured persons and members of their families **should, in principle, continue** to be coordinated **following** the rules applicable to sickness benefits. **However, those rules should take into account the specific nature of long-term care benefits**. It is also necessary to provide for specific provisions in case of overlapping of long-term care benefits in kind and in cash.

## Amendment 47

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 6

Regulation (EC) No 883/2004

Recital 35a

#### *Text proposed by the Commission*

(35a) Family benefits in cash intended to replace income **during a periods of** child-raising **are** individual rights which are personal to the parent subject to the legislation of the competent Member State. **Given the specific nature of these family benefits, such** benefits should be listed in Part I of Annex XIII to this Regulation **and should be exclusively reserved to the parent concerned**. The Member State with secondary competence may elect that the rules of priority in the case of overlapping of rights to family benefits under the legislation of the competent Member State and under the legislation of the Member State of residence of members of the

#### *Amendment*

(35a) Family benefits in cash **which are primarily** intended to replace **or grant additional** income **not earned, whether in part or in full, or income that the person cannot earn, due to** child-raising, **can be distinguished from other family benefits intended to meet family expenses. As such benefits could be considered to be** individual rights which are personal to the parent subject to the legislation of the competent Member State, **it should be possible to reserve them exclusively to the parent concerned. Such individual** benefits should be listed in Part I of Annex XIII to this Regulation. The Member State with secondary competence may elect that

family should not apply to such benefits. Where a Member State chooses to disapply the priority rules it must do so consistently in respect of all entitled persons in an analogous situation and be listed in Part II of Annex XIII.

the rules of priority in the case of overlapping of rights to family benefits under the legislation of the *competent* Member State ***and under the legislation of the Member State*** of residence of members of the family should not apply to such benefits. Where a Member State chooses to disapply the priority rules it must do so consistently in respect of all entitled persons in an analogous situation and ***provided that the benefits concerned are*** listed in Part II of Annex XIII.

## Amendment 48

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 7

Regulation (EC) No 883/2004

Recital 39a

#### *Text proposed by the Commission*

(39a) The relevant EU data protection acquis, in particular Regulation (EU) 679/2016 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)<sup>42</sup> ***shall apply*** to the processing of personal data ***pursuant to*** this Regulation.

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<sup>42</sup> OJ L 119, 4.5.2016, p. 1-88.

#### *Amendment*

(39a) The relevant EU data protection acquis, in particular Regulation (EU) 2016/679 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)<sup>42</sup> ***applies fully and without exception*** to the processing of personal data ***affected by*** this Regulation.

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<sup>42</sup> OJ L 119, 4.5.2016, p. 1-88.

## Amendment 49

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Recital 46

#### *Text proposed by the Commission*

***(46) In order to enable a timely update of this Regulation to the developments at the***

#### *Amendment*

***deleted***

*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<sup>43</sup> of 13 April 2016. 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.*

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<sup>43</sup> COM(2015) 216 final.

## Amendment 50

### 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 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

#### *Amendment*

(47) This Regulation respects fundamental rights and observes the principles recognised *by* the Charter of Fundamental Rights of the European Union, notably *the right to human dignity (Article 1), the right to life (Article 2), 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), equality between men and women (Article 23), the*

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.

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), **as well as the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms**, and has to be implemented in accordance with those rights and principles.

## **Amendment 51**

### **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 in this Regulation limits the independent rights and obligations recognised in the Council of Europe 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 by the Member States concerned in accordance with those rights and obligations.***

## **Amendment 52**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Recital 48 b (new)

*Text proposed by the Commission*

*Amendment*

***(48b) 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.***

### **Amendment 53**

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

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

Regulation (EC) No 883/2004

Recital 48 c (new)

*Text proposed by the Commission*

*Amendment*

***(48c) 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.***

### **Amendment 54**

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

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

Regulation (EC) No 883/2004

Recital 48 d (new)

*Text proposed by the Commission*

*Amendment*

***(48d) Nothing in this Regulation limits the independent rights and obligations recognised in the Council of Europe Convention on Social and Medical Assistance in the Member States concerned.***

## **Amendment 55**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Recital 48 e (new)

*Text proposed by the Commission*

*Amendment*

***(48e) 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 to be competent to pay unemployment benefits, to the detriment of insured persons.***

## **Amendment 56**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 9 – point a**

Regulation (EC) No 883/2004

Article 1 – point c

*Text proposed by the Commission*

*Amendment*

***(a) In Point (c) the term “Title III, Chapters 1 and 3” is replaced by the term “Title III, Chapters 1, 1a and 3”.***

***deleted***

## **Amendment 57**

### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 9 – point a a (new)**

Regulation (EC) No 883/2004

Article 1 – point c

*Present text*

(c) ‘insured person’, in relation to the social security branches covered by Title III, Chapters 1 and 3, means any person satisfying the conditions required under the legislation of the Member State competent under Title II to have the right to benefits, taking into account the provisions of this Regulation;

*Amendment*

***(aa) Point (c) is replaced by the following:***

“(c) ‘insured person’, in relation to the social security branches covered by Title III, Chapters 1 and 3, means any person satisfying the conditions required under the legislation of the Member State competent under Title II to have the right to benefits, ***for at least one of the risks covered by the Chapter which is to be applied,*** taking into account the provisions of this Regulation.”

**Amendment 58**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 9 – point b**

Regulation (EC) No 883/2004

Article 1 – point i – point 1 – point ii

*Text proposed by the Commission*

***(b) In Point (i)(1)(ii) after the term “Title III, Chapter 1 on sickness, maternity and equivalent paternity benefits” the term “and Chapter 1a on long-term care benefits” is inserted.***

*Amendment*

***deleted***

**Amendment 59**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 9 – point b a (new)**

Regulation (EC) No 883/2004

Article 1 – point i – point 1 – point ii

*Present text*

(ii) with regard to benefits in kind pursuant to Title III, Chapter 1 on sickness, maternity and equivalent paternity benefits,

*Amendment*

***(ba) In point (i)(1), point (ii) is replaced by the following:***

“(ii) with regard to benefits in kind pursuant to Title III, Chapter 1 on sickness, ***long-term care,*** maternity and equivalent

any person defined or recognised as a member of the family or designated as a member of the household by the legislation of the Member State in which he/she resides;

paternity benefits, any person defined or recognised as a member of the family or designated as a member of the household by the legislation of the Member State in which he/she resides;”

## Amendment 60

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 9 – point c

Regulation (EC) No 883/2004

Article 1 – point va – point i

*Text proposed by the Commission*

*Amendment*

***(c) In Point (va)(i) after the term “Title III, Chapter 1 (sickness, maternity and equivalent paternity benefits),” the term “and Chapter 1a (long-term care benefits)” is inserted and the last sentence is deleted.***

***deleted***

## Amendment 61

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 9 – point c a (new)

Regulation (EC) No 883/2004

Article 1 – point va – point i

*Present text*

*Amendment*

(i) for the purposes of Title III, Chapter 1 (sickness, maternity and equivalent paternity benefits), benefits in kind provided for under the legislation of a Member State which are intended to supply, make available, pay directly or reimburse the cost of medical care and products and services ancillary to that care. This includes long-term care benefits in kind;

***(ca) In point (va), point (i) is replaced by the following:***

“(i) for the purposes of Title III, Chapter 1 (sickness, maternity and equivalent paternity benefits), benefits in kind provided for under the legislation of a Member State which are intended to supply, make available, pay directly or reimburse the cost of medical care and products and services ancillary to that care. This also includes long-term care benefits in kind ***provided for under the legislation of a Member State which are intended to supply, make available, pay directly or reimburse the cost of long-term care;***”

## Amendment 62

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 9 – point d

Regulation (EC) No 883/2004

Article 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 **a** benefit in kind **or in cash the purpose of which is to address the care or support needs of a person** who, on account of **old age**, disability, illness or impairment, **requires** assistance from another person or persons to carry out **their** essential activities **of daily living for an extended period of time in order** to support their personal autonomy, **including in a workplace**; this includes benefits granted **for the same purpose to** the person **or persons** providing such assistance;

## Amendment 63

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 9 – point d

Regulation (EC) No 883/2004

Article 1 – point vb a (new)

#### *Text proposed by the Commission*

#### *Amendment*

(vba) “**continuation of treatment**” means **the continued investigation, diagnosis and treatment of an illness for its entire duration**;

## Amendment 64

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 9 – point d

Regulation (EC) No 883/2004

Article 1 – point vb b (new)

*Text proposed by the Commission*

*Amendment*

***(vbb) "continuation of long-term care" means the continued granting of long-term care benefits in kind due to the need of care which was established before retirement and which continues beyond that date.***

## **Amendment 65**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 9 a (new)**

Regulation (EC) No 883/2004

Article 3 – paragraph 1 – point a

*Present text*

*Amendment*

(a) sickness benefits;

***9a. In Article 3(1), point (a) is replaced by the following:***

***“(a) sickness and long-term care benefits;”***

## **Amendment 66**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 10**

Regulation (EC) No 883/2004

Article 3 – paragraph 1 – point ba

*Text proposed by the Commission*

*Amendment*

***10. In Article 3(1), the following point is inserted after point (b):***

***deleted***

***‘(ba) long-term care benefits;’***

## **Amendment 67**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 4

*Text proposed by the Commission*

*Amendment*

**11. Article 4 of Regulation (EC) No 883/2004 is replaced with the following:**

*deleted*

**“Article 4**

***Equality of Treatment***

***1. Unless otherwise provided for by this Regulation, persons to whom this Regulation applies shall enjoy the same benefits and be subject to the same obligations under the legislation of any Member State as the nationals thereof.***

***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>***

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

## **Amendment 68**

### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 12 – point a**

**Regulation (EC) No 883/2004**

**Article 11 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***(a) In paragraph 2 the term “sickness benefits in cash covering treatment for an unlimited period” is replaced by the term “long-term care benefits in cash”.***

*deleted*

## **Amendment 69**

### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 12 – point a a (new)**

Regulation (EC) No 883/2004

Article 11 – paragraph 2

*Present text*

2. For the purposes of this Title, persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person shall be considered to be pursuing the said activity. This shall not apply to invalidity, old-age or survivors' pensions *or* to pensions in respect of accidents at work or occupational diseases *or* to sickness benefits in cash covering treatment for an unlimited period.

