

Amendment 176

Danuta Jazłowiecka, Barbara Kudrycka, Julia Pitera, Róza Gräfin von Thun und Hohenstein, Tadeusz Zwiefka, Janusz Lewandowski, Dariusz Rosati, Jan Olbrycht, Elżbieta Katarzyna Łukacijewska, Danuta Maria Hübner, Bogusław Sonik, Agnieszka Kozłowska-Rajewicz, Adam Szejnfeld, Michał Boni, Marek Plura, Ádám Kósa, Livia Járóka, Andor Deli, Martina Dlabajová, Maria Grapini, Ioan Mircea Pașcu, Victor Boștinaru, Michaela Šojdrová, Jarosław Wałęsa, Romana Tomc, Franc Bogovič, Milan Zver, Marian-Jean Marinescu, Siegfried Mureșan, Renate Weber, Urszula Krupa, Czesław Hoc, Ryszard Antoni Legutko, Sławomir Kłosowski, Ryszard Czarnecki, Bolesław G. Piecha, Kosma Złotowski, Andrey Novakov, Asim Ademov, Emil Radev, Dan Nica, Maria Gabriela Zoană, Claudia Țapardel, Andi Cristea, Emilian Pavel, Claudiu Ciprian Tănăsescu, József Szájer, Kinga Gál, Csaba Sógor

Report**A8-0386/2018****Guillaume Balas**

Coordination of social security systems
(COM(2016)0815 – C8-0521/2016 – 2016/0397(COD))

Proposal for a regulation**Article 1 – paragraph 1 – point 13**

Regulation (EC) No 883/2004

Article 12 – paragraph 1

*Text proposed by the Commission**Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is ***posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services⁴⁶*** or sent by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that the person is not ***posted or*** sent to replace another ***employed or self-employed*** person previously ***posted or*** sent within the meaning of this Article.

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 the anticipated duration of such work does not exceed 24 months and that the person is not sent to replace another person previously sent ***by the same employer*** within the meaning of this Article.

⁴⁶ OJ L 018, 21.01.1997, p. 1.

Or. en

(Article 1 – paragraph 13)

Justification

Reference to Directive 96/71/EC creates additional confusion and should be deleted. The term "sent" is broader and includes posted workers. Replacement shall refer only to workers sent by the same employer. Otherwise we create a system, where social security status of a sent worker depends on other employed or self-employed persons.

10.4.2019

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Amendment 177

Danuta Jazłowiecka, Barbara Kudrycka, Julia Pitera, Róza Gräfin von Thun und Hohenstein, Tadeusz Zwiefka, Janusz Lewandowski, Dariusz Rosati, Jan Olbrycht, Elżbieta Katarzyna Łukacijewska, Danuta Maria Hübner, Bogusław Sonik, Agnieszka Kozłowska-Rajewicz, Adam Szejnfeld, Michał Boni, Marek Plura, Ádám Kósa, Livia Járóka, Andor Deli, Martina Dlabajová, Maria Grapini, Ioan Mircea Pașcu, Victor Boștinăru, Michaela Šojdrová, Jarosław Wałęsa, Romana Tomc, Franc Bogovič, Milan Zver, Marian-Jean Marinescu, Siegfried Mureșan, Renate Weber, Urszula Krupa, Czesław Hoc, Ryszard Antoni Legutko, Sławomir Kłosowski, Ryszard Czarnecki, Bolesław G. Piecha, Kosma Złotowski, Andrey Novakov, Asim Ademov, Emil Radev, Dan Nica, Maria Gabriela Zoană, Claudia Țapardel, Andi Cristea, Emilian Pavel, Claudiu Ciprian Tănăsescu, József Szájer, Kinga Gál, Csaba Sógor

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Coordination of social security systems
(COM(2016)0815 – C8-0521/2016 – 2016/0397(COD))

Proposal for a regulation

Article 1 – paragraph 1 – point 13

Regulation (EC) No 883/2004

Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where an employed person covered by paragraph 1 does not complete the task or activity foreseen in the contract and is replaced by the same employer by another sent person to complete the work, the person replacing the previously sent person shall continue to be subject to the legislation of the Member State from which he/she is sent provided that the total duration of work of that person does not exceed 24 months.

