



**2016/0397(COD)**

23.1.2018

# **AMENDMENTS**

## **62 - 300**

**Draft report**  
**Guillaume Balas**  
(PE612.058v02-00)

Proposal 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

Proposal for a regulation  
(COM(2016)815 – C8-0521/2016 – 2016/0397 (COD))



## **Amendment 62**

**Sven Schulze, Csaba Sógor, Dieter-Lebrecht Koch, Thomas Mann**

### **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.

Or. en

## **Amendment 63**

**Helga Stevens, Ulrike Trebesius**

### **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 such rules fairer, clearer and easier to apply.***

Or. en

## **Amendment 64**

**Marita Ulvskog**

### **Proposal for a regulation**

#### **Recital 4**

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

(4) It remains essential that the coordination rules keep pace with the

##### *Amendment*

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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.

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.

***This Regulation is central to the continued functioning of the internal market and the freedom of movement. Concurrently the social security coordination has to be designed to fit all kinds of social security systems in the Member States.***

Or. en

## **Amendment 65**

### **Helga Stevens**

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

#### **Recital 4**

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

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

##### *Amendment*

(4) It remains essential that the coordination rules keep pace with the evolving legal, societal, **economic, demographic and technological** context in which they operate by further facilitating the exercise of citizens' rights while at the same time ensuring legal clarity, a fair and equitable distribution of the financial burden among the institutions of the Member States involved and administrative simplicity and enforceability of the rules.  
***In that context, Council Directive 2000/78/EC<sup>1a</sup> and the United Nations Convention on the Rights of Persons with Disabilities, in particular Article 27 thereof, should be duly taken into account.***

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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).*

Or. en

**Amendment 66**  
**Sergio Gutiérrez Prieto, Javi López**

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

*Text proposed by the Commission*

*Amendment*

**(4a) The Commission and the Member States must therefore provide transparent, public data, compiled via dedicated, in-depth studies, to enable a rational and effective debate to take place at national and European 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.**

Or. es

**Amendment 67**  
**Helga Stevens, Ulrike Trebesius**

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

*Text proposed by the Commission*

*Amendment*

**(4a) 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 EU must fight abuse, fraud and unfair competition.*

Or. en

**Amendment 68**

**Sergio Gutiérrez Prieto, Javi López**

**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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***OJ L 158, 30.4.2004, p 77.***

Or. es

**Amendment 69**

**Jean Lambert**

**Proposal for a regulation**

**Recital 5**

(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>33</sup> OJ L 158, 30.4.2004, p. 77.

Or. en

#### **Amendment 70**

**Czesław Hoc, Zdzisław Krasnodębski, Kosma Złotowski**

#### **Proposal for a regulation Recital 5**

(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* **deleted**

*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.*

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<sup>33</sup> OJ L 158, 30.4.2004, p. 77.

Or. en

#### **Amendment 71**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

#### **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>33</sup> OJ L 158, 30.4.2004, p. 77.

Or. en

#### *Justification*

*The derogation from the principle of equal treatment for more than 700.000 economically*

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

## **Amendment 72**

**Georgi Pirinski**

### **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>33</sup> *OJ L 158, 30.4.2004, p. 77.*

Or. en

## **Amendment 73**

**Danuta Jazłowiecka, Krzysztof Hetman, Agnieszka Kozłowska-Rajewicz, Marek Plura**

### **Proposal for a regulation**

#### **Recital 5**

*Text proposed by the Commission*

(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.***

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<sup>33</sup> OJ L 158, 30.4.2004, p. 77.

*Amendment*

(5) Access to social security benefits for economically inactive mobile citizens in the host Member State, may be made conditional ***only to the extent settled by existing case law C-133/13 Dano, C-67/14 Alimanovic and C-299/14 Garcia-Nieto.***

Or. en

**Amendment 74**

**Helga Stevens, Ulrike Trebesius**

**Proposal for a regulation**

**Recital 5**

*Text proposed by the Commission*

(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>

*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.

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<sup>33</sup> OJ L 158, 30.4.2004, p. 77.

For these purposes, an economically inactive citizen should be clearly distinguished from a jobseeker *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.*

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<sup>33</sup> OJ L 158, 30.4.2004, p. 77.

Or. en

## **Amendment 75** **Sergio Gutiérrez Prieto, Javi López**

### **Proposal for a regulation** **Recital 5**

#### *Text proposed by the Commission*

(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.

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OJ L 158, 30.4.2004, p 77.

#### *Amendment*

(5) It is necessary to guarantee legal certainty by clarifying that access to **the special non-contributory benefits referred to in Article 70 of Regulation (EC) 883/2004** 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.

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OJ L 158, 30.4.2004, p 77.

**Amendment 76**

**Gabriele Zimmer, Patrick Le Hyaric, Kostadinka Kuneva**

**Proposal for a regulation**

**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) A growing number of mobile Union citizens is excluded from equal treatment and the protection granted through social security coordination, in particular those citizens excluded from the labour market without access to the social security benefits listed in Article 3 of this Regulation. The Commission should take the opportunity to develop a proposal on how to include social assistance and minimum income benefits in the scope of the Regulation in order to close the social protection gap within in the Union's social security coordination regime. Alternatively, the Commission could, in close cooperation with the Parliament, the Council, the social partners and all relevant stakeholders from civil society, develop a European social protection regime for all mobile citizens who have so far been excluded from the Regulation. The proposed regimes could be based on Article 21 of the Treaty on the Functioning of the European Union and should have special regard to non-active mobile citizens and job seekers.***

**Amendment 77**

**Marita Ulvskog**

**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 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.**

**deleted**

Or. en

#### **Amendment 78**

**Jean Lambert**

#### **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 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.**

**(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. 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.**

Or. en

#### **Amendment 79**

**Joëlle Mélin, Dominique Martin**

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

##### **Recital 6**

*Text proposed by the Commission*

(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.

*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 benefits, leading to legal ***and financial*** 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 ***and recovery*** within the Regulation to include a clear definition of such benefits.

Or. fr

**Amendment 80**  
**Jeroen Lenaers**

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

*Text proposed by the Commission*

*Amendment*

***(6a) 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 European legislation. Efforts should also be made to develop an electronic information exchange tool for verification purposes, giving national labour inspectorates rapid access to requisite data. The Regulation should accordingly remain closely in step with the Directive on the posting of workers.***

Or. nl

**Amendment 81**  
**Agnes Jongerius**

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

*Text proposed by the Commission*

*Amendment*

**(6a) 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 bodies responsible for verifying contributions relating to cross-border activities in the relevant Member State, while at the same time ensuring compliance with European legislation. Efforts should also be made to develop an electronic information exchange tool for verification purposes, giving national labour inspectorates rapid access to requisite data. The Regulation should accordingly remain closely in step with the Directive on the posting of workers.**

Or. nl

**Amendment 82**  
**Helga Stevens, Ulrike Trebesius**

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

*Text proposed by the Commission*

*Amendment*

**(6a) 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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*1a*

*<http://www.ksz.fgov.be/en/international/page/content/websites/international/aboutcss.html>*

Or. en

**Amendment 83**  
**Jeroen Lenaers**

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

*Text proposed by the Commission*

*Amendment*

*(6b) 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.*

Or. nl

**Amendment 84**  
**Jeroen Lenaers**

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

*Text proposed by the Commission*

*Amendment*

*(6c) 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 national citizens, and where the matter cannot be resolved under the coordination rules, the Member State where those affected reside with their families must, in agreement with the Member States concerned, find a way of remedying these disadvantages.*

Or. nl

**Amendment 85**

**Sven Schulze, Michaela Šojdrová, Csaba Sógor, Dieter-Lebrecht Koch, Georges Bach, Ádám Kósa, Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann, Sofia Ribeiro**

**Proposal for a regulation**

**Recital 7**

*Text proposed by the Commission*

*Amendment*

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

**deleted**

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

Or. en

## *Justification*

*Reference to POWD is problematic as postings according to POWD and 883 are not identical. Difficult to take the definition of posting from a directive into a regulation.*

### **Amendment 86**

**Georgi Pirinski**

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

##### **Recital 7**

*Text proposed by the Commission*

*Amendment*

(7) *In order to ensure clarity* **deleted**  
*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.*

Or. en

### **Amendment 87**

**Czesław Hoc, Zdzisław Krasnodebski, Kosma Złotowski**

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

##### **Recital 7**

*Text proposed by the Commission*

*Amendment*

(7) *In order to ensure clarity* **deleted**  
*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.*

Or. en

#### **Amendment 88**

**Marian Harkin, Enrique Calvet Chambon, Martina Dlabajová**

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

##### **Recital 7**

*Text proposed by the Commission*

*Amendment*

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

*deleted*

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

Or. en

**Amendment 89**  
**Guillaume Balas**

**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** achieve consistency in treatment between employed and self-employed persons it is necessary that the special rules for the determination of applicable legislation in the cases of workers who are temporarily posted to another Member State should apply consistently to both employed and self-employed persons.*

Or. fr

**Amendment 90**  
**Martina Dlabajová, Renate Weber**

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

*Text proposed by the Commission*

(7) ***In order to ensure clarity***

*Amendment*

(7) *To achieve consistency in treatment*

*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.*

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.

Or. en

#### **Amendment 91**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

#### **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.

###### *Amendment*

(7) 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.

Or. en

## Amendment 92

Jean Lambert

### 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 therefore refer to workers “sent abroad” 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 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.

Or. en

## Amendment 93

Joëlle Mélin, Dominique Martin

### 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> **and within the meaning of this revised Regulation**. 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.

Or. fr

**Amendment 94**  
**Helga Stevens**

**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

*Amendment*

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

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.

***regulation*** for the determination of applicable legislation in the cases of workers ***and self-employed*** 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.