*Amendment*

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

“2. For the purposes of this Title, persons receiving cash benefits because or as a consequence of their activity as an employed or self-employed person shall be considered to be pursuing the said activity. This shall not apply to invalidity, old-age or survivors’ pensions, to pensions in respect of accidents at work or occupational diseases, to sickness benefits in cash covering treatment for an unlimited period, ***or to long-term care benefits in cash to which a person in need of care is entitled.***”

**Amendment 70**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 12 – point a b (new)**

Regulation (EC) No 883/2004

Article 11 – paragraph 3 – point c

*Present Text*

(c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of the Member State of residence shall be subject to the legislation of that Member State;

*Amendment*

***(ab) In paragraph 3, point (c) is replaced by the following:***

“(c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of the Member State of residence ***or of the Member State of his or her most recent activity as an employed or self-employed person*** shall be subject to the legislation of that Member State;”

**Amendment 71**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 12 – point a c (new)**

*Present text*

4. For the purposes of this Title, an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of a Member State shall be deemed to be an activity pursued in the said Member State. However, a person employed on board a vessel flying the flag of a Member State and remunerated for such activity by an ***undertaking or a person*** whose registered office ***or place of business*** is in another Member State shall be subject to the legislation of the latter Member State if he resides in that State. ***The undertaking or person paying the remuneration shall be considered as the employer for the purposes of the said legislation.***

**Amendment 72**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 12 – point b**

Regulation (EC) No 883/2004

Article 11 – paragraph 5

*Text proposed by the Commission*

5. An activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be an activity pursued ***exclusively*** in the Member State where the home base, as defined in Annex III, ***Subpart FTL*** to Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council as amended by Commission Regulation (EU) No 83/2014/EU of 29 January 2014<sup>45</sup>, is located.

*Amendment*

***(ac) Paragraph 4 is replaced by the following:***

“4. For the purposes of this Title, an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of a Member State shall be deemed to be an activity pursued in the said Member State. However, a person employed on board a vessel flying the flag of a Member State and remunerated for such activity by an ***employer*** whose registered office is in another Member State shall be subject to the legislation of the latter Member State if he resides in that State.”

*Amendment*

5. An activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be an activity pursued in the Member State where the home base, as defined in Annex III to Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council as amended by Commission Regulation (EU) No 83/2014/EU of 29 January 2014<sup>45</sup>, is located.

## Amendment 73

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 12

#### *Text proposed by the Commission*

Article 12

Special rules

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 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*

Article 12

Special rules

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 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:

(a) the anticipated ***or actual*** duration of such work does not exceed **18** months;

(b) ***the person concerned is subject to the legislation of the Member State where the employer is established for a period of at least three months immediately preceding the start of the work as an employed person;***

(c) ***the competent institution of the Member State where the employer is established has been notified about the sending and received a request prior to the commencement of the work for the continued application of its legislation.***

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.**

***No such formal request need to be made where the work concerns a business trip.***

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 18 months,

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

(c) **the competent institution in the Member State where the person concerned normally pursues the activity has been notified about the pursuit of the activity in the other Member State and received a request, prior to the start of the activity for the continued application of its legislation. No such formal request need be made where the activity pursued concerns a business trip.**

2a. **For the purpose of paragraphs 1 and 2, in the case of a replacement of sent workers performing the same or similar task at the same place, the cumulative duration of the sending periods shall be taken into account.**

**When a worker has reached the maximum period of sending provided for, no further sending of that worker or self-employed person by the same undertakings to the same Member State shall be authorised under the legislation of the first Member state until three months after the end of the most recent sending period. A derogation from the second subparagraph may be granted in**

*specific circumstances.*

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<sup>46</sup> OJ L 018 , 21.01.1997 p. 1.

#### Amendment 74

##### Proposal for a regulation

##### Article 1 – paragraph 1 – point 13 a (new)

Regulation (EC) No 883/2004

Article 13 – paragraph 1

##### *Present text*

1. A person who normally pursues an activity as an employed person in two or more Member States shall be subject:

(a) to the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State; *or*

(b) *if he/she does not pursue a substantial part of his/her activity in the Member State of residence:*

*(i) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated if he/she is employed by one undertaking or employer; or*

*(ii) to the legislation of the Member State in which the registered office or place of business of the undertakings or employers is situated if he/she is employed by two or more undertakings or employers which have their registered office or place of business in only one Member State; or*

##### *Amendment*

***13a. In Article 13, paragraph 1 is replaced by the following:***

“1. A person who normally pursues an activity as an employed person in two or more Member States shall be subject *to:*

(a) the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State,

(b) *the legislation of the Member State in which he/she performs the largest share of his/her work activities, if he/she does not reside in one of the Member States in which he/she pursues a substantial part of his/her activity as an employed person; or*

*(ba) the legislation of the Member State of residence if the share of activities is identical.”*

*(iii) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated other than the Member State of residence if he/she is employed by two or more undertakings or employers, which have their registered office or place of business in two Member States, one of which is the Member State of residence.*

*(iv) to the legislation of the Member State of residence if he/she is employed by two or more undertakings or employers, at least two of which have their registered office or place of business in different Member States other than the Member State of residence.*

#### **Amendment 75**

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

##### **Article 1 – paragraph 1 – point 14**

Regulation (EC) No 883/2004

Article 13 – paragraph 4a

*Text proposed by the Commission*

*Amendment*

**14. In Article 13, the following paragraph 4a is inserted after paragraph 4:**

*deleted*

**“4a. A person who is receiving unemployment benefits in cash from one Member State and who is simultaneously pursuing an activity as an employed or self-employed person in another Member State shall be subject to the legislation of the Member State paying the unemployment benefits.”**

#### **Amendment 76**

##### **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.’**

#### **Amendment 77**

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

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

Regulation (EC) No 883/2004

Title III – Chapter 1 – title

*Present text*

Sickness, maternity and equivalent  
paternity benefits

#### **Amendment 78**

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

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

Regulation (EC) No 883/2004

Article 19

*Present text*

Article 19

Stay outside the competent Member State

1. Unless otherwise provided for by

*Amendment*

**14b. In Title III, Chapter 1, the title is  
replaced by the following:**

“Sickness, *long-term care*, maternity and  
equivalent paternity benefits”

*Amendment*

**14c. Article 19 is replaced by the  
following:**

“Article 19

Stay outside the competent Member State

1. Unless otherwise provided for by

paragraph 2, an insured person and the members of *his/her* family staying in a Member State other than the competent Member State shall be entitled to the benefits in kind which become necessary on medical grounds during their stay, taking into account the nature of the benefits and the expected length of the stay. These benefits shall be provided on behalf of the competent institution by the institution of the place of stay, in accordance with the provisions of the legislation it applies, as though the persons concerned were insured under the said legislation.

2. The Administrative Commission shall establish a list of benefits in kind which, in order to be provided during a stay in another Member State, require for practical reasons a prior agreement between the person concerned and the institution providing the *care*.

paragraph 2, an insured person and the members of *his or her* family staying in a Member State other than the competent Member State shall be entitled to the benefits in kind which become necessary on *either* medical grounds *or due to the need for long-term care* during their stay, taking into account the nature of the benefits and the expected length of the stay. These benefits shall be provided on behalf of the competent institution by the institution of the place of stay, in accordance with the provisions of the legislation it applies, as though the persons concerned were insured under the said legislation.

2. The Administrative Commission shall establish a list of benefits in kind which, in order to be provided during a stay in another Member State, require for practical reasons a prior agreement between the person concerned and the institution providing the *benefit*.”

## Amendment 79

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 9 – point 14 d (new)

Regulation (EC) No 883/2004

Article 20 – title

#### *Present text*

Travel with the purpose of receiving benefits in kind — Authorisation to receive appropriate treatment outside the Member State of residence

#### *Amendment*

***14d. In Article 20, the title is replaced by the following:***

“Travel with the purpose of receiving benefits in kind — Authorisation to receive appropriate treatment *and long-term care* outside the Member State of residence”

## Amendment 80

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 9 – point 14 e (new)

Regulation (EC) No 883/2004

Article 20 – paragraph 2

*Present text*

2. An insured person who is authorised by the competent institution to go to another Member State with the purpose of receiving the treatment appropriate to **his/her** condition shall receive the benefits in kind provided, on behalf of the competent institution, by the institution of the place of stay, in accordance with the provisions of the legislation it applies, as though **he/she** were insured under the said legislation. The authorisation shall be accorded where the treatment in question is among the benefits provided for by the legislation in the Member State where the person concerned resides and where **he/she** cannot be given such treatment within a time-limit which is medically justifiable, taking into account **his/her** current state of health and the probable course of **his/her** illness.

*Amendment*

**14e. In Article 20, paragraph 2 is replaced by the following:**

“2. An insured person who is authorised by the competent institution to go to another Member State with the purpose of receiving the treatment **or long-term care** appropriate to **his or her** condition shall receive the benefits in kind provided, on behalf of the competent institution, by the institution of the place of stay, in accordance with the provisions of the legislation it applies, as though **he or she** were insured under the said legislation. The authorisation shall be accorded where the treatment **or long-term care** in question is among the benefits provided for by the legislation in the Member State where the person concerned resides and where **he or she** cannot be given such treatment within a time-limit which is medically justifiable, taking into account **his or her** current state of health and the probable course of **his or her** illness **or within a reasonable time limit, taking into account his or her need, at the time, for long-term care and the probable development of that need.**”

**Amendment 81**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 14 f (new)**

Regulation (EC) No 883/2004

Article 25

*Present text*

Article 25

Pensions under the legislation of one or more Member States other than the Member State of residence, where there is a right to benefits in kind in the latter Member State

*Amendment*

**14f. Article 25 is replaced by the following:**

“Article 25

Pensions under the legislation of one or more Member States other than the Member State of residence, where there is a right to benefits in kind in the latter Member State

Where the person receiving a pension or pensions under the legislation of one or more Member States resides in a Member State under whose legislation the right to receive benefits in kind is not subject to conditions of insurance, or of activity as an employed or self-employed person, and no pension is received from that Member State, the cost of benefits in kind provided to him/her and to members of his/her family shall be borne by the Institution of one of the Member States competent in respect of his/her pensions determined in accordance with Article 24(2), to the extent that the pensioner and the members of his/her family would be entitled to *such* benefits if they resided in that Member State.

Where the person receiving a pension or pensions under the legislation of one or more Member States resides in a Member State under whose legislation the right to receive benefits in kind is not subject to conditions of insurance, or of activity as an employed or self-employed person, and no pension is received from that Member State, the cost of benefits in kind provided to him/her and to members of his/her family shall be borne by the Institution of one of the Member States competent in respect of his/her pensions determined in accordance with Article 24(2), to the extent that the pensioner and the members of his/her family would be entitled to benefits if they resided in that Member State.”

#### *Justification*

*The “such” could be interpreted in a way that a Member State refuses to reimburse LTC benefits in kind because there is no entitlement to such LTC benefits in kind under the legislation of that Member State. It seems that this is not the intention of this article.*

### **Amendment 82**

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

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

Regulation (EC) No 883/2004

Article 27 – title

#### *Present text*

Stay of the pensioner or the members of his family in a Member State other than the Member State in which they reside – Stay in the competent Member State –  
Authorisation for appropriate treatment outside the Member State of residence

#### *Amendment*

#### ***14g. In Article 27, the title is replaced by the following:***

“Stay of the pensioner or the members of his family in a Member State other than the Member State in which they reside – Stay in the competent Member State –  
Authorisation for appropriate treatment *or long-term care* outside the Member State of residence”

### **Amendment 83**

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

**Article 1 – paragraph 1 – point 14 h (new)**

Regulation (EC) No 883/2004

Article 27 – paragraph 3

*Present text*

3. Article 20 shall apply mutatis mutandis to a pensioner and/or the members of his/her family who are staying in a Member State other than the one in which they reside with the purpose of receiving there the treatment appropriate to their condition.