Or. en

(Article 1 – paragraph 13)

Justification

This provision prevents continuous posting however it gives flexibility to complete the work

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under the contract between the service provider and service receiver. What is more this solution does not affect badly the continuity of social security insurance of the sent workers.

Amendment 178

Danuta Jazłowiecka, Barbara Kudrycka, Julia Pitera, Róza Gräfin von Thun und Hohenstein, Tadeusz Zwiefka, Janusz Lewandowski, Dariusz Rosati, Jan Olbrycht, Elżbieta Katarzyna Łukacijewska, Danuta Maria Hübner, Bogusław Sonik, Agnieszka Kozłowska-Rajewicz, Adam Szejnfeld, Michał Boni, Marek Plura, Ádám Kósa, Livia Járóka, Andor Deli, Martina Dlabajová, Maria Grapini, Ioan Mircea Pașcu, Victor Boștinăru, Michaela Šojdřová, Jarosław Wałęsa, Romana Tomc, Franc Bogovič, Milan Zver, Marian-Jean Marinescu, Siegfried Mureșan, Renate Weber, Urszula Krupa, Czesław Hoc, Ryszard Antoni Legutko, Sławomir Kłosowski, Ryszard Czarnecki, Bolesław G. Piecha, Kosma Złotowski, Andrey Novakov, Asim Ademov, Emil Radev, Dan Nica, Maria Gabriela Zoană, Claudia Țapardel, Andi Cristea, Emilian Pavel, Claudiu Ciprian Tănăsescu, József Szájer, Kinga Gál, Csaba Sógor

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Coordination of social security systems
(COM(2016)0815 – C8-0521/2016 – 2016/0397(COD))

Proposal for a regulation**Article 2 – paragraph 1 – point 8 – point a**

Regulation (EC) No 987/2009

Article 14 – paragraph 1 a (new)

*Text proposed by the Commission**Amendment*

1a. Once a person has been sent in accordance with Article 12(1) of the basic Regulation or pursues an activity as self-employed in another Member State in accordance with Article 12(2) of the basic Regulation for 24 months in total, either continuously or with interruptions not longer than two months, no new period under Article 12(1) or (2) of the basic Regulation for the same employed or self-employed person and the same Member State may start until at least two months have elapsed from the end of the previous period. A derogation from this principle is, however, permissible in specific circumstances.

Or. en

(Article 2 – paragraph 7)

Justification

The proposed wording aligns this provision to Article 3 (c) of Decision No A2 of 12 June 2009 of the Administrative Commission.

Amendment 179

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Coordination of social security systems
(COM(2016)0815 – C8-0521/2016 – 2016/0397(COD))

Proposal for a regulation**Article 2 – paragraph 1 – point 8 – point b**

Regulation (EC) No 987/2009

Article 14 – paragraph 5 a

*Text proposed by the Commission**Amendment*

5a. For the purpose of the application of Title II of the basic Regulation, ‘registered office or place of business’ shall refer to the registered office or place of business where the essential decisions of the undertaking are adopted and where the functions of its central administration are carried out, ***provided the undertaking performs a substantial activity in that Member State. Otherwise, it shall be deemed to be situated in the Member State where the centre of interest of activities of the undertaking determined in accordance with the criteria laid down in paragraphs 9 and 10 is located.***

5a. For the purpose of the application of Title II of the basic Regulation, ‘registered office or place of business’ shall refer to the registered office or place of business where the essential decisions of the undertaking are adopted and where the functions of its central administration are carried out.

Where the determination of the location of the registered office or place of business using the above criteria proves impossible, a series of factors shall then

be taken into account, including:

- (a) the place of residence of the main directors;*
- (b) the places where general meetings are held;*
- (c) the place where administrative and accounting documents are kept;*
- (d) the place where financial and particularly banking transactions mainly take place;*
- (e) the turnover, number of services rendered and/or income;*
- (f) personal or financial connection with clients;*
- (g) the habitual nature of the activity pursued.*

The determination shall be carried out in the framework of an overall assessment, giving due weight to each of the criteria mentioned above. The Administrative Commission shall lay down the detailed arrangements for the determination.

Or. en

Justification

This amendment helps to correctly apply the criteria for determining the place of establishment. Treating the substantial activity as the decisive factor could affect badly fair companies, for example in highly mobile sectors.