Or. en

## **Amendment 95**

**Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli**

### **Proposal for a regulation**

#### **Recital 7**

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

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

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

##### *Amendment*

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

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

Or. it

## **Amendment 96**

**Georgi Pirinski**

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

*Text proposed by the Commission*

*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 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.**

**deleted**

Or. en

**Amendment 97**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

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

*Text proposed by the Commission*

*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***

**(8) In the area of unemployment benefits, the rules on the aggregation of periods of insurance should be applied uniformly by all Member States *on the basis of* Article 6.**

*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.*

Or. en

#### *Justification*

*The introduction of a three month time period would make the rules more complicated for moving citizens as well as for administrations. Persons concerned risk losing entitlements, for example when they have been working for time periods of less than three month consecutively in different Member States. In order to simplify rules, Article 61 should be deleted entirely and unemployment benefits aggregated on the basis of Article 6.*

#### **Amendment 98**

**Danuta Jazłowiecka, Krzysztof Hetman, Agnieszka Kozłowska-Rajewicz, Marek Plura**

#### **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*

##### *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.

*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.*

Or. en

*Justification*

*This system should be in favour of worker therefore the current applicable rules should be kept (1 day rule) and not replaced by an aggregation period of 3 months.*

**Amendment 99**

**Czesław Hoc, Zdzisław Krasnodębski, Kosma Złotowski**

**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*

(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 100****Anne Sander, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Geoffroy Didier****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*

(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 periods or periods assimilated to insurance periods* in that Member State, *with a view to ensuring a fairer distribution of the burden, to avoiding abusive practices and ensuring better representativeness of the income taken into account.* 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.

Or. fr

**Amendment 101****Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli****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*

(8) In the area of unemployment benefits, the rules on the aggregation of periods of insurance should be applied uniformly by all Member States. With the exception of cross-border workers referred to in Article 65(2), the rules on the aggregation of periods for the purpose of conferring entitlement to unemployment benefits should be subject to the condition that an insured person has most recently completed at least **one month** of insurance in that Member State. The previously competent Member State should become competent for insured persons who do not satisfy this condition, **while taking into account the period of insurance completed by the person in the Member State of last activity for the purposes of calculating aggregated periods of insurance**. In this case, registration with the employment services of the Member State of most recent insurance should have the same effect as registration with the employment services of the Member State, where the unemployed person had been previously insured.

Or. it

**Amendment 102**

**Ole Christensen, Evelyn Regner**

**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

*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), **in order to ensure a sufficient link to the Member State 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.

**employment** 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.

Or. en

### Amendment 103

Emilian Pavel

### 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

#### *Amendment*

(8) In the area of unemployment benefits, the rules on the aggregation of periods of insurance should be applied uniformly by all Member States. With the exception of cross-border workers referred to in Article 65(2), the rules on the aggregation of periods for the purpose of conferring entitlement to unemployment benefits should be subject to the condition that an insured person has most recently completed at least **one month** of insurance, **also including a period of injury or sickness**, 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

services of the Member State, where the unemployed person had been previously insured.

effect as registration with the employment services of the Member State, where the unemployed person had been previously insured.

Or. en

#### **Amendment 104**

**Helga Stevens, Anders Primdahl Vistisen, Ulrike Trebesius**

#### **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*

(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 **six** 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.

Or. en

#### **Amendment 105**

**Claude Rolin**

#### **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*

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

Or. fr

**Amendment 106**

**Sergio Gutiérrez Prieto, Javi López**

**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

*Amendment*

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

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.

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.

Or. es

#### **Amendment 107**

**Ole Christensen, Evelyn Regner**

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

##### **Recital 9**

*Text proposed by the Commission*

*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 improve the opportunities for unemployed persons moving to another Member State to look for work and their chances for reintegration into the labour market and to address skills mismatches across borders.***

***deleted***

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

Or. en

#### **Amendment 108**

**Helga Stevens, Ulrike Trebesius**

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

##### **Recital 9**

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

(9) *Intra-EU mobility can address mismatches between skills and employment opportunities, and help tackling unemployment in the EU. However, the exportability of unemployment benefits poses significant problems in terms of mutual cooperation between Member States for monitoring jobseeking activities. To avoid the misuse of rights, the competent Member State can take into account national labour needs as well as available opportunities in the host Member State before granting the exportation of unemployment benefits.*

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

Or. en

#### **Amendment 109**

**Sergio Gutiérrez Prieto, Javi López**

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

#### **Recital 9**

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

(9) Following the recommendations<sup>35</sup> in the EU Citizenship Report 2013, there is a need to extend the minimum duration of export of unemployment benefits from three months **until the end of the period in which the person in question is still entitled to benefits** in order to improve the opportunities for unemployed persons moving to another Member State to look for work and their chances for **retraining and** reintegration into the labour market and to address skills 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 110****Jeroen Lenaers****Proposal for a regulation****Recital 9***Text proposed by the Commission*

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

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

*Amendment*

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

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

**Amendment 111****Anne Sander, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Geoffroy Didier****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*

(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 for reintegration into the labour

mismatches across borders.

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

market and to address skills mismatches across borders.

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

Or. fr

## Amendment 112

Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli

### Proposal for a regulation

#### Recital 9

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

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

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

##### *Amendment*

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

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

Or. it

## Amendment 113

Anne Sander, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Geoffroy Didier

### Proposal for a regulation

#### Recital 9 a (new)

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

##### *Amendment*

***(9a) This extension of the minimum export period for unemployment benefits from three to six months should be accompanied by compulsory monitoring of the applicant for export through the***

*systematic transmission to the competent state of monthly reports on the applicant made by the state of residence, as well as through the increased exchange of information between the States, with a view to ensuring an appropriate level of cross-border checks on jobseekers residing abroad during the period for which benefits are payable.*

Or. fr

#### **Amendment 114**

**Georgi Pirinski**

#### **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*

*deleted*

Or. en

#### **Amendment 115**

**Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli**

#### **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*

*Amendment*

*(10) There is a need to ensure greater parity of treatment for frontier and cross-border workers by ensuring frontier workers **can choose where to** receive unemployment benefits.*

***Member State for at least the past twelve months.***

Or. it

#### **Amendment 116**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

#### **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 to*** receive unemployment benefits from the Member State of last activity ***or from the Member State of residence in order to enhance the probability of the unemployed to find employment in the Member State where his or her chances are the highest.***

Or. en

###### *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.*

#### **Amendment 117**

**Czesław Hoc, Zdzisław Krasnodębski, Kosma Złotowski**

#### **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-

###### *Amendment*

(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.***

border workers by ensuring frontier workers receive unemployment benefits from the Member State of last activity.

Or. en

#### **Amendment 118**

**Joëlle Mélin, Dominique Martin**

#### **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 ensuring frontier workers receive ***the applicable*** unemployment benefits from the Member State of last activity provided that they have worked in that Member State for at least ***three months in*** the past twelve months.

Or. fr

#### **Amendment 119**

**Nathalie Griesbeck, Marian Harkin**

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

##### **Recital 10 a (new)**

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

##### *Amendment*

***(10a) The new provisions on unemployment benefit for cross-border workers could in some cases worsen the conditions for their return to the labour market. It is essential, therefore, to enhance administrative cooperation between the competent authorities responsible for supporting cross-border***

*workers and for the regulatory framework to facilitate, for example, the steps to be completed in the Member State of residence, by clarifying the competence of the public employment service responsible for providing support to them, and for exchanges between the competent institution of the Member State of last activity and the job seeker to be conducted in an understandable language. The public employment service of the Member State of last activity must take into account the specific situation of job seekers whose place of residence is not in the Member State of last activity, and therefore establish specific accompanying measures facilitating their return to employment. Cross-border job seekers shall 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.*

Or. en

**Amendment 120**  
**Jeroen Lenaers**

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

*Text proposed by the Commission*

*Amendment*

*(10a) With regard to unemployment benefit, after five consecutive years of insurance in the Member State concerned, freedom to choose for border workers would facilitate labour market access. Border workers may, after this period, choose to make themselves available to the employment services in the Member State concerned. If use is made of this option, it is essential to enhance administrative cooperation between the authorities responsible for the*

*cross-border workers in question, for the regulatory framework provisions, such as the steps to be completed in the Member State of residence, to be simplified by clarifying the remit of the employment service responsible for further action and for exchanges between the relevant institution of the Member State of last activity and that of the Member State in which the job seeker is resident to be conducted in the language of the former.*

Or. nl

**Amendment 121**  
**Agnes Jongerius**

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

*Text proposed by the Commission*

*Amendment*

*(10a) Freedom to choose for frontier workers could facilitate labour market access. Border workers may choose to make themselves available to the employment services in the Member State concerned. If use is made of this option, it is essential to enhance administrative cooperation between the authorities responsible for the cross-border workers in question, for the regulatory framework provisions, such as the steps to be completed in the Member State of residence, to be simplified by clarifying the remit of the employment service responsible for further action and for exchanges between the relevant institution of the Member State of last activity and that of the Member State in which the job seeker is resident to be conducted in the language of the former.*

Or. nl

**Amendment 122**

**Anne Sander, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Geoffroy Didier**

**Proposal for a regulation**

**Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(10a) The new unemployment compensation mechanism for frontier workers could lead to changes in their conditions and make it more difficult for them to return to the labour market. To overcome these difficulties, it is necessary for the Member State of residence to put in place accompanying measures for these unemployed persons in order to help them in their dealings with the relevant institution of the competent Member State. It is also essential that the new regulatory framework should clarify the possibilities for those unemployed persons to register with the employment services in their Member State of residence, where they will have the opportunity to look for a job, obtain information and take advantage of all the measures to help them return to work, such as training or retraining.***

Or. fr

**Amendment 123**

**Jean Lambert**

**Proposal for a regulation**

**Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

***(10a) It is also important to strengthen cooperation between the competent authorities and to clarify the regulatory Framework applicable in order to ensure that Member States - of last activity, of previous activity and/or of residence - do not declare themselves not competent to***

*pay benefits, to the detriment of insured persons.*

Or. en

**Amendment 124**  
**Helga Stevens, Ulrike Trebesius**

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

*Text proposed by the Commission*

*Amendment*

*(10a) While coordination rules cannot prevent that mobile citizens have lower protection than non-mobile citizens, Member States are encouraged to find bilateral solutions according to Article 16.*

Or. en

**Amendment 125**  
**Anne Sander, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Geoffroy Didier**

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

*Text proposed by the Commission*

*Amendment*

*(10b) 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.*

Or. fr

**Amendment 126**  
**Jean Lambert**

**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 income ***not earned, whether in part of in full, or income 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.

Or. en

**Amendment 127**

**Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Csaba Sógor**

**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 intended to replace ***or grant additional*** 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.