**Amendment 84**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 14 i (new)**

Regulation (EC) No 883/2004

Article 28 – paragraph 1 – subparagraph 1

*Present text*

A frontier worker who has retired because of old-age or invalidity is entitled in the event of sickness to continue to receive benefits in kind in the Member State where he/she last pursued his/her activity as an employed or self-employed person, in so far as this is a continuation of treatment which began in that Member State.  
***‘Continuation of treatment’ means the continued investigation, diagnosis and treatment of an illness for its entire duration.***

**Amendment 85**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 14 j (new)**

*Amendment*

***14h. In Article 27, paragraph 3 is replaced by the following:***

“3. Article 20 shall apply mutatis mutandis to a pensioner and/or the members of his/her family who are staying in a Member State other than the one in which they reside with the purpose of receiving there the treatment ***or long-term care*** appropriate to their condition.”

*Amendment*

***14i. In Article 28(1), the first subparagraph is replaced by the following:***

“A frontier worker who has retired because of old-age or invalidity is entitled in the event of sickness ***or the need for long-term care*** to continue to receive benefits in kind in the Member State where he/she last pursued his/her activity as an employed or self-employed person, in so far as this is a continuation of treatment ***or long-term care*** which began in that Member State.

*Present text*

2. A pensioner who, in the **five** years preceding the effective date of an old-age or invalidity pension has been pursuing an activity as an employed or self-employed person for at least two years as a frontier worker shall be entitled to benefits in kind in the Member State in which he/she pursued such an activity as a frontier worker, if this Member State and the Member State in which the competent institution responsible for the costs of the benefits in kind provided to the pensioner in his/her Member State of residence is situated have opted for this and are both listed in Annex V.

**Amendment 86**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 14 k (new)**

Regulation (EC) No 883/2004

Article 28 – paragraph 3

*Present text*

3. Paragraph 2 shall apply *mutatis mutandis* to the members of the family of a former frontier worker or his/her survivors if, during the periods referred to in paragraph 2, they were entitled to benefits in kind under Article 18(2), even if the frontier worker died before his/her pension commenced, provided he/she had been pursuing an activity as an employed or self-employed person as a frontier worker for at least two years in the **five** years preceding his/her death.

*Amendment*

**14j. In Article 28, paragraph 2 is replaced by the following:**

“2. A pensioner who, in the **ten** years preceding the effective date of an old-age or invalidity pension has been pursuing an activity as an employed or self-employed person for at least two years as a frontier worker shall be entitled to benefits in kind in the Member State in which he/she pursued such an activity as a frontier worker, if this Member State and the Member State in which the competent institution responsible for the costs of the benefits in kind provided to the pensioner in his/her Member State of residence is situated have opted for this and are both listed in Annex V.”

*Amendment*

**14k. In Article 28, paragraph 3 is replaced by the following:**

“3. Paragraph 2 shall apply *mutatis mutandis* to the members of the family of a former frontier worker or his/her survivors if, during the periods referred to in paragraph 2, they were entitled to benefits in kind under Article 18(2), even if the frontier worker died before his/her pension commenced, provided he/she had been pursuing an activity as an employed or self-employed person as a frontier worker for at least two years in the **ten** years preceding his/her death.”

## Amendment 87

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 30

#### *Present text*

Article 30

Contributions by pensioners

1. The institution of a Member State which is responsible under the legislation it applies for making deductions in respect of contributions for sickness, maternity and equivalent paternity benefits, may request and recover such deductions, calculated in accordance with the legislation it applies, only to the extent that the cost of the benefits pursuant to Articles 23 to 26 is to be borne by an institution of the said Member State.

2. Where, in the cases referred to in Article 25, the acquisition of sickness, maternity and equivalent paternity benefits is subject to the payment of contributions or similar payments under the legislation of a Member State in which the pensioner concerned resides, these contributions shall not be payable by virtue of such residence.

## Amendment 88

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 15

Regulation (EC) No 883/2004

Article 32 – paragraph 3 – point a – point i

#### *Text proposed by the Commission*

(i) rights available on the basis of an activity as an employed or self-employed person of the insured person;

#### *Amendment*

**14l. Article 30 is replaced by the following:**

“Article 30

Contributions by pensioners

1. The institution of a Member State which is responsible under the legislation it applies for making deductions in respect of contributions for sickness, **long-term care**, maternity and equivalent paternity benefits, may request and recover such deductions, calculated in accordance with the legislation it applies, only to the extent that the cost of the benefits pursuant to Articles 23 to 26 is to be borne by an institution of the said Member State.

2. Where in the cases referred to in Article 25, the acquisition of sickness, **long-term care**, maternity and equivalent paternity benefits is subject to the payment of contributions or similar payments under the legislation of a Member State in which the pensioner concerned resides, these contributions shall not be payable by virtue of such residence.”

#### *Amendment*

(i) rights available on the basis of an activity as an employed or self-employed person of the insured person, **including rights existing in the application of Article**

**11(2) or (3)(c);**

*Justification*

*The Proposal does not contain any provisions relating to circumstances in which a parent receives benefits relating to incapacity for work (or maternity benefit, paternity benefit), parental benefit or unemployment benefit. It is important to make clear that, in accordance with Article 11(2), persons receiving cash benefits because of or as a result of their activity as an employed or self-employed person are considered to be pursuing said employment or activity. If therefore a parent receives instance benefits relating to incapacity for work or unemployment benefit because of or as a result of their employment, the resulting derivative right is not to be treated differently than any resulting directly from the employment.*

**Amendment 89**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 15 a (new)**

Regulation (EC) No 883/2004

Article 33 a (new)

*Text proposed by the Commission*

*Amendment*

**15a. The following article is inserted:**

**“Article 33a**

***Long-term care benefits***

***“1. The Administrative Commission shall, after consulting the social partners, representative associations of beneficiaries and the professional bodies concerned, draw up a detailed list of long-term care benefits, specifying which benefits are in kind and which are in cash, and whether the benefit is provided to the person in need of care or to the person providing such care.***

***2. Where a long-term care benefit falling under this Chapter also has the characteristics of benefits coordinated under another Chapter in Title III, Member States may, by way of derogation from paragraph 1, coordinate such benefits in accordance with the rules laid down in that other Chapter, specifying which Chapter applies, provided that:***

***(a) the outcome of such coordination is at least as favourable to the beneficiaries***

*as it would have been had the benefit been coordinated as a long-term care benefit under this Chapter; and*

*(b) the long-term care benefit is listed in Annex XII.”*

## Amendment 90

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 16

Regulation (EC) No 883/2004

Article 34

*Text proposed by the Commission*

*Amendment*

**16. Article is deleted.**

**deleted**

## Amendment 91

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 16 a (new)

Regulation (EC) No 883/2004

Article 34

*Present text*

*Amendment*

Article 34

Overlapping of long-term care benefits

1. If a recipient of long-term care benefits in cash, which ***have to be treated as sickness benefits and are therefore provided by the Member State competent for cash benefits*** under Articles 21 or 29, is, at the same time and under this Chapter, entitled to claim benefits in kind intended for the same purpose from the institution of the place of residence or stay in another Member State, and an institution in the first Member State is also required to reimburse the cost of these benefits in kind under Article 35, the general provision on prevention of overlapping of benefits laid down in Article 10 shall be applicable, with the following restriction only: if the

***16a. Article 34 is replaced by the following:***

“Article 34

Overlapping of long-term care benefits

1. If a recipient of long-term care benefits in cash, which ***is*** provided under Articles 21 or 29, is, at the same time and under this Chapter, entitled to claim benefits in kind intended for the same purpose from the institution of the place of residence or stay in another Member State, and an institution in the first Member State is also required to reimburse the cost of those benefits in kind under Article 35, the general provision on prevention of overlapping of benefits laid down in Article 10 shall be applicable, with the following restriction only: if the person concerned claims and receives the benefit in kind, the amount of the benefit in cash

person concerned claims and receives the benefit in kind, the amount of the benefit in cash shall be reduced by the amount of the benefit in kind which is or could be claimed from the institution of the first Member State required to reimburse the cost.

2. The Administrative Commission shall draw up the list of the cash benefits and benefits in kind covered by paragraph 1.
3. Two or more Member States, or their competent authorities, may agree on other or supplementary measures which shall not be less advantageous for the persons concerned than the principles laid down in paragraph 1.

shall be reduced by the amount of the benefit in kind which is or could be claimed from the institution of the first Member State required to reimburse the cost.

2. The Administrative Commission shall draw up the list of the cash benefits and benefits in kind covered by paragraph 1.
3. Two or more Member States, or their competent authorities, may agree on other or supplementary measures which shall not be less advantageous for the persons concerned than the principles laid down in paragraph 1.”

## **Amendment 92**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Chapter 1a

*Text proposed by the Commission*

*Amendment*

**17. After Article 35, the following Chapter is inserted:**

**deleted**

**‘CHAPTER 1a**

**Long-term care benefits**

**Article 35a**

**General provisions**

1. **Without prejudice to the specific provisions of this Chapter, Articles 17 to 32 shall apply mutatis mutandis to long-term care benefits.**
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.**
3. **By way of derogation from**

*paragraph 1, Member States may grant long-term care benefits in cash in accordance with the other Chapters of Title III, if the benefit and the specific conditions to which the benefit is subject are listed in Annex XII and provided that the outcome of such coordination is at least as favourable for the beneficiaries as if the benefit was coordinated under this Chapter.*

#### *Article 35b*

##### *Overlapping of long-term care benefits*

*1. If a recipient of long-term care benefits in cash granted under the legislation of the competent Member State receives, at the same time and under this Chapter, long-term care benefits in kind from the institution of the place of residence or stay in another Member State, and an institution in the first Member State is also required to reimburse the cost of these benefits in kind under Article 35c, the general provision on prevention of overlapping of benefits laid down in Article 10 shall be applicable, with the following restriction only: the amount of the benefit in cash shall be reduced by the reimbursable amount for the benefit in kind which is claimable under Article 35c from the institution of the first Member State.*

*2. Two or more Member States, or their competent authorities, may agree on other or supplementary measures which shall not be less favourable for the persons concerned than the principles laid down in paragraph 1.*

#### *Article 35c*

##### *Reimbursement between institutions*

*1. Article 35 shall apply mutatis mutandis to long-term care benefits.*

*2. If the legislation of a Member State where the competent institution under this Chapter is situated does not provide for long-term care benefits in kind, the institution which is or would be competent*

*in that Member State under Chapter 1 for the reimbursement of sickness benefits in kind granted in another Member State shall be deemed to be the competent one also under Chapter 1a.*

## Amendment 93

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 61

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

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*

1. *Subject to paragraph 2, the competent institution of a Member State whose legislation makes the acquisition, retention, recovery or duration of the right to benefits conditional upon the completion of either periods of insurance, employment or self-employment shall, to the extent necessary, take into account periods of insurance, employment or self-employment completed under the legislation of another Member State as though they had been completed under the legislation that it applies. For this aggregation only the periods which are taken into account under the legislation of the Member State in which they were completed for the purpose of acquiring and retaining the right to unemployment benefits shall be aggregated by the competent Member State.*

2. *The application of paragraph 1 shall be conditional on the person concerned having completed, in accordance with the legislation under which the benefits are claimed:*

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

*(a) periods of insurance of at least one day, if that legislation requires periods of insurance;*

*(b) periods of employment of at least one day, if that legislation requires periods of employment; or*

*(c) periods of self-employment of at least one day, if that legislation requires periods of self-employment.*

#### **Amendment 94**

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

##### **Article 1 – paragraph 1 – point 19 a (new)**

Regulation (EC) No 883/2004

Article 62 – paragraph 1

*Text proposed by the Commission*

1. The competent institution of a Member State whose legislation provides for the calculation of benefits on the basis of the amount of the previous salary or professional income shall take into account **exclusively** the salary or professional income received by the person concerned in respect of his/her last activity as an employed or self-employed person under the said legislation.

#### **Amendment 95**

##### **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”

*Amendment*

**19a. In Article 62, paragraph 1 is replaced by the following:**

“1. The competent institution of a Member State whose legislation provides for the calculation of benefits on the basis of the amount of the previous salary or professional income shall take into account the salary or professional income received by the person concerned in respect of his/her last activity **or activities** as an employed or self-employed person under the said legislation.”

*Amendment*

(a) In *paragraph 1, point (c)* is replaced

*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”;*

*by the following:*

*“(c) entitlement to benefits shall be retained for a period of six months from the date when the unemployed person ceased to be available to the employment services of the Member State which he/she left, provided that the total duration for which the benefits are provided does not exceed the total duration of the period of his/her entitlement to benefits under the legislation of that Member State; the competent services or institutions may extend the period of six months up to the end of the period of that person’s entitlement to benefits;”*

## **Amendment 96**

### **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 replaced by the following:*

*“3. Unless the legislation of the competent Member State is more favourable, between two periods of employment the maximum total period for which entitlement to benefits shall be retained under paragraph 1 shall be six months; the competent services or institutions may extend that period up to the end of the period of entitlement to benefits.”*

## Amendment 97

### Proposal for a regulation

#### Article 1 – paragraph 1 – point 21

Regulation (EC) No 883/2004

Article 64a

*Text proposed by the Commission*

*Amendment*

**21. After Article 64, the following Article 64a shall be inserted:**

**deleted**

**‘Article 64a**

***Special rules for unemployed persons who moved to another Member State without fulfilling the conditions of Article 61(1) and Article 64***

***In the situations referred to in Article 61(2), the Member State to whose legislation the unemployed person was previously subject shall become competent to provide unemployment benefits. They shall be provided at the expense of the competent institution for the period laid down in Article 64(1)(c), if the unemployed person makes himself/herself available to the employment services in the Member State of most recent insurance and adheres to the conditions laid down under the legislation of that Member State. Article 64 (2) to (4) shall apply mutatis mutandis.’***

## Amendment 98

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 65

*Text proposed by the Commission*

*Amendment*

1. An unemployed person who, during his or her last activity as an employed or self-employed person resided in a Member

1. An unemployed person who, during his or her last activity as an employed or self-employed person resided in a Member

State other than the competent Member State shall make himself or herself available to the former employer or to the employment services in the competent Member State. Such a person shall receive benefits in accordance with the legislation of the competent Member State as if he or she were residing in that Member State. These benefits shall be provided by the institution of the competent Member State.

State other than the competent Member State shall make himself or herself available to the former employer or to the employment services in the competent Member State. Such a person shall receive benefits in accordance with the legislation of the competent Member State as if he or she were residing in that Member State. These benefits shall be provided by the institution of the competent Member State. ***Such a person may also make himself or herself available to the employment services of the Member State of residence. He or she may also make himself or herself available to a cross-border employment service, where such a service exists in the geographic area of his or her job research.***

***1a. The authorities of the competent Member State and of the Member State of residence shall cooperate closely and clarify to job seekers the competence of the public employment service responsible for their follow-up. They shall also ensure that exchanges between the competent institution and the job seeker are carried out in a language understood by the latter, possibly involving EURES advisers in these services.***

***2. By way of derogation from paragraph 1, a wholly unemployed person who, during the last activity as an employed or self-employed person, resided in a Member State other than the competent Member State, and who had not completed at least 12 months of unemployment insurance exclusively under the legislation of the competent Member State shall make himself or herself available to the employment service of the Member State of residence. Such a person shall receive benefits in accordance with the legislation of the Member State of residence as if he or she had completed all periods of insurance under the legislation of that Member State. Those benefits shall be provided by the institution of the Member State of residence. Alternatively, a wholly unemployed person referred to in***

***2. Where a person as referred to in paragraph 1 makes himself or herself available to the employment service of the Member State of residence in accordance with the second subparagraph of that paragraph, he or she shall receive benefits in accordance with the legislation of the Member State of residence as if he or she had completed all periods of insurance under the legislation of that Member State. Those benefits shall be provided by the institution of the Member State of residence.***

*this paragraph, who would be entitled to an unemployment benefit solely under the national legislation of the competent Member State if he or she resided there, may instead opt to make themselves available to the employment services in that Member State and to receive benefits in accordance with the legislation of that Member State as if he or she were residing there.*

3. If a wholly unemployed person referred to in paragraphs 1 or 2 does not wish to **become or** remain available to the employment services of the competent Member State after having been registered there, and wishes to seek work in the Member State of residence or the Member State of last activity Article 64 shall apply mutatis mutandis, except Article 64(1)(a). The competent institution may extend the period referred to in the first sentence of Article 64(1)(c) up to the end of the period of entitlement to benefits.

4. *A wholly unemployed person referred to in this Article may in addition to making themselves available to the employment services of the competent Member State also make themselves available to the employment services of the other Member State.*

5. *Paragraphs 2 to 4 of this Article shall not apply to a person who is partially or intermittently unemployed.*

3. If a wholly unemployed person referred to in paragraphs 1 or 2 does not wish to remain available to the employment services of the competent Member State after having been registered there, and wishes to seek work in the Member State of residence or the Member State of last activity Article 64 shall apply mutatis mutandis, except Article 64(1)(a), The competent institution may extend the period referred to in the first sentence of Article 64(1)(c) up to the end of the period of entitlement to benefits.

5a. *The benefits provided by the institution of the place of residence under paragraph 2 shall continue to be at its own expense. However, subject to paragraph 7, the competent institution of the Member State to whose legislation he/she was last subject shall reimburse to the institution of the place of residence the full amount of the benefits provided by the latter institution during the first four months. The arrangements for reimbursement shall be laid down in the implementing Regulation.*

5b. *The period of reimbursement*

*referred to in paragraph 5a shall be extended to eight months when the person concerned has, during the preceding 24 months, completed periods of employment or self-employment of at least 12 months in the Member State to whose legislation he/she was last subject, where such periods would qualify for the purposes of establishing entitlement to unemployment benefits.*

*5c. For the purposes of paragraphs 5a and 5b, two or more Member States, or their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between the institutions falling under their jurisdiction.*

#### *Justification*

*The introduction of a 12-month period before a frontier worker can claim benefits in the Member State of last activity is likely to lead to additional administrative difficulties. Instead, giving frontier workers a choice to receive unemployment benefits from the Member State of last activity or from the Member State of residence reduces administrative difficulties and gives the person concerned the opportunity to seek employment in the Member State where he or she has the best chances to find employment. In the event that this amendment is adopted, corresponding changes should be made throughout the text.*

#### **Amendment 99**

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

##### **Article 1 – paragraph 1 – point 23**

Regulation (EC) No 883/2004

Article 68b – paragraph 1

#### *Text proposed by the Commission*

1. Family benefits in cash which are intended to replace income during periods of child-raising and which are listed in Part 1 of Annex XIII shall be awarded solely to the person subject to the legislation of the competent Member State and there shall be no derived right for his or her family members to such benefits. Article 68a of this Regulation ***shall not apply to such benefits nor shall the competent institution be required to take into***

#### *Amendment*

1. Family benefits in cash which are intended to replace ***or grant additional*** income during periods of child-raising and which are listed in Part 1 of Annex XIII shall be awarded solely to the person subject to the legislation of the competent Member State and there shall be no derived right for his or her family members to such benefits. Article 68a of this Regulation ***applies to those benefits in situations where the individual beneficiary of family***

*account a claim submitted by the other parent, a person treated as a parent or institution acting as guardian of the child or children pursuant to Article 60(1) of the Implementing Regulation.*

*benefits serving as income replacement during child raising does not fulfil his or her maintenance obligations.*

#### *Justification*

*In the case that the entitled person lives in another Member State than his or her children and if this person does not meet his or her maintenance obligations, the competent authorities could - according to the Commission's proposal - no longer provide the benefit directly to the children or the other parent. This situation should be avoided.*

### **Amendment 100**

#### **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 European Commission shall attend the meetings of the Administrative Commission in an advisory capacity.

#### *Amendment*

#### ***23a. 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, ***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.”

### **Amendment 101**

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

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

*Text proposed by the Commission*

1. The competent authorities shall ensure that their institutions are **aware** of and apply all provisions, legislative or otherwise, including the decisions of the Administrative Commission, in the areas covered by and within the terms of this Regulation and the implementing Regulation.

*Amendment*

1. The competent authorities shall **in accordance with their national law and/or practice**, ensure that their **relevant** institutions are **informed** of and apply all provisions, legislative or otherwise, including the decisions of the Administrative Commission, in the areas covered by and within the terms of this Regulation and the implementing Regulation.

**Amendment 102**

**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 the cooperation between **the appropriate** institutions **concerned, such as the** labour inspectorates and **the tax authorities** in their Member States.

**Amendment 103**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 25**

Regulation (EC) No 883/2004

Article 76 a – paragraph 1

*Text proposed by the Commission*

1. **The Commission shall be empowered to adopt implementing acts specifying the procedure to be followed in** order to ensure uniform conditions for the application of Articles 12 and 13 of this

*Amendment*

1. **In** order to ensure uniform conditions for the application of Articles 12 and 13 of this Regulation **and of Articles 14, 15 and 16 of the implementing Regulation, the Commission shall adopt implementing**

Regulation. Those acts shall establish a standard procedure including time limits for

- the issuance, the format and the contents of a portable document certifying the social security legislation which applies to the holder,
- *the determination of situations in which the document shall be issued,*
- the elements to be verified before the document can be issued,
- *the withdrawal of the document when its accuracy and validity is contested by the competent institution of the Member State of employment.*

#### Amendment 104

##### 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:

- (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;

*acts specifying the procedure to be followed.* Those acts shall establish a standard procedure including time limits for

- the issuance, the **forgery-proof electronic** format and the contents, **including mandatory information**, of a portable document certifying the social security legislation which applies to the holder **and including, when available, the single European social security number**,
- the elements to **be** verified before the document can be issued, **rectified or withdrawn**,

##### *Amendment*

**25a. Article 79 is 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 may fund in full or in part:

- (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, **such as an electronic social security networking**

(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.