Or. en

*Justification*

*Family benefits have different nature. This amendment allows for more flexibility and more clear interpretation of what family benefits mean in different Member States.*

## **Amendment 128**

**Sven Schulze, Bendt Bendtsen, Dieter-Lebrecht Koch, Heinz K. Becker, Thomas Mann, Sofia Ribeiro**

### **Proposal for a regulation**

#### **Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) As regards family benefits for family members living in a Member State other than the competent Member State, their costs and standards of living are likely to differ compared to those of family members residing in the competent Member State. Family benefits are intended to meet family expenses and therefore predominantly serve the purpose of partially meeting the actual costs for living.***

Or. en

#### *Justification*

*Family members residing in other Member States have different costs of living due to unequal European price levels compared with family members who reside in the competent Member State for the family benefit. Costs of living are costs for maintaining a certain standard of living, family benefits predominantly serve the purpose to partially compensate the effective costs of living. Therefore the European Commission has announced in Annex V of the European Council Conclusions of 18th and 19th of February 2016 to introduce an indexation system for exported family benefits, all heads of state and government agreed upon this suggestion. With the amendments linked to child benefit indexations both in 883 and 987 it is proposed to mandate the European Commission in order to create an adjustment mechanism for exported family benefits by means of a delegated act. Necessary up- and downgrading factors shall be established by an implementing act. Member States that choose to adjust their exported family benefits should be named in Annex XIIIb.*

## **Amendment 129**

**Marian Harkin, Morten Løkkegaard, Fredrick Federley, Ulrike Müller, Nadja Hirsch**

### **Proposal for a regulation**

#### **Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) Significant economic differences still exist between Member States. For members of the family residing in another Member State other than the competent Member State, different standards and costs of living are a necessary consideration for the calculation of family benefits.***

Or. en

*Justification*

*Family benefits predominantly serve the purpose to partially compensate the effective costs of living and raising a child, such as the freedom to choose public, private or stay at home parental child care. In particular in countries with a residence-based and tax-financed regimes, redistribution takes place from contributors to those most in need. A part of this redistribution is to contribute to the household of parents bringing up children. Indexation of child benefits should be an option for Member States.*

#### **Amendment 130**

**Heinz K. Becker**

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

#### **Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) Family benefits should help cover the actual cost of living. They should be indexed to ensure fairness and justice for European families.***

Or. de

#### **Amendment 131**

**Sergio Gutiérrez Prieto, Javi López**

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

#### **Recital 12**

*Text proposed by the Commission*

*Amendment*

(12) In order to enable a timely update

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

of this Regulation to the developments at the national level, the Annexes to this Regulation and Regulation (EC) No 987/2009 ***should be amended periodically.***

Or. es

## Amendment 132

Sven Schulze, Bendt Bendtsen, Dieter-Lebrecht Koch, Heinz K. Becker, Thomas Mann

### 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

##### *Amendment*

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

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.

***supplement this Regulation by establishing a concrete, consistent and functional adjustment mechanism for the allocation of family benefits in relation to children residing in Member States other than the competent Member State.*** 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.

Or. en

### **Amendment 133**

**Marian Harkin, Morten Løkkegaard, Fredrick Federley, Ulrike Müller, Nadja Hirsch**

#### **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

##### *Amendment*

(12) In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and Regulation (EC) No 987/2009, ***and to establish a fair and optional adjustment mechanism for the calculation of family benefits in***

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.

***relation to children residing in another Member State other than the competent Member State.*** 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.

Or. en

#### **Amendment 134**

**Sven Schulze, Bendt Bendtsen, Dieter-Lebrecht Koch, Heinz K. Becker, Thomas Mann**

#### **Proposal for a regulation Recital 12 a (new)**

*Text proposed by the Commission*

*Amendment*

***(12a) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission, to adopt upgrading and downgrading factors for the adjustment of family benefits for children residing in Member States other than the competent Member State. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.***

Or. en

**Amendment 135**  
**Sergio Gutiérrez Prieto, Javi López**

**Proposal for a regulation**  
**Recital 13**

*Text proposed by the Commission*

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

*Amendment*

(13) With a view to supporting Member States in their efforts to combat fraud and error in the application of the coordination rules, it is necessary to 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 (EU) 2016/679 of the European Parliament and of the Council.*** 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.

Or. es

**Amendment 136**  
**Joëlle Mélin, Dominique Martin**

**Proposal for a regulation**  
**Recital 14 a (new)**

*Text proposed by the Commission*

*Amendment*

***(14a) These data should be compiled and used only for the stated purposes and should be deleted when the persons in question return to their country of origin.***

Or. fr

## Amendment 137

Jean Lambert

### Proposal for a regulation

#### Recital 15

*Text proposed by the Commission*

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

*Amendment*

(15) With a view to expediting the procedure for the verification and withdrawal of documents (in particular concerning the social security legislation which applies to the holder) in case of fraud and error, it is necessary to strengthen the collaboration and the exchange of information between ***the issuing*** institution and the institution requesting a withdrawal. ***As an incentive for better and faster cooperation between the institutions, documents should be automatically withdrawn where the issuing institution does not reply to the institution requesting withdrawal within 15 days of receipt of the request.*** Where there is doubt about the validity of a document or about the correctness of supporting evidence or where there is a difference of views between Member States concerning the determination of the applicable legislation, it is in the interest of the Member States and the persons concerned that the institutions concerned reach an agreement within a reasonable period of time.

Or. en

## Amendment 138

Jeroen Lenaers

### Proposal for a regulation

#### Recital 15

*Text proposed by the Commission*

(15) With a view to expediting the procedure for the verification and

*Amendment*

(15) With a view to expediting the procedure for the verification and

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

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

Or. nl

#### **Amendment 139**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

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

#### **Recital 15**

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

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

##### *Amendment*

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

legislation, it is in the interest of the Member States and the persons concerned that the institutions concerned reach an agreement within a reasonable period of time.

legislation, it is in the interest of the Member States and the persons concerned that the institutions concerned reach an agreement within a reasonable period of time. ***In the absence of a response within the specified deadline, the requesting institution should become competent to determine the legislation applicable.***

Or. en

**Amendment 140**  
**Helga Stevens, Ulrike Trebesius**

**Proposal for a regulation**  
**Recital 15**

*Text proposed by the Commission*

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

*Amendment*

(15) With a view to expediting the procedure for the verification and withdrawal of documents (in particular concerning the social security legislation which applies to the holder) in case of fraud and error, it is necessary to strengthen the collaboration and the exchange of information between the issuing institution and the institution requesting a withdrawal. Where there is doubt about the validity of a document or about the correctness of supporting evidence or where there is a difference of views between Member States concerning the determination of the applicable legislation, it is in the interest of the Member States and the persons concerned that the institutions concerned reach an agreement within a reasonable period of time. ***In case of irrefutable fraud the receiving Member State can refuse these documents. The principle 'fraus omnia corrumpit' has an absolute character in Union law.***

Or. en

**Amendment 141**  
**Claude Rolin, Tom Vandenkendelaere**

**Proposal for a regulation**  
**Recital 15**

*Text proposed by the Commission*

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

*Amendment*

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

Or. fr

**Amendment 142**  
**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux, Geoffroy Didier**

**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

*Amendment*

(16) To ensure the effective and efficient operation of the coordination rules it is necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in

order to provide a greater parity with the conditions that apply to persons who are posted 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.

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 ***involving membership for at least three months.***

Or. fr

**Amendment 143**  
**Emilian Pavel**

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

*Text proposed by the Commission*

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

*Amendment*

(16) To ensure the effective and efficient operation of the coordination rules it is necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in order to provide a greater parity with the conditions that apply to persons who are posted 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 ***involving membership of at least three months.***

Or. en

**Amendment 144**  
**Claude Rolin**

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

*Text proposed by the Commission*

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

*Amendment*

(16) To ensure the effective and efficient operation of the coordination rules it is necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in order to provide a greater parity with the conditions that apply to persons who are posted 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 ***involving membership for at least three months.***

Or. fr

**Amendment 145**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

**Proposal for a regulation**

**Recital 16**

*Text proposed by the Commission*

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

*Amendment*

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

**Amendment 146**  
**Jean Lambert**

**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 147**  
**Helga Stevens**

**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

*Amendment*

(16) To ensure the effective and efficient operation of the coordination rules it is necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in order to provide a greater parity with the

conditions that apply to persons who are ***posted 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.

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.

Or. en

#### **Amendment 148**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux, Geoffroy Didier**

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

##### **Recital 16 a (new)**

*Text proposed by the Commission*

*Amendment*

***(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.***

Or. fr

#### **Amendment 149**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux, Geoffroy Didier**

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

##### **Recital 16 b (new)**

*Text proposed by the Commission*

*Amendment*

***(16b) Form A1 must be issued by the competent authority to the applicant company before the start of the assignment.***

*In order to prevent the posting of a worker from being blocked if the competent authority fails to issue the form on time, it must be able to prove that the application was made by the applicant undertaking before the start of the mission.*

Or. fr

#### **Amendment 150**

**Joëlle Mélin, Dominique Martin, Mara Bizzotto**

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

##### **Recital 17**

*Text proposed by the Commission*

*Amendment*

**(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>.

*deleted*

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OJ L 55, 28.2.2011, p 13.

Or. fr

#### **Amendment 151**

**Jean Lambert**

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

##### **Recital 17**

(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>

(17) ***In order to supplement this regulation by establishing a standard procedure for the determination of situations in which the documents shall be issued and the withdrawal of the document when its accuracy and validity is contested by the competent institution of the Member State of employment, 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. 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.*

Or. en

**Amendment 152**  
**Joëlle Mélin, Dominique Martin**

**Proposal for a regulation**  
**Recital 19**

*Text proposed by the Commission*

*Amendment*

**(19) Taking into account the jurisprudence of the Court of Justice in Cases C-345/09 *van Delft and Others*, EU:C:2010:610 and C-543/13 EU:C:2015:359 *Fischer-Lintjens* there is a need to facilitate retrospective changes in applicable legislation. Therefore the offsetting procedure that applies in situations where the legislation of a Member State was applied provisionally in accordance with Article 6 of Regulation (EC) No 987/2009 should also be extended to other cases resulting from a retroactive change of the applicable legislation. In addition, in this context, it is necessary to disapply divergent limitation provisions in national law to ensure that a retroactive settlement between the institutions is not impeded by any incompatible time-limits laid down in national legislation while at the same time establishing a uniform limitation period of five years counting backwards from the commencement of the dialogue procedure referred to under Article 5(2) and 6(3) of this Regulation to ensure this procedure for resolving such disputes is not frustrated.**

**deleted**

Or. fr

**Amendment 153**  
**Georgi Pirinski**

**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.’*

Or. en

#### **Amendment 154**

**João Pimenta Lopes, Patrick Le Hyaric**

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

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

Regulation (EC) No 883/2004

Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

**1a.** *After Recital 3, the following is inserted:*

*“(3a) Social security systems should be based on public schemes, ensuring universal and inclusive access for all citizens, migrants and refugees and making it possible to limit factors leading to social and economic exclusion. Such schemes should be underpinned by policies designed to boost employment, improve pay, achieve a better distribution of created wealth and income and enhance revenue through diversified sources of funding, focusing on more effective measures to combat tax evasion and tax fraud.”*

Or. pt

#### **Amendment 155**

**João Pimenta Lopes, Patrick Le Hyaric**

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

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

*Present text*

(4) It is necessary to respect the special characteristics of national social security legislation and to draw up only a system of coordination.