*system;*

(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, *such as a European social security number.*”

## **Amendment 105**

### **Proposal for a regulation**

#### **Article 1 – paragraph 1 – point 27**

Regulation (EC) No 883/2004

Article -88 (new)

*Text proposed by the Commission*

*Amendment*

**26a. The following article is inserted:**

**“Article -88**

***Issuing and withdrawing portable documents certifying the social security legislation applicable***

***The Commission shall, by [...], adopt delegated acts in accordance with Article 88a, supplementing Articles 12 and 13 of this Regulation and Articles 14, 15 and 16 of the implementing Regulation, by establishing a standard procedure concerning:***

***(a) the determination of situations in which portable documents certifying the social security legislation which applies to the holder, as referred to in the first indent of Article 76a, is to be issued, rectified or withdrawn; and***

***(b) the withdrawal of such document when their accuracy or validity is contested for justified reasons by the competent institution of the Member State of employment.”***

## **Amendment 106**

### **Proposal for a regulation**

**Article 1 – paragraph 1 – point 27**

Regulation (EC) No 883/2004

Article 88a

*Text proposed by the Commission*

*Amendment*

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.

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

2. The power **to adopt delegated acts** referred to in **Articles -88 and** 88 shall be conferred on the Commission for a period of **five years** from ... [the date of entry into force of Regulation (EU) xxxx - **COD 2016/397**]. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**

3. The delegation of the power referred to in **Articles -88 and** 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.

6. A delegated act adopted pursuant to **Articles -88 and 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 107**

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

##### **Annex I – point 7**

Regulation (EC) No 883/2004

Annex XII – title

*Text proposed by the Commission*

LONG-TERM CARE BENEFITS IN  
CASH PROVIDED IN DEROGATION  
FROM ARTICLE **35A(1)** OF CHAPTER  
1A

*Amendment*

LONG-TERM CARE BENEFITS IN  
CASH PROVIDED IN DEROGATION  
FROM ARTICLE **33A(1)** OF CHAPTER 1

### **Amendment 108**

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

##### **Article 2 – paragraph 1 – point -1 (new)**

Regulation (EC) No 987/2009

Recital 13

*Present text*

(13) This Regulation provides for measures and procedures to promote the mobility of employees and unemployed persons. Frontier workers who have become wholly unemployed may make themselves available to the employment services in both their country of residence and the Member State where they were last

*Amendment*

**-1. Recital 13 is replaced by the following:**

"(13) This Regulation provides for measures and procedures to promote the mobility of employees and unemployed persons. Frontier workers who have become wholly unemployed may make themselves available to the employment services in both their country of residence and the Member State where they were last

employed. *However, they should be entitled to benefits only from their Member State of residence.*

employed."

## Amendment 109

### 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 Union data protection acquis, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>1a</sup> 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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***<sup>1a</sup> Regulation (EU) 2016/679 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).***

#### *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 110**

### **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, 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 ***in accordance with the basic Regulation and the implementing Regulation;***

## **Amendment 111**

### **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

#### *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, ***in accordance with Regulation (EU) 2016/679***. 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

particular case. The request for information and any response must be necessary and proportionate.

the document or on which the decision is based in a particular case. The request for information and any response must be **reasoned**, necessary and proportionate.

#### *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 112**

#### **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 Commission shall give such list the necessary publicity. Only data requests and responses which are listed shall be permitted.

#### *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 113**

#### **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 **provided that** 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 114**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 7**

Regulation (EC) No 987/2009

Article 5 – paragraph 2

*Text proposed by the Commission*

2. Where there is doubt about the validity of a document or the accuracy of the facts on which they are based, the institution of the Member State that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal of that document.

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.

b) If the issuing institution, having reconsidered the grounds for issuing the document is unable to detect any error it

*Amendment*

2. Where there is doubt about the validity of a document or the accuracy of the facts on which they are based, the institution of the Member State that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal of that document.

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.

b) If the issuing institution, having reconsidered the grounds for issuing the document is unable to detect any error it

shall forward to the requesting institution all supporting evidence within **20** working days from the receipt of the request. In ***urgent*** cases, ***where the reasons for urgency have been clearly indicated in the request***, this shall be done within two working days from the receipt of the request, notwithstanding that the issuing institution may not have completed its deliberations pursuant to subparagraph (a) above.

c) Where the requesting institution having received the supporting evidence continues to have doubts about the validity of a document or the accuracy of the facts on which the particulars contained therein are based that the information upon which the document was issued is not correct, it ***may*** submit evidence to that effect and make a further request for clarification and where appropriate the withdrawal of that document by the issuing institution in accordance within the procedure and timeframes set out above.

shall forward to the requesting institution all supporting evidence within **25** working days from the receipt of the request. In cases ***which are urgent for the purpose of protecting the rights of the person concerned***, this shall be done within two working days from the receipt of the request, notwithstanding that the issuing institution may not have completed its deliberations pursuant to subparagraph (a) above.

c) Where the requesting institution having received the supporting evidence continues to have doubts about the validity of a document or the accuracy of the facts on which the particulars contained therein are based that the information upon which the document was issued is not correct, it ***shall*** submit evidence to that effect and make a further request for clarification and where appropriate the withdrawal of that document by the issuing institution in accordance within the procedure and timeframes set out above.

***ca) Where the issuing institution fails to reply within the applicable time-limit referred to in point (b) and where there is doubt about the validity of a portable document certifying the social security legislation applicable to the holder or the accuracy of the facts on which they are based, the requesting institution shall inform the issuing institution of this situation and may request that a deposit equal to the contributions that the Member State in which the activity is pursued would receive, in accordance with Article 73(3), if the legislation of the latter were applicable. This deposit shall be transferred back to the first Member State if it is determined that a person concerned is subject to the legislation of that Member State. If it is determined that a person concerned is subject to the legislation of the Member State in which the activity is pursued, the deposit transferred to that Member State shall be taken into account for the purposes of the settlement of contributions in accordance***

*with Article 73(3).*

## **Amendment 115**

### **Proposal for a regulation**

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

Regulation (EC) No 987/2009

Article 5 – paragraph 4

#### *Present text*

4. Where no agreement is reached between the institutions concerned, the matter may be brought before the Administrative Commission by the competent authorities ***no earlier than one month following the date on which the institution that received the document submitted its request.*** The Administrative Commission shall ***endeavour to*** reconcile the points of view within ***six*** months of the date on which the matter was brought before it.

#### *Amendment*

***7a. In Article 5, paragraph 4 is replaced by the following:***

“4. Where no agreement is reached between the institutions concerned, the matter may be brought before the Administrative Commission by the competent authorities. The Administrative Commission shall reconcile the points of view within ***three*** months of the date on which the matter was brought before it. ***The competent authorities and institutions concerned shall take the necessary measures to apply the decision of the Administrative Commission, without prejudice to the right of the authorities, institutions and persons concerned to have recourse to the procedures and tribunals provided for by the legislation of the Member States, by this Regulation or by the Treaties.***”

## **Amendment 116**

### **Proposal for a regulation**

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

Regulation (EC) No 987/2009

Article 5 – paragraph 4 a (new)

#### *Text proposed by the Commission*

#### *Amendment*

***7b. In Article 5, the following paragraph is added:***

***“4a. Notwithstanding paragraphs 1 to 4, where a requesting institution has acquired evidence, collected in the course***

*of a judicial investigation that constitutes evidence that a document certifying the social security legislation which applies to the holder or the accuracy of the facts on which they are based was obtained as a result of a fraud, it shall request the issuing institution to withdraw or rectify that document within 25 working days from receipt of the request. The issuing institution shall withdraw or rectify the document with retroactive effect. If the issuing institution fails to withdraw or rectify the document concerned within in accordance with the first subparagraph, the requesting institution may apply to a national court to decide whether the document concerned may be disregarded on the basis of fraud.”*

## Amendment 117

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7 c (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 points of view within six months of the date on which the matter was brought before it.

#### *Amendment*

**7c. 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 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.”

## Amendment 118

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7 d (new)

Regulation (EC) No 987/2009

Article 7 – paragraph 1 a (new)

*Text Proposed by the Commission*

*Amendment*

**7d. 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 119

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 7 e (new)

Regulation (EC) No 987/2009

Article 11 – paragraph 1 – introductory part

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

**7e. In Article 11(1), the introductory part 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, based on an overall assessment of all available information relating to relevant facts, which may include, as appropriate:”**

## Amendment 120

### 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*** 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.

*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 sent by that employer to another Member State shall include a person who is recruited with a view to being 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.

*Justification*

*This amendment integrates the criteria developed to define substantial activity in Directive 2014/67/EC.*

**Amendment 121**

**Proposal for a regulation**

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

Regulation (EC) No 987/2009

Article 14 – paragraph 2

*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***

*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. ***In order to determine whether an undertaking genuinely performs substantial activities,*** other than purely

*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.*

internal management *and/or administrative* activities, *the competent authorities shall make an overall assessment of all factual elements characterising those activities*, taking account of *a wider timeframe*, carried out by *an undertaking in the Member State of establishment*. *Such elements may include in particular:*

*(a) the place where the undertaking has its registered office and administration, uses office space, pays taxes and social security contributions and, where applicable, in accordance with national law has a professional licence or is registered with the chambers of commerce or professional bodies;*

*(b) the place where workers are recruited and from which they are sent;*

*(c) the law applicable to the contracts concluded by the undertaking with its workers, on the one hand, and with its clients, on the other;*

*(d) the place where the undertaking performs its substantial business activity and where it employs administrative staff;*

*(e) the number of contracts performed and/or the size of the turnover realised in the Member State of establishment, taking into account the specific situation of, inter alia, newly established undertakings and SMEs.”*

#### *Justification*

*This amendment integrates the criteria developed to define substantial activity in Directive 2014/67/EC.*

#### **Amendment 122**

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

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

Regulation (EC) No 987/2009

Article 14 – paragraph 3

*Text proposed by the Commission*

*Amendment*

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.

***(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 *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.”

*Justification*

*This amendment integrates the criteria developed to define substantial activity in Directive 2014/67/EC.*

## **Amendment 123**

### **Proposal for a regulation**

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

Regulation (EC) No 987/2009

Article 14 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***(ac) The following paragraph is inserted after paragraph 4:***

***“4a. For the purpose of the application of point (c) of Article 12(1) and point (c) of Article 12(2) of the basic Regulation, “business trip” means a temporary activity related to the business interests of the employer, not including the provision of services or the delivery of goods, such as attending internal and external business meetings, attending conferences***

***and seminars, negotiating business deals, undertaking sales or marketing activities, performing internal or client audits, exploring business opportunities, or attending and receiving training.”***

*Justification*

*This amendment integrates the criteria developed to define substantial activity in Directive 2014/67/EC.*

**Amendment 124**

**Proposal for a regulation**

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

Regulation (EC) No 987/2009

Article 14 – paragraph 8 a (new)

*Text proposed by the Commission*

*Amendment*

***(ba) The following paragraph is inserted after paragraph 8:***

***“8a. For the purposes of the application of point (b) of Article 13(1) of the basic Regulation, the largest share of his/her work activities shall be determined by comparing the average weekly hours worked in each Member State where the person pursues an activity.”***

*Justification*

*This amendment integrates the criteria developed to define substantial activity in Directive 2014/67/EC.*

**Amendment 125**

**Proposal for a regulation**

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

Regulation (EC) No 987/2009

Article 14 – paragraph 10

*Text proposed by the Commission*

*Amendment*

***(bb) Paragraph 10 is replaced by the following:***

10. ***For the*** determination of the

***“10. The*** determination of the applicable

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

legislation *within the meaning of Article 13 of the basic Regulation shall apply for a maximum period of 24 months. Once that period has elapsed, the applicable legislation shall be reassessed in the light of the employee's situation.*"

#### *Justification*

*This amendment integrates the criteria developed to define substantial activity in Directive 2014/67/EC.*

### **Amendment 126**

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

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

Regulation (EC) No 987/2009

Article 15 – paragraph 1

#### *Present text*

1. Unless otherwise provided for by Article 16 of the implementing Regulation, where a person pursues his activity in a Member State other than the Member State competent under Title II of the basic Regulation, the employer or, in the case of a person who does not pursue an activity as an employed person, the person concerned shall inform the competent institution of the Member State whose legislation is applicable thereof, *whenever possible* in advance. That institution shall *issue the attestation referred to in Article 19(2) of the implementing Regulation to the person concerned and shall* without delay make information concerning the legislation applicable to *that* person, pursuant to Article 11(3)(b) *or* Article 12 of the basic Regulation, available to the institution designated by the competent authority of the Member State in which the activity is pursued.