*Amendment*

***1b. After Recital 4, the following is inserted:***

It is necessary to respect the special characteristics of national social security legislation and to draw up only a system of coordination. ***Any measures seeking to harmonise social security systems that run counter to their public, universal and inclusive principles, limit their scope or impose rules that do not correspond to the situation at national level, do not conform to this objective.***

Or. pt

**Amendment 156**  
**Georgi Pirinski**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 2**  
Regulation (EC) No 883/2004  
Recital 5 – addition

*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*

***deleted***

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

**Amendment 157**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2**

Regulation 883/2004

Recital 5 – addition

*Text proposed by the Commission*

*Amendment*

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

**, 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>**

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

*Justification*

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

**Amendment 158**

**Jean Lambert**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 2**

Regulation (EC) No 883/2004

Recital 5 – addition

*Text proposed by the Commission*

*Amendment*

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

**, 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>**

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

Or. en

*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 159**

**Jean Lambert**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Recital 5

*Present text*

*Amendment*

(5) It is necessary, within the framework of such coordination, to guarantee within the Community equality of treatment under the different national legislation for the persons concerned.

**(2a) *Recital 5 is replaced by the following:***

(5) It is necessary, within the framework of such coordination, to guarantee within the Community 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.***

Or. en

*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 160**

**Sven Schulze, Csaba Sógor, Georges Bach, Dieter-Lebrecht Koch, Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann, Sofia Ribeiro**

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

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

Regulation (EC) No 883/2004

Recital 5 – addition

*Text proposed by the Commission*

*Amendment*

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

***deleted***

*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>*

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

Or. en

#### **Amendment 161**

**Sven Schulze, Csaba Sógor, Georges Bach, Dieter-Lebrecht Koch, Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann, Sofia Ribeiro**

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

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

Regulation (EC) No 883/2004

Recital 5

#### *Present text*

(5) It is necessary, within the framework of such coordination, to guarantee within the **Community** equality of treatment under the different national legislation for the persons concerned.

#### *Amendment*

**(2a) 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 across different national law for the persons concerned.

Or. en

#### **Amendment 162**

**Czesław Hoc, Zdzisław Krasnodębski, Kosma Złotowski**

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

**Article 1 – paragraph 1 – point 3**

*Text proposed by the Commission*

*Amendment*

**3. After Recital 5, the following is inserted:** *deleted*

*‘ (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.*

*(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.*

*(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).'*

Or. en

**Amendment 163**

**Jean Lambert**

**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*

Or. en

**Amendment 164**

**Georgi Pirinski**

**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.*

Or. en

## Amendment 165

**Sven Schulze, Csaba Sógor, Georges Bach, Dieter-Lebrecht Koch, Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann**

## 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.*

Or. en

#### **Amendment 166**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

#### **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**

Or. en

## Justification

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

### Amendment 167

Helga Stevens, Ulrike Trebesius

#### Proposal for a regulation

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

Regulation (EC) No 883/2004

Recital 5a

#### *Text proposed by the Commission*

(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.

#### *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 ***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 State.*** In order to improve legal clarity for citizens and institutions, a codification of this case law is necessary.

Or. en

## Amendment 168

Sven Schulze, Danuta Jazłowiecka, Csaba Sógor, Georges Bach, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann

### 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.** **deleted**

Or. en

#### *Justification*

*In accordance with recital 5b, the Member States should ensure that economically inactive EU mobile citizens are not prevented from having access to sickness insurance. This contradicts the newly-supplemented Article 4 (2), which declares in general terms that economically inactive EU mobile citizens may be excluded from social security benefits. It therefore creates legal uncertainty since recital 5b does contain a more specific provision for sickness insurance, but itself is not a directly-applicable legal provision.*

## Amendment 169

Gabriele Zimmer, Patrick Le Hyaric, Kostadinka Kuneva

### 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

(5b) Member States 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.

are not prevented from satisfying the condition of having comprehensive sickness insurance cover in the host Member State. This may entail allowing such citizens to contribute in a proportionate manner to a scheme for sickness coverage ***or to otherwise fulfil the relevant criteria for access to sickness insurance*** in the Member State in which they habitually reside.

Or. en

### *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 170** **Jean Lambert**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 3**  
Regulation (EC) No 883/2004  
Recital 5c

#### *Text proposed by the Commission*

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

#### *Amendment*

***deleted***

Or. en

#### Amendment 171

Sven Schulze, Csaba Sógor, Dieter-Lebrecht Koch, Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann

#### 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**

Or. en

#### Amendment 172

Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva

#### 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** **(5c) Nothing within this Regulation should restrict the fundamental rights of economically inactive persons and persons with the right of freedom of movement for the purposes of seeking employment recognised in the Charter of Fundamental Rights of the European Union, notably the right to human dignity (Article 1), the right to life (Article 2), the entitlement to social security benefits and**

(Article 2) and the right to healthcare (Article 35).

*social services (Article 34)* and the right to healthcare (Article 35).

Or. en

#### **Amendment 173**

**Sven Schulze, Georges Bach, Csaba Sógor, Dieter-Lebrecht Koch, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann**

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

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

Regulation (EC) No 883/2004

Recital 5 d (new)

*Text proposed by the Commission*

*Amendment*

*(5d) In applying the general principle of equal treatment provided for in this Regulation, the Court of Justice of the European Union held, in its judgments in cases C-140/12 Brey, C-333/13 Dano, C-67/14 Alimanovic and C-299/14 Garcia-Nieto, that equal treatment may, as regards the access to special non-contributory cash benefits, which also constitute social assistance within the meaning of Directive 2004/38/EC, be subject to the limitations and the conditions set out in Article 24 of that Directive. In order to improve legal clarity for citizens of the Union and Member States' institutions, that case-law should be codified. Limitations to equal treatment should respect Union law, including the principle of proportionality as interpreted by the Court of Justice.*

Or. en

#### **Amendment 174**

**Sven Schulze, Georges Bach, Csaba Sógor, Dieter-Lebrecht Koch, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann**

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

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

*Text proposed by the Commission*

*Amendment*

***(5e) The Court of Justice held, in its judgment in case C-308/14, European Commission v. United Kingdom of Great Britain and Northern Ireland, that Member States may, in conformity with Union law, including the principle of proportionality, make the access of persons covered by Article 11(3)(e) of this Regulation to non-contributory social security benefits covered by Article 3 thereof, subject to the condition that those persons have a legal right of residence in accordance with Directive 2004/38/EC. As stated by the Court, the verification of the legal right of residence should be carried out in accordance with the requirements of Directive 2004/38/EC. In order to improve legal clarity for Union citizens and Member States' institutions, that case-law should be codified.***

Or. en

#### **Amendment 175**

**Sven Schulze, Georges Bach, Csaba Sógor, Dieter-Lebrecht Koch, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann, Sofia Ribeiro**

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

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

Regulation (EC) No 883/2004

Recital 5 f (new)

*Text proposed by the Commission*

*Amendment*

***(5f) It is necessary to ensure that Union citizens are not treated less favourably than other persons who fall within the scope of this Regulation. The limitations to equal treatment introduced in this Regulation should therefore, without prejudice to rights of equal treatment provided for in other Union***

*law, apply mutatis mutandis to those other persons.*

Or. en

**Amendment 176**

**Marian Harkin, António Marinho e Pinto, Robert Rochefort, Enrique Calvet Chambon, Jasenko Selimovic**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Recital 20

*Present text*

(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.

*Amendment*

**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.”

Or. en

(<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:2004R0883:20130108:EN:HTML>)

**Amendment 177**

**Marita Ulvskog**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 5**

Regulation (EC) No 883/2004

Recital 24

*Text proposed by the Commission*

**5. Recital 24 is replaced by the following:**

**(24) Long-term care benefits for insured persons and members of their**

*Amendment*

**deleted**

*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.*

Or. en

#### **Amendment 178**

**Sven Schulze, Michaela Šojdrová, Danuta Jazłowiecka, Csaba Sógor, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Thomas Mann, Sofia Ribeiro**

#### **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 line 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.

Or. en

#### *Justification*

*The recital should be adjusted slightly so that it becomes clear, that LTC benefits continue to be coordinated following the rules applicable to sickness benefits in the line with the case law of the Court of Justice. It has to be made clear that the specific nature of long-term care has to be taken into account when applying the rules for sickness benefits to LTC benefits.*

## Amendment 179

Marian Harkin, Enrique Calvet Chambon, Robert Rochefort

### 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) Long-term care benefits for insured persons and members of their families ***should, in principle, continue*** to be coordinated according to the rules applicable to sickness benefits, ***taking the specific nature of long-term care benefits into account and*** 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.

Or. en

## Amendment 180

Jean Lambert

### 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 line with the case law of the Court of Justice*** 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, these 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.

Or. en

## *Justification*

*The recital should be adjusted slightly so that it becomes clear, that LTC benefits continue to be coordinated following the rules applicable to sickness benefits in the line with the case law of the court of Justice. It has to be made clear that the specific nature of long-term care has to be taken into account when applying the rules for sickness benefits to LTC benefits.*

### **Amendment 181**

**Sergio Gutiérrez Prieto, Javi López**

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

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

Article 1 – paragraph 1 – point 5

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) Long-term care benefits for insured persons and members of their families need to be coordinated according to specific rules which 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.