#### *Amendment*

**8a. In Article 15, paragraph 1 is replaced by the following:**

“1. Unless otherwise provided for by Article 16 of the implementing Regulation, where a person pursues his *or her* activity in a Member State *or more than one Member State* other than the Member State competent under Title II of the basic Regulation, the employer or, in the case of a person who does not pursue an activity as an employed person, the person concerned shall inform the competent institution of the Member State whose legislation is applicable thereof in advance. That institution shall without delay make information concerning the legislation applicable to *the person concerned*, pursuant to Article 11(3)(b), Article 12 *or Article 13* of the basic Regulation, available *to the person concerned and* to the institution designated by the competent authority of the Member State in which the activity is pursued.

**1a. For the purposes of the application of Article 12, the employer or, in the case of a person who does not pursue an**

*activity as an employed person, the person concerned shall notify the competent institution of the Member State whose legislation is applicable thereof, in advance.*

*Unless the activity pursued concerns a business trip, that competent institution shall, within 20 working days of that notification, do all of the following:*

- (a) assess whether the conditions for continued application of the legislation of the relevant Member State are met;*
- (b) issue the attestation referred to in Article 19(2) of the implementing Regulation to the person concerned;*
- (c) make information concerning the legislation applicable to the worker or self-employed person, pursuant to Article 12 of the basic Regulation, available to the institution designated by the competent authority of the Member State in which the activity is pursued.*

*Upon request of the competent institution of the Member State where the activity is pursued, the notified competent institution shall communicate not only the results, but the full details of the assessment referred to in point (a) of the second subparagraph.*

*Where the notified competent institution fails to make that assessment available to the institution of the Member State where the activity is pursued, it shall pay a daily fee equal to the contributions that the latter would receive if the legislation of the notified competent institution were applicable.*

*During the assessment referred to in point (a) of the second subparagraph, the worker or self-employed person concerned shall stay subject to the legislation of the Member State in the notified competent institution.*

*Where, following the assessment referred to in point (a) of the second subparagraph, the worker or self-*

*employed person is considered to be subject to the legislation of the Member State in which the activity is pursued, the legislation of that Member State shall be applicable retroactively and contributions shall be reimbursed and paid accordingly.”*

## **Amendment 127**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 9 a (new)**

Regulation (EC) No 987/2009

Article 15 a (new)

*Text proposed by the Commission*

*Amendment*

**9a. The following article is inserted:**

**“Article 15a**

***Delivery of the attestation***

***1. In order to ensure the timely delivery of the attestations referred to in Article 19(2), administrative cooperation and mutual assistance shall, for the purposes of Article 15(1) be implemented through the Internal Market Information System (IMI) established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council<sup>1a</sup>.***

***2. Member States shall ensure that the attestations referred to in Article 19(2) is issued to the persons concerned and to the employers electronically.***

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***<sup>1a</sup> Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC (‘the IMI Regulation’) (OJ L 316, 14.11.2012, p.1).”***

## *Justification*

*So far, not all Member States are issuing PDA1 forms electronically, nor providing them to the receiving Member State in a timely manner. This leads to delays which are a burden on the concerned citizens and employers. To foster free movement and improve social security cooperation Member States should issue the document electronically. For cooperation, Member States should use the IMI which is developed exactly to increase cooperation on crossborder matters.*

### **Amendment 128**

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

##### **Article 2 – paragraph 1 – point 10**

Regulation (EC) No 987/2009

Article 16 – paragraph 3

#### *Text proposed by the Commission*

3. If that institution determines that the legislation of another Member State applies, it shall do so provisionally and shall without delay inform the institution of the Member State which it considers to be competent of this provisional decision. The decision shall become definitive within two months after the institution designated by the competent authorities of the Member State concerned has been informed of it, unless the latter institution informs the first institution and the persons concerned that it cannot yet accept the provisional determination or that it takes a different view on this.

#### *Amendment*

3. If that institution determines that the legislation of another Member State applies, it shall do so provisionally and shall without delay inform the institution of the Member State which it considers to be competent of this provisional decision. The decision shall become definitive within two months after the institution designated by the competent authorities of the Member State concerned has been informed of it, unless the latter institution informs the first institution and the persons **and the employer** concerned that it cannot yet accept the provisional determination or that it takes a different view on this.

### **Amendment 129**

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

##### **Article 2 – paragraph 1 – point 10**

Regulation (EC) No 987/2009

Article 16 – paragraph 5

#### *Text proposed by the Commission*

5. The competent institution of the Member State whose legislation is determined to be applicable either provisionally or definitively shall without delay inform the person concerned **and/or**

#### *Amendment*

5. The competent institution of the Member State whose legislation is determined to be applicable either provisionally or definitively shall without delay inform the person concerned **and his**

his or her employer.

or her employer.

## Amendment 130

### 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, ***while ensuring full respect for privacy;*** 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 ***for the sole purpose of ensuring*** 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<sup>1a</sup> and point (a) of Article 5(1) of Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>1b</sup>. 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 points (a), (b) and (c) of Article 11(1) of Directive 95/46/EC and with Article 14(1) of Regulation (EU) 2016/679.*** Further details shall be laid

down by decision of the Administrative Commission.

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***<sup>1a</sup> 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).***

***<sup>1b</sup> Regulation (EU) 2016/679 of the European Parliament and of 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 L 119, 4.5.2016, p. 1).***

#### *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 131**

#### **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

#### *Amendment*

***11a. In Article 20, paragraph 1 is 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.

pay under that legislation *and Directive 96/71/EC for calculating the contributions on the basis of the remuneration paid.*"

## Amendment 132

### Proposal for a regulation

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

Regulation (EC) No 987/2009

Article 20a

*Text proposed by the Commission*

*Amendment*

**12. The following Article 20a is inserted after Article 20:**

**deleted**

**"Article 20a**

***Power to adopt implementing acts***

***1. The Commission shall be empowered to adopt implementing acts specifying the procedure to be followed in order to ensure uniform conditions for the application of Articles 12 and 13 of the basic Regulation. Those acts shall establish a standard procedure including time limits for:***

- the issuance, the format and the contents of a portable document certifying the social security legislation which applies to the holder,***
- the determination of situations in which the document shall be issued,***
- the elements to verified before the document can be issued,***
- the withdrawal of the document when its accuracy and validity is contested by the competent institution of the Member State of employment.***

***2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011<sup>54</sup>.***

***3. The Commission shall be assisted by***

*the Administrative Commission, which shall be a committee within the meaning of Regulation (EU) No 182/2011."*

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<sup>54</sup> OJ L 55, 28.2.2011, p. 13–18

### Amendment 133

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 13**  
Regulation (EC) No 987/2009  
Title III – Chapter 1 – title

*Text proposed by the Commission*

Sickness, maternity and equivalent paternity benefits, *and long-term care benefits*.

*Amendment*

Sickness, *long-term care*, maternity and equivalent paternity benefits.

### Amendment 134

**Proposal for a regulation**  
**Article 2 – paragraph 1 – point 13 a (new)**  
Regulation (EC) 987/2009  
Article 22 – paragraph 1

*Present text*

1. The competent authorities or institutions shall ensure that any necessary information is made available to insured persons regarding the procedures and conditions for the granting of benefits in kind where such benefits are received in the territory of a Member State other than that of the competent institution.

*Amendment*

**13a. In Article 22, paragraph 1 is replaced by the following:**

“1. The competent authorities or institutions shall ensure that any necessary information is made available to insured persons regarding the procedures and conditions for the granting of benefits in kind where such benefits are received in the territory of a Member State other than that of the competent institution. *To facilitate the coordination of long-term care benefits, the Commission shall make information available about which institution are responsible for which type of benefit in every Member State.*”

## Amendment 135

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 14

Regulation (EC) No 987/2009

Article 23 – last sentence

*Text proposed by the Commission*

*Amendment*

**14. At the end of Article 23, the following sentence is added:**

**deleted**

***‘This provision applies mutatis mutandis to long-term care benefits.’***

## Amendment 136

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 14 a (new)

Regulation (EC) No 987/2009

Article 23

*Present text*

*Amendment*

Article 23

Regime applicable in the event of the existence of more than one regime in the Member State of residence or stay

If the legislation of the Member State of residence or stay comprises more than one scheme of sickness, maternity and paternity insurance for more than one category of insured persons, the provisions applicable under Articles 17, 19(1), 20, 22, 24 and 26 of the basic Regulation shall be those of the legislation on the general scheme for employed persons.

***14a. Article 23 is replaced by the following;***

***"Article 23***

***Regime applicable in the event of the existence of more than one regime in the Member State of residence or stay***

***If the legislation of the Member State of residence or stay comprises more than one scheme of sickness, **long-term care**, maternity and paternity insurance for more than one category of insured persons, the provisions applicable under Articles 17, 19(1), 20, 22, 24 and 26 of the basic Regulation shall be those of the legislation on the general scheme for employed persons."***

## Amendment 137

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 15

Regulation (EC) No 987/2009

Article 24 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**15. In Article 24(3), the term "and 26" is replaced by ", 26 and 35a".**

**deleted**

### **Amendment 138**

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

#### **Article 2 – paragraph 1 – point 15 a (new)**

Regulation (EC) No 987/2009

Article 25 – paragraph 1

*Present text*

*Amendment*

1. For the purposes of the application of Article 19 of the basic Regulation, the insured person shall present to the health care provider in the Member State of stay a document issued by the competent institution indicating his entitlement to benefits in kind. If the insured person does not have such a document, the institution of the place of stay, upon request or if otherwise necessary, shall contact the competent institution in order to obtain one.

**15a. In Article 25, paragraph 1 is replaced by the following:**

“1. For the purposes of the application of Article 19 of the basic Regulation, the insured person shall present to the health care **or long-term care** provider in the Member State of stay a document issued by the competent institution indicating his entitlement to benefits in kind. If the insured person does not have such a document, the institution of the place of stay, upon request or if otherwise necessary, shall contact the competent institution in order to obtain one.”