Or. es

### **Amendment 182**

**Sven Schulze, Bendt Bendtsen, Dieter-Lebrecht Koch, Heinz K. Becker, Thomas Mann**

#### **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***

#### *Amendment*

(35a) ***For the purpose of calculating the differential supplement***, this Regulation should ***take into account the judgement of the Court of Justice in Case C-347/12, Wiering, while providing for the necessary clarifications and***

*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 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.*

*simplifications. Taking into account the particular nature of the various family benefits of the Member States, two types of family benefit should not be of the same kind and should be distinguished on the basis of their main purpose, objectives and the basis on which they are granted.*

Or. en

#### Amendment 183

Jean Lambert

#### Proposal for a regulation

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

Regulation (EC) 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 family should not apply to such benefits.

#### *Amendment*

(35a) Family benefits in cash ***which are primarily*** intended to replace 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 as*** individual rights which are personal to the parent subject to the legislation of the competent Member State ***it should be possible to exclusively reserve them 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 the rules of priority in the case of overlapping of rights to family

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.

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 the benefits are*** listed in Part II of Annex XIII.

Or. en

#### **Amendment 184**

**Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Csaba Sógor**

#### **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 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.

#### *Amendment*

(35a) Family benefits in cash intended to replace income ***or grant additional*** 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 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.

(Article 1- paragraph 6)

Or. en

*Justification*

*Family benefits have different nature. This amendments allows for more flexibility and more clear interpretation of what family benefits mean in different Member States.*

**Amendment 185**  
**Michaela Šojdrová**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 6**  
Regulation (EC) No 883/2004  
Recital 35 b (new)

*Text proposed by the Commission*

*Amendment*

***(35b) For the purpose of calculating differential supplements, Member States should take into account benefits of the same kind. Pursuant to established case law of the Court of Justice, benefits are considered as being of the same kind when their purpose and objectives together with the basis on which they are calculated, the conditions for granting them and the persons entitled to such benefits are identical. As the Court of Justice stated in Case C-347/12 Wiering, family benefits are not necessarily of the same kind and an evaluation of the distinguishing factors also applies to these benefits. Accordingly, Member States should distinguish between family benefits in cash which are primarily intended to replace income during the child-raising period and other family benefits intended to meet family expenses irrespective of parents' income.***

Or. en

**Amendment 186**

**Sven Schulze, Bendt Bendtsen, Dieter-Lebrecht Koch, Heinz K. Becker, Thomas Mann**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 6**

Regulation (EC) No 883/2004

Recital 35 b (new)

*Text proposed by the Commission*

*Amendment*

***(35b) The cost of living of family members especially children residing in a Member State other than the competent Member State varies depending on the Member States concerned. The purpose of family benefits is to partially meet the child's costs of living. Member States listed in an annex to this Regulation should determine the amount of family benefits due to family members residing in Member States other than the competent Member State.***

Or. en

**Amendment 187**

**Marian Harkin, Morten Løkkegaard, Fredrick Federley, Ulrike Müller, Nadja Hirsch**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 6**

Regulation (EC) 883/2004

Recital 35 b(new)

*Text proposed by the Commission*

*Amendment*

***(35b) For members of the family residing in another Member State other than the competent Member State, different standards and costs of living are a necessary consideration for the calculation of family benefits. The Commission should, by means of delegated acts, establish an optional adjustment mechanism for the calculation of family benefits in relation to children residing in another Member State other than the competent Member State.***

**Amendment 188**

**Sven Schulze, Bendt Bendtsen, Dieter-Lebrecht Koch, Heinz K. Becker, Thomas Mann**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 6**

Regulation (EC) No 883/2004

Recital 35 c (new)

*Text proposed by the Commission*

*Amendment*

*(35c) Family benefits in cash which are primarily intended to replace income that could not be 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 family benefits in cash could be considered to be individual rights which are inherent to the claimant, subject to the law of the competent Member State, it should be possible to link the entitlement to such benefits exclusively to the claimant. The Member State in which the family members of the claimant are resident should be able to decide not to apply the priority rules where there are overlapping rights to such benefits under that Member State's law and the law of the competent Member State. Where a Member State decides not to apply the rules of priority it should do so consistently in respect of all persons entitled to such benefits in analogous situations.*

Or. en

**Amendment 189**

**Sergio Gutiérrez Prieto, Javi López**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 7**

*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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OJ L 119, 4.5.2016, p. 1-88.

*Amendment*

(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 ***fully and without exception*** to the processing of personal data ***affected by*** this Regulation.

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OJ L 119, 4.5.2016, p. 1-88.

Or. es

**Amendment 190**

**Sergio Gutiérrez Prieto, Javi López**

**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 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***

*Amendment*

***deleted***

*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.

Or. es

**Amendment 191**  
**Marita Ulvskog**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 8**  
Regulation (EC) No 883/2004  
Recital 46

*Text proposed by the Commission*

*Amendment*

*(46) In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and Regulation (EC) No 987/2009. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.<sup>43</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*

*deleted*

*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.

Or. en

## **Amendment 192**

**Sven Schulze, Bendt Bendtsen, Dieter-Lebrecht Koch, Heinz K. Becker, Thomas Mann, Sofia Ribeiro**

### **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 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>43</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.

#### *Amendment*

(46) In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and ***to Regulation (EC) No 987/2009 and to supplement this Regulation by establishing a concrete, consistent and functional adjustment mechanism for the allocation of family benefits in relation to children residing in a Member State other than the competent Member State.*** 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>43</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>43</sup> COM(2015) 216 final.

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

Or. en

## **Amendment 193**

**Marian Harkin, Morten Løkkegaard, Fredrick Federley, Ulrike Müller, Nadja Hirsch**

### **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 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>43</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.

#### *Amendment*

(46) In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and Regulation (EC) No 987/2009, **and establish a fair and optional adjustment mechanism for the calculation of exporting family benefits by Member States for children residing in another Member State other than the competent Member State.** 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>43</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>43</sup> COM(2015) 216 final.

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

Or. en

#### **Amendment 194**

**Sven Schulze, Georges Bach, Csaba Sógor, Dieter-Lebrecht Koch, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann, Sofia Ribeiro**

#### **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 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.*

#### *Amendment*

(47) This Regulation respects *the* fundamental rights and observes the principles recognised *by* the Charter of Fundamental Rights of the European Union *and the Convention for* the Protection of *Human Rights and Fundamental Freedoms.*

Or. en

#### **Amendment 195**

**Jean Lambert**

## Proposal for a regulation

### Article 1 – paragraph 1 – point 8

Regulation (EC) 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 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.

#### *Amendment*

(47) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, notably ***the right to human dignity (Article 1), the right to life (Article 2), the 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 rights of the child (**Article 24**), the rights of the elderly (Article 25), integration of persons with disabilities (Article 26), the right to family and professional life (**Article 33**); the right to social security and social assistance (Article 34), the right to health care (Article 35) and the right to freedom of movement and residence (Article 45); and has to be implemented ***by the Member States*** in accordance with those rights and principles.

Or. en

## Amendment 196

Guillaume Balas

## 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) The new provisions on***

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

Or. fr

**Amendment 197**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

**Proposal for a regulation**

**Article 1 – paragraph 1 – point 8**

Regulation (EC) No 883/2004

Recital 48 a (new)

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 198**  
**Guillaume Balas**

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

Or. fr

**Amendment 199**  
**Gabriele Zimmer, Patrick Le Hyaric, Kostadinka Kuneva**

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

Or. en

**Amendment 200**  
**Guillaume Balas**

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

Or. fr

**Amendment 201**  
**Guillaume Balas**

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

Or. fr

**Amendment 202**  
**Guillaume Balas**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 8**  
Existing regulation – 883/2004  
Recital 48 e (new)

*Text proposed by the Commission*

*Amendment*

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

Or. fr

**Amendment 203**  
**Marita Ulvskog**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 9**  
Regulation (EC) No 883/2004  
Article 1

*Text proposed by the Commission*

*Amendment*

- 9. Article 1 is amended as follows:** ***deleted***
- (a) In Point (c) the term “Title III, Chapters 1 and 3” is replaced by the term “Title III, Chapters 1, 1a and 3”.**
- (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.**

*(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.*

*(d) The following point is inserted after point (va):*

*‘ (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;’*

Or. en

#### **Amendment 204**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

#### **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*

Or. en

#### *Justification*

*The introduction of a separate chapter for long-term care benefits may lead to unwanted and unforeseen problems for the persons eligible to the benefit. Therefore, long-term care should be added to TITLE III CHAPTER 1 (sickness insurance), in conjunction with an own definition in Article 1 and a list of benefits in Annex XII.*

**Amendment 205**

**Marian Harkin, Robert Rochefort, Enrique Calvet Chambon**

**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*

Or. en

**Amendment 206**

**Jean Lambert**

**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*

Or. en

**Amendment 207**

**Sven Schulze, Michaela Šojdrová, Danuta Jazłowiecka, Csaba Sógor, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Thomas Mann**

**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”***.

(a) 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 has to be applied, in accordance with this Regulation.”***

Or. en

*Justification*

*Necessary explanation to safeguard (maintain the status quo) that e. g. a person covered against the risk of sickness in the Member State is entitled also to LTC benefits in kind in the Member State of residence or stay even if the competent Member State no LTC benefits in kind are provided.*

**Amendment 208**  
**Jean Lambert**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 9 – point a (new)**  
Regulation (EC) No 883/2004  
Article 1 – point c

*Present text*

*Amendment*

(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;

(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 has to be applied, taking***

into account the provisions of this Regulation.”

Or. en

#### **Amendment 209**

**Marian Harkin, Robert Rochefort, Enrique Calvet Chambon**

#### **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*

*Amendment*

**(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.**

**deleted**

Or. en

#### **Amendment 210**

**Jean Lambert**

#### **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*

*Amendment*

**(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.**

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

**(ii) with regard to benefits in kind pursuant to Title III, Chapter 1, 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 211**

**Sven Schulze, Michaela Šojdrová, Danuta Jazłowiecka, Csaba Sógor, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Thomas Mann**

#### **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*

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

*“(ii) with regard to benefits in kind pursuant to Title III, Chapter 1 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;”*

Or. en

#### *Justification*

*As all benefits under Chapter 1 are now covered by this definition, this addition should be deleted.*

#### **Amendment 212**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

#### **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*

#### *Amendment*

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

*benefits” the term “and Chapter 1a on long-term care benefits” is inserted.*

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

Or. en

#### *Justification*

*The introduction of a separate chapter for long-term care benefits may lead to unwanted and unforeseen problems for the persons eligible to the benefit. Therefore, long-term care should be added to TITLE III CHAPTER 1 (sickness insurance), in conjunction with an own definition in Article 1 and a list of benefits in Annex XII.*

#### **Amendment 213**

**Marian Harkin, Robert Rochefort, Enrique Calvet Chambon, Jasenko Selimovic**

#### **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*

(b) 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 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;*

Or. en

## **Amendment 214**

**Marian Harkin, Enrique Calvet Chambon, Robert Rochefort**

### **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**

Or. en

## **Amendment 215**

**Jean Lambert**

### **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.**

**(c) 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 shall also include 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 as referred to in definition under point (vb).*

Or. en

**Amendment 216**

**Sven Schulze, Michaela Šojdrová, Danuta Jazłowiecka, Csaba Sógor, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Thomas Mann**

**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*

(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.*

*Amendment*

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

*“(i) for the purposes of Title III, Chapter 1, with regard to sickness, maternity and equivalent paternity benefits, (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 within the meaning of point (vb) of this point.”*

Or. en

*Justification*

*A clarification is needed that benefits in kind in the sense of Article 1 (va) are also LTC benefits in kind. The COM version for Article 1 Point (va) (i) links LTC benefits with medical treatment by also naming sickness and long-term care benefits in kind within a single*

*definition. This connection might be too restrictive an interpretation of the entitlements of mobile insured persons. Long-term care benefits in kind, such as bodily long-term care and support benefits for coping with and shaping everyday life in the domestic environment would no longer be included in the proposed definition.*

#### **Amendment 217**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

#### **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.***

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

***(i) for the purposes of Title III, Chapter 1 (sickness, long-term care, 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.***

Or. en

#### *Justification*

*The introduction of a separate chapter for long-term care benefits may lead to unwanted and unforeseen problems for the persons eligible to the benefit. Therefore, long-term care should be added to TITLE III CHAPTER 1 (sickness insurance), in conjunction with an own definition in Article 1 and a list of benefits in Annex XII.*

#### **Amendment 218**

**Marian Harkin, Enrique Calvet Chambon**

## Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 1 – point va

#### *Present text*

(va) “Benefits in kind” means:

(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;***

(ii) for the purposes of Title III, Chapter 2 (accidents at work and occupational diseases), all benefits in kind relating to accidents at work and occupational diseases as defined in point (i) above and provided for under the Member States’ accidents at work and occupational diseases schemes;

#### *Amendment*

***(ca) Point (va) is replaced by the following:***

(va) “Benefits in kind” means:

(i) for the purposes of Title III, Chapter 1 ***regarding*** 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;

(ii) ***for the purposes of Title III, Chapter 1 regarding long-term care 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 long-term care as defined in point (vb);***

(iii) for the purposes of Title III, Chapter 2 (accidents at work and occupational diseases), all benefits in kind relating to accidents at work and occupational diseases as defined in point (i) above and provided for under the Member States’ accidents at work and occupational diseases schemes;

Or. en

## Amendment 219

Jean Lambert

## Proposal for a regulation

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

*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 needs of a person who**, on account of **impairment due to old age**, disability, illness, **or other reason**, **requires** considerable 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; this includes benefits granted for **the same purpose to** the person **or persons** providing such assistance.

Or. en

*Justification*

*The proposed text adopts the Council’s proposed definition of long-term benefits in a new proposed recital 24(a) (ST 13139/2017). This definition is based on the TrESS report Yves Jorens et al, ‘Coordination of Long-term Care Benefits - current situation and future prospects’ (2011). However, the Council should not be limiting the definition of long-term care benefits that may create further confusion. The reference to ‘long-term care benefits do not include social or medical assistance’ is not useful since Regulation 883/2004 does not define ‘social assistance’ or ‘medical assistance’. The definition must also comply with previous rulings of the Court of Justice and should not exclude long-term cash benefits that reimburse ‘medical expenses’ as confirmed in Case C-466/04 Acereda Herrera (“[t]he essential characteristic of ‘benefits in kind’ within the meaning of Regulation No 1408/71 [now 883/2004] is that they are ‘designed to cover care received by the person concerned’, inter alia, by the direct payment or reimbursement of ‘medical expenses’ incurred by that person’s state expenses”).*

**Amendment 220**

**Sven Schulze, Michaela Šojdrová, Danuta Jazłowiecka, Csaba Sógor, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Thomas Mann**

**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 needs of a person who***, on account of impairment, ***requires*** assistance from another person or persons to carry out essential daily activities ***of daily living for an extended period of time in order*** to support ***his/her*** personal autonomy; this includes benefits granted for ***the same purpose to*** the person providing such assistance;

Or. en

*Justification*

*“or a combination of both” should be deleted since the benefit has to be qualified either as a benefit in kind or a benefit in cash for the application of the regulation. “Activities of daily living” is the correct term.*

**Amendment 221**

**Marian Harkin, Jasenko Selimovic**

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

Or. en

## Amendment 222

Sergio Gutiérrez Prieto, Javi López

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

Or. es

## Amendment 223

Helga Stevens

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 1 – point v c (new)

#### *Text proposed by the Commission*

#### *Amendment*

**“(vc) “work-related disability benefit” means any benefit in kind, cash or combination of both that is provided to economically active citizens with a disability with the objective of supporting their access to, inclusion and retention in the labour market.”**

Or. en

#### **Amendment 224**

**Sven Schulze, Michaela Šojdrová, Danuta Jazłowiecka, Csaba Sógor, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Thomas Mann**

#### **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*

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

(a) sickness benefits;

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

Or. en

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

#### **Amendment 225**

**Jean Lambert**

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

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

Regulation (EC) 883/2004

Article 3 – paragraph 1 – point a

#### *Present text*

#### *Amendment*

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

(a) sickness benefits;

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

Or. en

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

#### **Amendment 226**

**Marita Ulvskog**

#### **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;’**

Or. en

#### **Amendment 227**

**Sven Schulze, Michaela Šojdrová, Danuta Jazłowiecka, Csaba Sógor, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Thomas Mann**

#### **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;’**

Or. en

#### **Amendment 228**

**Jean Lambert**

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

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

Regulation (EC) 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;**

Or. en

## **Amendment 229**

**Helga Stevens**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 3 – paragraph 1 – point b (new)

*Text proposed by the Commission*

*Amendment*

**(bb) “work-related disability benefits”**

Or. en

## **Amendment 230**

**Sven Schulze, Georges Bach, Csaba Sógor, Dieter-Lebrecht Koch, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann, Sofia Ribeiro**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 4 – paragraph 1

*Text proposed by the Commission*

*Amendment*

**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.** **deleted**

Or. en

*Justification*

*These changes to article 4 become necessary in order to codify Court rulings extensively.*

## **Amendment 231**

**Sergio Gutiérrez Prieto, Javi López**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

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OJ L 158, 30.4.2004, p 77.

Or. es

**Amendment 232**

**Renate Weber**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

## **Amendment 233**

**Jean Lambert**

### **Proposal for a regulation**

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

Regulation (EC) 83/2004

Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

### *Justification*

*It is not appropriate at this point in time to add limitations to the principle of equal treatment principle given that the case law in this area is still evolving. The Commission should not be second-guessing the Court of Justice's case law. 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.*

## **Amendment 234**

**Ádám Kósa**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 4 – paragraph 2

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

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

Or. en

*Justification*

*The proposal basically aims to incorporate recent Court of Justice case-law on the conditions of access to social security benefits of economically inactive mobile citizens. The European Parliament as co-legislator notes the case-law but considers that it is not the task of EU legislators to codify as well as to exclusively rely on decisions taken by the Court in specific cases.*

**Amendment 235**

**Elena Gentile**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 4 – paragraph 2

**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** **deleted**

*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.

Or. en

**Amendment 236**  
**Marian Harkin**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 11**  
Regulation (EC) No 883/2004  
Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

*deleted*

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

Or. en

**Amendment 237**  
**Czesław Hoc, Zdzisław Krasnodębski, Kosma Złotowski**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 11**  
Regulation (EC) 883/2004  
Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

**Amendment 238**  
**Georgi Pirinski**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 11**  
Regulation (EC) No 883/2004  
Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 239**

**Sven Schulze, Georges Bach, Csaba Sógor, Dieter-Lebrecht Koch, Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

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

**Amendment 240**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

**Proposal for a regulation**

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

Regulation (EC) 883/2004

Article 4 – paragraph 2

*Text proposed by the Commission*

*Amendment*

**2. A Member State may require that the access of an economically inactive person residing in that Member State to** *deleted*

*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.*

Or. en

#### **Amendment 241**

**Sven Schulze, Georges Bach, Csaba Sógor, Dieter-Lebrecht Koch, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann**

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

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

Regulation (EC) 883/2004

Article 4 a (new)

*Text proposed by the Commission*

*Amendment*

**11a. The following article is inserted:**

**“Article 4a**

***Limitations to equality of treatment for persons not having a legal right of residence under Union law***

**1. By way of derogation from Article 4 of this Regulation, a Member State whose legislation is applicable on the basis of Article 11(3)(e) of this Regulation may, in accordance with Union law, provide for access to [non-contributory social security benefits covered by Article 3] to be subject to the condition of having a legal right of residence in accordance with Directive 2004/38/EC.**

**2. Member States may apply the limitations referred to in paragraph 1 *mutatis mutandis* to stateless persons and**

*refugees as well as to the members of their families and to their survivors who do not fulfil the conditions of legal residence or stay in accordance with other relevant Union law.”*

Or. en

**Amendment 242**

**Marita Ulvskog**

**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*

Or. en

**Amendment 243**

**Sven Schulze, Michaela Šojdrová, Danuta Jazłowiecka, Csaba Sógor, Dieter-Lebrecht Koch, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Thomas Mann**

**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”.*

(a) *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 or to pensions in respect of accidents at work or occupational diseases or to long-term benefits in cash paid to the person in need of care."*

Or. en

*Justification*

*The addition is necessary to make sure that this does not apply to cases of time-limited benefits in cash for long-term carers.*

**Amendment 244**

**Jean Lambert**

**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*

(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”.

*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 ***paid to the person in need of care***”.