### **Amendment 139**

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

#### **Article 2 – paragraph 1 – point 15 b (new)**

Regulation (EC) No 987/2009

Article 25 – paragraph 3

*Present text*

*Amendment*

3. The benefits in kind referred to in Article 19(1) of the basic Regulation shall refer to the benefits in kind which are provided in the Member State of stay, in accordance with its legislation, and which become necessary on medical grounds with

**15b. In Article 25, paragraph 3 is replaced by the following:**

“3. The benefits in kind referred to in Article 19(1) of the basic Regulation shall refer to the benefits in kind which are provided in the Member State of stay, in accordance with its legislation, and which become necessary on medical grounds **or**

a view to preventing an insured person from being forced to return, before the end of the planned duration of stay, to the competent Member State to obtain the necessary treatment.

*due to the need for long-term care* with a view to preventing an insured person from being forced to return, before the end of the planned duration of stay, to the competent Member State to obtain the necessary treatment *or long-term care.*”

## Amendment 140

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 15 c (new)

Regulation (EC) No 987/2009

Article 26

#### *Present text*

Article 26

Scheduled treatment

A. Authorisation procedure

1. For the purposes of the application of Article 20(1) of the basic Regulation, the insured person shall present a document issued by the competent institution to the institution of the place of stay. For the purposes of this Article, the competent institution shall mean the institution which bears the cost of the scheduled treatment; in the cases referred to in Article 20(4) and 27(5) of the basic Regulation, in which the benefits in kind provided in the Member State of residence are reimbursed on the basis of fixed amounts, the competent institution shall mean the institution of the place of residence.

2. If an insured person does not reside in the competent Member State, he shall request authorisation from the institution of the place of residence, which shall forward it to the competent institution without delay. In that event, the institution of the place of residence shall certify in a statement whether the conditions set out in the second sentence of Article 20(2) of the basic

#### *Amendment*

**15c. Article 26 is replaced by the following:**

“Article 26

Scheduled treatment

A. Authorisation procedure

1. For the purposes of the application of Article 20(1) of the basic Regulation, the insured person shall present a document issued by the competent institution to the institution of the place of stay. For the purposes of this Article, the competent institution shall mean the institution which bears the cost of the scheduled treatment *or long-term care*; in the cases referred to in Article 20(4) and 27(5) of the basic Regulation, in which the benefits in kind provided in the Member State of residence are reimbursed on the basis of fixed amounts, the competent institution shall mean the institution of the place of residence.

2. If an insured person does not reside in the competent Member State, he shall request authorisation from the institution of the place of residence, which shall forward it to the competent institution without delay. In that event, the institution of the place of residence shall certify in a statement whether the conditions set out in the second sentence of Article 20(2) of the

Regulation are met in the Member State of residence. The competent institution may refuse to grant the requested authorisation only if, in accordance with the assessment of the institution of the place of residence, the conditions set out in the second sentence of Article 20(2) of the basic Regulation are not met in the Member State of residence of the insured person, or if the same treatment can be provided in the competent Member State itself, within a time-limit which is medically justifiable, taking into account the current state of health and the probable course of illness of the person concerned. The competent institution shall inform the institution of the place of residence of its decision. In the absence of a reply within the deadlines set by its national legislation, the authorisation shall be considered to have been granted by the competent institution.

3. If an insured person who does not reside in the competent Member State is in need of urgent vitally necessary treatment, and the authorisation cannot be refused in accordance with the second sentence of Article 20(2) of the basic Regulation, the authorisation shall be granted by the institution of the place of residence on behalf of the competent institution, which shall be immediately informed by the institution of the place of residence. The competent institution shall accept the findings and the treatment options of the doctors approved by the institution of the place of residence that issues the authorisation, concerning the need for urgent vitally necessary treatment.

4. At any time during the procedure granting the authorisation, the competent institution shall retain the right to have the insured person examined by a doctor of its own choice in the Member State of stay or

basic Regulation are met in the Member State of residence. The competent institution may refuse to grant the requested authorisation only if, in accordance with the assessment of the institution of the place of residence, the conditions set out in the second sentence of Article 20(2) of the basic Regulation are not met in the Member State of residence of the insured person, or if the same treatment ***or long-term care*** can be provided in the competent Member State itself, within a time-limit which is medically justifiable ***or on the basis of a need of long-term care***, taking into account the current state of health ***or of care need*** and the probable course of illness of the person concerned. The competent institution shall inform the institution of the place of residence of its decision. In the absence of a reply within the deadlines set by its national legislation, the authorisation shall be considered to have been granted by the competent institution.

3. If an insured person who does not reside in the competent Member State is in need of urgent vitally necessary treatment, and the authorisation cannot be refused in accordance with the second sentence of Article 20(2) of the basic Regulation, the authorisation shall be granted by the institution of the place of residence on behalf of the competent institution, which shall be immediately informed by the institution of the place of residence. The competent institution shall accept the findings and the treatment options of the doctors approved by the institution of the place of residence that issues the authorisation, concerning the need for urgent vitally necessary treatment.

4. At any time during the procedure granting the authorisation, the competent institution shall retain the right to have the insured person examined ***in case of the need of long-term care*** by a doctor ***or an expert*** of its own choice in the Member

residence.

5. The institution of the place of stay shall, without prejudice to any decision regarding authorisation, inform the competent institution if it appears *medically* appropriate to supplement the treatment covered by the existing authorisation.

B. Meeting the cost of benefits in kind incurred by the insured person

6. Without prejudice to paragraph 7, Article 25(4) and (5) of the implementing Regulation shall apply *mutatis mutandis*.

7. If the insured person has actually borne all or part of the costs for the authorised medical treatment him or herself and the costs which the competent institution is obliged to reimburse to the institution of the place of stay or to the insured person according to paragraph 6 (actual cost) are lower than the costs which it would have had to assume for the same treatment in the competent Member State (notional cost), the competent institution shall reimburse, upon request, the cost of treatment incurred by the insured person up to the amount by which the notional cost exceeds the actual cost. The reimbursed sum may not, however, exceed the costs actually incurred by the insured person and may take account of the amount which the insured person would have had to pay if the treatment had been delivered in the competent Member State.

C. Meeting the costs of travel and stay as part of scheduled treatment

8. Where the national legislation of the competent institution provides for the reimbursement of the costs of travel and stay which are inseparable from the treatment of the insured person, such costs for the person concerned and, if necessary, for a person who must accompany him/her, shall be assumed by this institution when an authorisation is granted in the case of

State of stay or residence.

5. The institution of the place of stay shall, without prejudice to any decision regarding authorisation, inform the competent institution if it appears appropriate *on medical grounds or in relation to the need for care* to supplement the treatment covered by the existing authorisation.

B. Meeting the cost of benefits in kind incurred by the insured person

6. Without prejudice to paragraph 7, Article 25(4) and (5) of the implementing Regulation shall apply *mutatis mutandis*.

7. If the insured person has actually borne all or part of the costs for the authorised medical treatment him or herself and the costs which the competent institution is obliged to reimburse to the institution of the place of stay or to the insured person according to paragraph 6 (actual cost) are lower than the costs which it would have had to assume for the same treatment in the competent Member State (notional cost), the competent institution shall reimburse, upon request, the cost of treatment incurred by the insured person up to the amount by which the notional cost exceeds the actual cost. The reimbursed sum may not, however, exceed the costs actually incurred by the insured person and may take account of the amount which the insured person would have had to pay if the treatment had been delivered in the competent Member State.

C. Meeting the costs of travel and stay as part of scheduled treatment

8. Where the national legislation of the competent institution provides for the reimbursement of the costs of travel and stay which are inseparable from the treatment of the insured person, such costs for the person concerned and, if necessary, for a person who must accompany him/her, shall be assumed by this institution when an authorisation is

treatment in another Member State.

granted in the case of treatment in another Member State.

D. Family members

D. Family members

9. Paragraphs 1 to 8 shall apply *mutatis mutandis* to the members of the family of the insured persons.

9. Paragraphs 1 to 8 shall apply *mutatis mutandis* to the members of the family of the insured persons.”

**Amendment 141**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 16**

Regulation (EC) No 987/2009

Article 28 – paragraph 1

*Text proposed by the Commission*

*Amendment*

**16. In Article 28(1), after the term "pursuant to Article 21(1) of the basic Regulation", the following term is added "in accordance with Article 35a thereof".**

**deleted**

**Amendment 142**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 17**

Regulation (EC) No 987/2009

Article 31 – title and paragraphs 1 and 2

*Text proposed by the Commission*

*Amendment*

**17. Article 31 is amended as follows:**  
**(c) The title is replaced by the following title:**

**deleted**

**‘Application of Article 35b of the basic Regulation; ’**

**(d) In paragraph 1, the term "Article 34" is replaced by "Article 35b";**

**(e) In paragraph (2), the term "Article 34(2)" is replaced by "Article 35a (2)".**

*Justification*

*Article 35b is deleted.*

## Amendment 143

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 17 a (new)

Regulation (EC) No 987/2009

Article 32 – paragraph 1

*Present text*

1. When a person or a group of persons are exempted upon request from compulsory sickness insurance and such persons are thus not covered by a sickness insurance scheme to which the basic Regulation applies, the institution of another Member State shall not, solely because of this exemption, become responsible for bearing the costs of benefits in kind or in cash provided to such persons or to a member of their family under Title III, Chapter I, of the basic Regulation.

*Amendment*

#### **17a. In Article 32, paragraph 1 is replaced by the following:**

“1. When a person or a group of persons are exempted upon request from compulsory sickness *or long-term care* insurance and such persons are thus not covered by a sickness *or long-term care* insurance scheme to which the basic Regulation applies, the institution of another Member State shall not, solely because of this exemption, become responsible for bearing the costs of benefits in kind or in cash provided to such persons or to a member of their family under Title III, Chapter I, of the basic Regulation.”

## Amendment 144

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 18

Regulation (EC) No 987/2009

Article 32 – paragraph 4

*Text proposed by the Commission*

**18. In Article 32, the following paragraph 4 is added after paragraph 3:**

**‘4. This Article applies mutatis mutandis to long-term care benefits.’**

*Amendment*

*deleted*

## Amendment 145

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 21

Regulation (EC) No 987/2009

Article 55 – paragraph 7

*Text proposed by the Commission*

*Amendment*

**21. In paragraph 7 of Article 55, the term “Article 65a(3)” is replaced by “Article 64a and Article 65a(3)”** *deleted*

#### **Amendment 146**

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

**Article 2 – paragraph 1 – point 22**

Regulation (EC) No 987/2009

Article 55a

*Text proposed by the Commission*

*Amendment*

**22. The following Article 55a is inserted after Article 55:** *deleted*

**‘Article 55a**

***Obligation of employment service of the Member State of most recent insurance***

***In the situation referred to in Article 61(2) of the basic Regulation, the institution of the Member State of most recent insurance shall immediately send a document to the competent institution of the Member State of previous insurance containing: the date on which the person concerned had become unemployed, the period of insurance, employment or self-employment completed under its legislation, the relevant circumstances of the unemployment likely to affect entitlement to benefits, the date of registration as unemployed person and their address.’***

#### **Amendment 147**

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

**Article 2 – paragraph 1 – point 24**

Regulation (EC) No 987/2009

Title VI – Chapter I – title

*Text proposed by the Commission*

*Amendment*

**24. Chapter 1 of Title IV is renamed as follows:** *deleted*

**‘CHAPTER I**

***Reimbursement of the cost of benefits in application of Article 35, 35c and Article 41 of the basic Regulation’***

*Justification*

*No Change of title needed as article 35c has been deleted (LTC)*

### **Amendment 148**

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

#### **Article 2 – paragraph 1 – point 26**

Regulation (EC) No 987/2009

Article 65 – paragraph 1

*Text proposed by the Commission*

*Amendment*

1. The annual average cost per person in each age group for a specific year shall be notified to the Audit Board at the latest by the end of the second year following the year in question.