Or. en

*Justification*

*The Addition is necessary to make sure that this does not apply to cases of time-limited benefits in cash for long-term carers. Otherwise, the applicable legislation for carers would change for short periods which has to be avoided.*

**Amendment 245**

**Sven Schulze, Csaba Sógor, Dieter-Lebrecht Koch, Thomas Mann, Sofia Ribeiro**

**Proposal for a regulation**

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

**(aa) 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 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;”

Or. en

**Amendment 246**  
**Guillaume Balas**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 11 – paragraph 4

*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*

**(aa) Paragraph 4 is replaced with 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.

Or. fr

**Amendment 247**  
**Guillaume Balas**

**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. "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, is located<sup>45</sup>."

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<sup>45</sup>OJ L 28, 31.01.2014, p. 17

*Amendment*

5. "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, is located<sup>45</sup>."

***However, a member of a flight crew or cabin crew carrying out, over a period of 12 months, most of his or her duties as a crew member in service within the meaning of item 17 of paragraph ORO.FTL.105 of Annex II to Regulation (EU) No 83/2014, in the context of a scheduled flight mission on board an aircraft from a Member State other than that in which his or her home base is located, shall be subject to the legislation of former of the two Member States.***

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<sup>45</sup>OJ L 28, 31.01.2014, p. 17

Or. fr

## **Amendment 248**

**Sven Schulze, Michaela Šojdrová, Csaba Sógor, Dieter-Lebrecht Koch, Thomas Mann**

### **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.

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<sup>45</sup> OJ L 28, 31.01.2014, p. 17.

#### *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 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. ***Where there is no home base, or where there are several home bases, the individual shall be subject to the law applicable in accordance with Article 13.***

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<sup>45</sup> OJ L 28, 31.01.2014, p. 17.

Or. en

#### *Justification*

*This to clarify when a flight crew or cabin crew member has no “home base”, or has several “home bases”. A reference to Article 13 of Regulation (EC) No 883/2004 is needed.*

## **Amendment 249**

**Marita Ulvskog**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12

**13. Article 12 is replaced by the following:** **deleted**

**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.**

**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..**

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

Or. en

**Amendment 250**

**Joëlle Mélin, Dominique Martin**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – title

*Text proposed by the Commission*

*Amendment*

***Special rules***

***Special case of workers dependent on an undertaking having its registered office in another Member State***

Or. fr

**Amendment 251**

**Czesław Hoc, Zdzisław Krasnodębski, Kosma Złotowski**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

*Text proposed by the Commission*

*Amendment*

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

**Amendment 252**

**Maria Arena**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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*

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

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

***(b) For a period of at least six months immediately preceding the start of the activity as an employed person, the person concerned is already subject to the legislation of the Member State in which***

*his or her employer is established.*

*It is further recalled that the above-mentioned rules can only be applied insofar as the undertaking concerned demonstrates that it has been principally pursuing, for more than 90 days in the territory of the Member State in which it is established, a real activity which belongs to the same sector of activity, as defined at the divisional level of NACE Rev. 2, as that assigned to the worker(s) whom it posts and/or sends to another Member State for work on its behalf.*

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

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

Or. fr

#### **Amendment 253**

**Martina Dlabajová, Renate Weber**

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

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

#### *Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is ***posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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***

#### *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 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;

*previously posted or sent within the meaning of this Article.*

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

Or. en

#### *Justification*

*“Employed person” who is “sent” covers all situations, notwithstanding how the posting directive, for example, is implemented at the national level or what the national legislation foresees for any posting or secondment situations. The amendment also deals with the issue of replacement, establishing that social security payments should relate to an individual worker, regardless whether that person replaces someone or not.*

#### **Amendment 254** **Helga Stevens**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 13**  
Regulation (EC) No 883/2004  
Article 12 – paragraph 1

#### *Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is ***posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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*

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 **(XXX)** months and that the person is not sent ***with the aim*** to replace another person previously ***sent.***

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

Or. en

### *Justification*

*Trilogue negotiations on the revision of the Posting of Workers Directive are still ongoing and, therefore, fixing a time period seems premature. A two-pronged approach would be desirable to allow for a distinction between risk and non-risk sectors. For the risk sectors a maximum period of six months is appropriate since the average duration of a posting is less than 4 months. For non-risk sectors a fixed time limitation is not necessary and could hamper the free movement of services to a disproportionate extent.*

## **Amendment 255**

**Guillaume Balas**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

#### *Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted ***within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that the person is not posted to replace another employed or self-employed person previously posted.

**Amendment 256**

**Agnes Jongerius**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.***

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

*Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>46</sup> shall continue to be subject to the legislation of the first Member State, provided that the anticipated ***or effective*** duration of such work does not exceed ***[XX]*** months.

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

**Amendment 257**

**Joëlle Mélin, Dominique Martin**

**Proposal for a regulation**

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

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is ***posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.***

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

*Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer's behalf shall ***be covered from the first day of work by the social security system of the host Member State, which shall be specific to him or her. When the worker returns to his or her state of origin, he or she shall be automatically reinstated in the social security system specific to him or her. If the former worker does not become a member when he returns to his country of origin, in particular following the termination of a contract, he or she shall benefit from the portability of the regulatory rights acquired during his or her temporary work in another Member State for a period of three months. If the rights are used during this period, the state which financed the social security benefits may request reimbursement from the Member State of origin.***

Or. fr

**Amendment 258**

**Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is ***posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.

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

*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 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 sent to replace another person ***sent*** previously ***by this employer*** within the meaning of this Article.

Or. en

*Justification*

*Reference to Directive 96/71/EC creates additional confusion and should be deleted. 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. Social security institutions in MSs issuing A1 forms are not aware whether the given post was previously filled by another employed or self-employed persons. They are only aware of persons sent by the given employer.*

**Amendment 259**

**Marian Harkin, Enrique Calvet Chambon, Jasenko Selimovic**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted *within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.

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

*Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that the person is not posted or sent to replace another person previously posted or sent within the meaning of this Article.

Or. en

**Amendment 260**

**Sven Schulze, Michaela Šojdrová, Georges Bach, Csaba Sógor, Dieter-Lebrecht Koch, Ádám Kósa, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann, Sofia Ribeiro**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted *within the meaning of Directive 96/71/EC of the European Parliament*

*Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that

*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.

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 person previously posted or sent within the meaning of this Article.

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

Or. en

*Justification*

*No reference to POWD (first deletion) second deletion: it is unclear how to determine whether a self-employed or employed Person has been previously on the Position.*

**Amendment 261**  
**Georgi Pirinski**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 13**  
Regulation (EC) No 883/2004  
Article 12 – paragraph 1

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted ***within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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

*Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that the person is not posted or sent to replace another

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.

employed or self-employed person previously posted or sent within the meaning of this Article.

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

Or. en

## **Amendment 262**

### **Emilian Pavel**

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

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

Regulation (EC) No 883/2004

#### **Article 12 – paragraph 1**

#### *Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is ***posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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***.

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

#### *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 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 ***replacing*** another ***previously sent*** employed ***person covered by this paragraph or a*** self-employed person ***whose maximum period of 24 months has been completed in accordance with paragraph 1 or 2***.

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

## Amendment 263

Claude Rolin

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

#### *Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.

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

#### *Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>46</sup> or sent by that employer to another Member State to perform work on that employer's 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 *six* months, that the person is not posted or sent to replace another employed or self-employed person previously posted or sent within the meaning of this Article, *and that the person has previously been linked to the social security system of the home Member State for at least three months.*

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

Or. fr

## Amendment 264

Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva

### Proposal for a regulation

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

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted ***within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.

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

*Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that:

***(a) the anticipated **or actual** duration of such work does not exceed 6 months and that the person is not posted to replace another employed or self-employed person previously posted within the meaning of this Article; and***

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

Or. en

*Justification*

*The average duration of a posting is less than four month according to the Commission. Therefore, it is reasonable that after six month the law of the country of employment should*

*apply in terms of social security coverage.*

## **Amendment 265**

**Jean Lambert**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

#### *Text proposed by the Commission*

1. ***A person*** who pursues an activity as an employed person in a Member State ***on behalf*** of an employer which normally carries out its activities there and ***who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.

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

#### *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*** 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. ***Such sending of an employed person by an employer includes also posting of workers within the meaning of Directive 96/71/EC.***

Or. en

#### *Justification*

*The provision is meant to provide persons working abroad for their employers with non-fragmented social security biographies. The new term “sent abroad” is more precise than the term of the current legislation “posted” which has led to confusion with directive 96/71/EC. It is important that Article 12 covers all types of situations of being abroad for less than 24 months so that workers are protected. We therefore centre the text on the word “sent” and add as clarification that workers posted under directive 96/71/EC are also included under this term.*

## **Amendment 266**

**Jeroen Lenaers**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 1

#### *Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.

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

#### *Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>46</sup> or sent by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated **or actual** duration of such work does not exceed **[XXX]** 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.

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

Or. nl

#### *Justification*

*The period indicated in paragraph (a) should correspond to that to be agreed under the Directive on the posting of workers.*

## **Amendment 267**

**Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli**

### **Proposal for a regulation**

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

*Text proposed by the Commission*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of 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.

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

*Amendment*

1. A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>46</sup> shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed [...] months and that the person is not posted to replace another employed or self-employed person previously posted within the meaning of this Article ***and has worked for at least three months in the first Member State in the period before being posted.***

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

Or. it

**Amendment 268**  
**Maria Arena**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 13**  
Regulation (EC) No 883/2004  
Article 12 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

***1a. For the purposes of applying Article 12(1) of this Regulation, and in order to guarantee to the home Member State that the social security contributions due in respect of the posted worker(s) by the posting undertaking, 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, it is provided that social security contributions shall be paid to the competent public receiving institution at the rate of contributions of the home Member State; it is the responsibility of the host public institution to ensure that it is handed over to the competent home public institution.*

Or. fr

**Amendment 269**

**Czesław Hoc, Zdzisław Krasnodębski, Kosma Złotowski**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 270**

**Joëlle Mélin, Dominique Martin**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

*Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall ***continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed 24 months and that the person is not replacing another posted employed or self-employed person.***"

*Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall ***be covered from the first day of work by the social security system of the host Member State, which shall be specific to him or her. When the worker returns to his or her state of origin, he or she shall be automatically reinstated in the social security system specific to him or her. If the former worker does not become a member when he returns to his country of origin, in particular following the transfer of activities, he or she shall benefit from the portability of the regulatory rights acquired during his or her temporary work in another Member State for a period of three months. If the rights are used during this period, the state which financed the social security benefits may request reimbursement from the Member State of origin.***

Or. fr

**Amendment 271**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

*Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **24** months and that the person

*Amendment*

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

is not replacing another posted employed or self-employed person..