1. The annual average cost per person in each age group for a specific year shall be notified to the Audit Board at the latest by the end of the second year following the year in question, ***with sickness indicated separately from long-term care benefits in kind.***

*Justification*

*The costs for sickness and long-term care benefits in kind should be indicated separately within the calculation of the annual average cost, so that the debtor state can divide the costs more easily.*

### **Amendment 149**

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

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

Regulation (EC) No 987/2009

Article 66 – paragraph 2

*Present text*

*Amendment*

***26a. In Article 66, paragraph 2 is***

2. The reimbursements between the institutions of the Member States, provided for in Articles 35 and 41 of the basic Regulation, shall be made via the liaison body. There may be a separate liaison body for reimbursements under **Article 35** and **Article 41** of the basic Regulation.

***replaced by the following:***

"2. The reimbursements between the institutions of the Member States, provided for in Articles 35 and 41 of the basic Regulation, shall be made via the liaison body. There may be a separate liaison body for reimbursements under **Articles 35** and **41** of the basic Regulation. ***Mutual claims shall be off-set between the liaison bodies. The Administrative Commission shall establish detailed arrangements for such off-setting.*** "

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:02009R0987-20170411&from=EN>)*

#### *Justification*

*In order to maintain confidence in the principle of sincere cooperation and to satisfy the economic viability of budgeting required by social security institutions, the possibility of offsetting should be introduced. The number of payment transactions would be reduced since only the excess amounts would be paid internationally.*

### **Amendment 150**

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

#### **Article 2 – paragraph 1 – point 26 b (new)**

Regulation (EC) No 987/2009

Article 67

#### *Present text*

Article 67

Deadlines for the introduction and settlement of claims

1. Claims based on actual expenditure shall be introduced to the liaison body of the debtor Member State within 12 months of the end of the calendar half-year during which those claims were recorded in the accounts of the creditor institution.

2. Claims of fixed amounts for a calendar year shall be introduced to the

#### *Amendment*

***26b. Article 67 is replaced by the following:***

“Article 67

Deadlines for the introduction and settlement of claims

1. Claims based on actual expenditure shall be introduced to the liaison body of the debtor Member State within 12 months of the end of the calendar half-year during which those claims were recorded in the accounts of the creditor institution. ***Claims shall be met within six months of their introduction to the liaison body.***

2. Claims of fixed amounts for a calendar year shall be introduced to the

liaison body of the debtor Member State within the 12-month period following the month during which the average costs for the year concerned were published in the *Official Journal of the European Union*. The inventories referred to Article 64(4) of the implementing Regulation shall be presented by the end of the year following the reference year.

3. ***In the case*** referred to ***in Article 6(5) second subparagraph of the implementing Regulation, the deadline set out*** in paragraphs 1 and 2 ***of this Article*** shall not start before the competent institution has been identified.

4. Claims introduced after the deadlines specified in paragraphs 1 and 2 shall not be considered.

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.

6. Any disputes concerning a claim shall be settled, at the latest, within 36 months following the month in which the claim was introduced.

7. The Audit Board shall facilitate the final closing of accounts in cases where a settlement cannot be reached within the period set out in paragraph 6, and, upon a

liaison body of the debtor Member State within the 12-month period following the month during which the average costs for the year concerned were published in the *Official Journal of the European Union*. The inventories referred to Article 64(4) of the implementing Regulation shall be presented by the end of the year following the reference year.

3. ***The period*** referred to in paragraphs 1 and 2 shall not ***commence until the date on which the creditor institution becomes aware of the claim of the debtor institution. Claims may be introduced for benefit periods of no more than the previous five calendar years. The introduction of claims to the liaison body of the debtor Member State shall be decisive.***

4. Claims introduced after the deadlines specified in paragraphs 1 and 2 shall not be considered.

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 ***shall*** not apply to the claims which the debtor institution has rejected for a relevant reason within that period. ***The liaison body of the creditor Member State shall reply to such a rejection within 12 months of the end of the month during which the rejection was received. In the absence of such a reply, the rejection shall be deemed to be accepted.***

6. Any disputes concerning a claim shall be settled, at the latest, within 36 months following the month in which the claim was introduced.

7. The Audit Board shall facilitate the final closing of accounts in cases where a settlement cannot be reached within the period set out in paragraph 6, and, upon a

reasoned request by one of the parties, shall give its opinion on a dispute within **six** months following the month in which the matter was referred to it.

reasoned request by one of the parties, shall give its opinion on a dispute within **nine** months following the month in which the matter was referred to it. ***The Audit Board shall receive the request no later than nine months after expiry of the period set out in paragraph 6.***

## Amendment 151

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 26 c (new)

Regulation (EC) No 987/2009

Article 68 – paragraph 2

#### *Present text*

2. The interest shall be calculated on the basis of the reference rate applied by the European Central Bank to its main refinancing operations. The reference rate applicable shall be that in force on the first day of the month on which the payment is due.

#### *Amendment*

***26c. In Article 68, paragraph 2 is replaced by the following:***

“2. The interest shall be calculated on the basis of the reference rate applied by the European Central Bank to its main refinancing operations ***plus eight percentage points***. The reference rate applicable shall be that in force on the first day of the month on which the payment is due.”

## Amendment 152

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 27

Regulation (EC) No 987/2009

Article 70

#### *Text proposed by the Commission*

***27. Article 70 is deleted.***

#### *Amendment*

***deleted***

## Amendment 153

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 28

Regulation (EC) No 987/2009

Article 73 – paragraph 3 – subparagraph 3

*Text proposed by the Commission*

If the amount of unduly paid contributions exceeds the amount the legal and/or natural person owes to the institution identified as being competent, the institution which unduly received contributions shall reimburse the amount in excess to the legal and/or natural person concerned.

*Amendment*

If the amount of unduly paid contributions exceeds the amount the legal and/or natural person owes to the institution identified as being competent, the institution which unduly received contributions shall reimburse the amount in excess to the legal and/or natural person concerned ***in accordance with national law.***

**Amendment 154**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 28**

Regulation (EC) No 987/2009

Article 73 – paragraph 4

*Text proposed by the Commission*

4. The existence of time limits under national legislation shall not be a valid ground for the refusal of the settlement of claims between institutions under this Article.

*Amendment*

4. The existence of time limits ***and application procedures*** under national legislation shall not be a valid ground for the refusal of the settlement of claims between institutions under this Article.

**Amendment 155**

**Proposal for a regulation**

**Article 2 – paragraph 1 – point 29**

Regulation 987/2009/EC

Article 75 – paragraph 4 a (new)

*Text proposed by the Commission*

*Amendment*

***4a. The Member State where the person concerned by the refund of the social security contributions currently resides or stays, shall inform the Member State from which the refund is to be made, about the outcome of the refund within 25 working days.***

## **Amendment 156**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 30**

Regulation (EC) No 987/2009

Article 76 – paragraph 3 b (new)

*Text proposed by the Commission*

*Amendment*

**3b. The requested party shall acknowledge receipt of the request as soon as possible and in any event within 15 calendar days of such receipt.**

## **Amendment 157**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 31 – point b**

Regulation (EC) No 987/2009

Article 77 – paragraph 6 a (new)

*Text proposed by the Commission*

*Amendment*

**6a. The requested party shall acknowledge receipt of the request as soon as possible and in any event within 15 calendar days of such receipt.**

## **Amendment 158**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 32 – point d**

Regulation (EC) No 987/2009

Article 78 – paragraphs 6 a, 6 b and 6 c (new)

*Text proposed by the Commission*

*Amendment*

**6a. If the currency of the requested party is different from the currency of applicant party, the applicant authority shall express the amount of the claim to be recovered in both currencies.**

**6b. The exchange rate to be used for the purpose of the recovery assistance shall be the last exchange rate published by the European Central Bank before the request is sent.**

**6c. The requested party shall acknowledge receipt of the request as soon as possible and in any event within 15 calendar days of such receipt.**

## **Amendment 159**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 33**

Regulation (EC) No 987/2009

Article 79 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. A single uniform instrument permitting enforcement in the Member State of the requested party may be issued in respect to several claims and several persons corresponding to the initial instrument or instruments permitting enforcement in the Member State of the applicant party.**

## **Amendment 160**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 34 – point b a (new)**

Regulation (EC) No 987/2009

Article 80 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**(ba) The following paragraph is added:**

**“2a. Regardless of any amounts collected by the requested party by way of interest recovered, a claim shall be deemed recovered in proportion to the recovery of the amount expressed in the national currency of the Member State of the requested party on the basis of the exchange rate mentioned in the request.”**

## **Amendment 161**

### **Proposal for a regulation**

#### **Article 2 – paragraph 1 – point 35 – point d**

Regulation (EC) No 987/2009  
Article 81 – paragraph 5 a (new)

*Text proposed by the Commission*

*Amendment*

**5a. In order to convert the amount of the claim resulting from an adjustment into the currency of the Member State of the requested party, the applicant party shall use the exchange rate used in its initial request.**

## Amendment 162

### 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*

*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 authorised by the applicant party may, with a view to promoting mutual assistance provided for in this Section:

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:

## Amendment 163

### 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*

*Amendment*

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

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 164

### 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.

## Amendment 165

### Proposal for a regulation

#### Article 2 – paragraph 1 – point 40 – point b

Regulation (EC) No 987/2009

Article 87 – paragraph 6 – last sentence

#### *Text proposed by the Commission*

However, if the institution which was requested to carry out the check also uses the findings for the granting of benefits to the person concerned under the legislation it applies, it shall not claim the expenses referred to in the previous sentence.

#### *Amendment*

However, if the institution which was requested to carry out the check also uses the findings for the granting of benefits ***on its own account*** to the person concerned under the legislation it applies, it shall not claim the expenses referred to in the previous sentence.

#### *Justification*

*It has to be made clear that only in cases in which the requested institution also uses the findings for the granting of benefits on its own account to the person concerned, it shall not claim the expenses referred. In cases where the institution of stay uses the findings to provide benefits on account of the competent institution, the effective amount of expense of the checks shall be reimbursed.*

## **Amendment 166**

### **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*

**40a. 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.”***

## **Amendment 167**

### **Proposal for a regulation**

#### **Article 3 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***Point 9a of Article 2 [inserting a new Article 15a into Regulation (EC) 987/2009] shall be applicable from ... [5 years after the date of entry into force of this Regulation - COD2016/0397].***