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

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

Or. en

## **Amendment 272**

**Agnes Jongerius**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

#### *Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **24** months ***and that the person is not replacing another posted employed or self-employed person..***

#### *Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **XX** months.

Or. en

## **Amendment 273**

**Laura Agea, Tiziana Beghin, Rosa D'Amato, Marco Valli**

### **Proposal for a regulation**

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

*Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **24** months and that the person is not replacing another posted employed or self-employed person."

*Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **[...]** months and that the person is not replacing another posted employed or self-employed person ***and has worked for at least three months in the first Member State in the period before being posted.***"

Or. it

**Amendment 274**  
**Claude Rolin**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 13**  
Regulation (EC) No 883/2004  
Article 12 – paragraph 2

*Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **24** months and that the person is not replacing another posted employed or self-employed person."

*Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **six** months, that the person is not replacing another posted employed or self-employed person, ***and that the person has previously been linked to the social security system of the home Member State for at least three months.***"

Or. fr

## Amendment 275

Emilian Pavel

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

#### *Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed 24 months and that the person is not replacing another posted employed or self-employed person.

#### *Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that 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 ***whose maximum period of 24 months has been completed in accordance with paragraph 1 or 2.***

Or. en

## Amendment 276

Jeroen Lenaers

### Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

#### *Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **24** months and that the person is not ***replacing another posted*** employed or self-employed person."

#### *Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated ***or actual*** duration of such activity does not exceed ***[XXX]*** months and that the person is not ***being posted to replace an*** employed or self-employed person ***previously posted under the terms of this article.***".

*Justification*

*See justification for the amendment to paragraph 1 of this article.*

**Amendment 277**

**Martina Dlabajová, Renate Weber**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

*Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed 24 months ***and that the person is not replacing another posted employed or self-employed person..***

*Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed 24 months.

*Justification*

*The social security contributions are individual and should not depend on possible replacement.*

**Amendment 278**

**Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

*Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a

*Amendment*

2. A person who normally pursues an activity as a self-employed person in a

Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that 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..**

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.

Or. en

*Justification*

*In case of self-employed workers we cannot apply the replacement factor. Otherwise we create a system, where social security status of a self-employed person depends on other sent or self-employed persons. Social security institutions in MSs issuing A1 forms are not aware whether the given post was previously filled by another employed or self-employed persons. They are only aware of the situation of the self-employed person that has required A1 form.*

**Amendment 279**

**Elena Gentile**

**Proposal for a regulation**

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

Regulation (EC) No 987/2009

Article 12 – paragraph 2

*Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed 24 months and that the person is not replacing another posted employed or self-employed person..

*Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity **as a self-employed** 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..

Or. en

**Amendment 280**

**Helga Stevens**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2

*Text proposed by the Commission*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **24** months and that the person is not replacing another ***posted employed or self-employed*** person.

*Amendment*

2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed **(XXX)** months and that the person is not ***aimed at*** replacing another person ***previously sent***.

Or. en

*Justification*

*An alignment with workers and the Posting of Workers Directive seems appropriate.*

**Amendment 281**

**Agnes Jongerius**

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

Or. en

**Amendment 282**

**Jeroen Lenaers**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

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

Or. nl

*Justification*

*SVB Policy Rules (Part II International p.21): In principle, an employed/self-employed worker is not eligible for a further posting within two months from the end of a previous posting by the same provider, to the same recipient or to the same Member State.*

**Amendment 283**

**Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura**

**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

*Justification*

*This provision prevents continuous posting however it gives flexibility to complete work 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 284**

**Emilian Pavel**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 12 – paragraph 2 a (new)

*Text proposed by the Commission*

*Amendment*

**2a. Where a person has been posted in accordance with paragraph 1 or has pursued a self-employed activity in another Member State in accordance with paragraph 2 for at least 24 months in total, either continuously or with interruptions of not more than two months, no new period under paragraph 1 or paragraph 2 may commence for the same employed or self-employed person and the same Member State until at least two months after the end of the previous period.**

Or. en

**Amendment 285**

**Gabriele Zimmer, Patrick Le Hyaric, Kostadinka Kuneva**

**Proposal for a regulation**

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

*Text proposed by the Commission*

*Amendment*

**2a. Member States shall ensure that economically inactive mobile citizens and jobseekers can access comprehensive sickness insurance cover in the host Member State by allowing such citizens to contribute in a proportionate manner to a sickness insurance or to otherwise fulfil the relevant criteria for access to sickness insurance in the Member State in which they habitually reside.**

Or. en

*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 286**

**Sven Schulze, Dieter-Lebrecht Koch, Danuta Jazłowiecka, Agnieszka Kozłowska-Rajewicz, Krzysztof Hetman, Marek Plura, Elisabeth Morin-Chartier, Jérôme Lavrilleux, Anne Sander, Thomas Mann, Sofia Ribeiro**

**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. After the end of a posting as referred to in paragraph 1, the employed person concerned shall not be posted by the same undertaking to the same Member State until two months after the end of the previous posting.**

**In exceptional circumstances, an undertaking may apply to the competent authority for a derogation from the first**

*subparagraph.*

Or. en

**Amendment 287**

**Jean Lambert**

**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. An economically inactive person, whose sickness coverage is the responsibility of a Member State other than the Member State of residence, shall not be prevented from joining the sickness insurance system of the Member State of residence in order to be covered by that system.**

Or. en

*Justification*

*Economically inactive EU citizens are required to have “comprehensive sickness insurance cover in the host MS” for their right of residence (art 7 of Directive 2004/38/EC). Recital 5b acknowledges that insurance cover can also be obtained in the host country. However, it does not specify binding guidelines for MS with regard to making their sickness insurance system accessible for inactive and mobile citizens.*

**Amendment 288**

**Joëlle Mélin, Dominique Martin**

**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. Navigation and maritime personnel shall be subject to other articles**

**Amendment 289**  
**Guillaume Balas**

**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*
    - (iii) *to the legislation of the Member State in which the registered office or place of*

*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:
- (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 of the *undertaking(s) or employer(s) is/are situated and the undertaking(s)/employer(s) pursue(s) substantial activity* if he/she is employed by one undertaking or employer *or more than one undertaking or employer situated in the same Member State; or*
    - (ii) to the legislation of the Member State in which the *employee predominantly pursues his/her activity or activities in situations where (i) is not applicable.*

*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; or*

*(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.*

Or. en

#### **Amendment 290**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux, Geoffroy Didier**

#### **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

#### *Amendment*

***13a. Article 13(1) is amended as follows:***

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,

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

(i) the legislation of the Member State in which the registered office or place of business of the undertaking or employer ***employing him/her is situated and in which the undertaking or employer***

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*

*(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; or*

*(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."*

*pursues a substantial part of its activities;*

(ii) to the legislation of the Member State in which *the employee carries out his/her predominant activity in situations where (i) is not applicable.*

Or. fr

#### *Justification*

*The purpose of this amendment is to strengthen the link between the legislation applicable to a multi-active worker and the place where he or she exercises the most important part of his or her activity in cases where that place is not also his or her place of residence.*

#### **Amendment 291**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux, Geoffroy Didier**

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

**Article 1 – paragraph 1 – point 13 b (new)**

Regulation (EC) No 883/2004

Article 13 – paragraph 3

#### *Present text*

#### *Amendment*

**13b. Article 13(3) is amended as**

3. A person who normally pursues an activity as an employed person and an activity as a self-employed person in different Member States shall be subject to the legislation of the Member State *in which he/she pursues an activity as an employed person or, if he/she pursues such an activity in two or more Member States, to the legislation determined in accordance with paragraph 1.*

*follows:*

3. 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 his/her Member State of residence, to the legislation of the Member State in which he/she pursues his/her predominant activity.*

Or. fr

#### *Justification*

*The purpose of this amendment is to strengthen the link between the legislation applicable to a multi-active worker and the place where he or she exercises the most important part of his or her activity in cases where that place is not also his or her place of residence.*

#### **Amendment 292**

**Helga Stevens**

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

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

Regulation (EC) No 883/2004

Article 13 – paragraph 4 a

*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.”*

Or. en

#### **Amendment 293**

**Martina Dlabajová, Renate Weber**

#### **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.”**

Or. en

*Justification*

*To which legislation a person is subject cannot be determined by unemployment benefits.*

#### **Amendment 294**

**Jean Lambert**

#### **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.’***

Or. en

**Amendment 295**  
**Jeroen Lenaers**

**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*

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.***”.

4a. “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 ***of employment.***”.

Or. nl

**Amendment 296**  
**Agnes Jongerius**

**Proposal for a regulation**  
**Article 1 – paragraph 1 – point 14 a (new)**  
Regulation (EC) No 883/2004  
Article 16 – paragraph 1

*Text proposed by the Commission*

*Amendment*

**(14a) In Article 16, paragraph 1 is deleted.**

Or. en

*(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A02004R0883-20140101>)*

**Amendment 297**

**Maria Arena**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 16 a (new)

*Text proposed by the Commission*

*Amendment*

**14a. The following Article shall be inserted:**

**“Article 16a**

**Prior issuance of document on applicable legislation**

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

**Without prejudice to the rights of the worker concerned, any certificate issued to the receiving institution after the performance of the service in the host Member State shall be null and void so that it may not act retroactively or even regularise the situation of a worker illegally posted by the undertaking to the territory of a Member State other than that in which he or she ordinarily resides.**

Or. fr

## **Amendment 298**

**Elisabeth Morin-Chartier, Anne Sander, Jérôme Lavrilleux, Geoffroy Didier**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 16 a (new)

*Text proposed by the Commission*

*Amendment*

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

**“Article 16a**

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

**The prior issuance by the sending institution to the host institution of a document attesting to the social security legislation applicable to a worker, drafted in accordance with Articles 11 to 16 and Article 19 of Regulation (EC) No 987/2009, before posting to the host country, shall be compulsory.**

**If the sending institution is not in a position to issue this document before the start of the secondment, it must be able to prove that the application for the issue of the document was made before the start of the secondment.”**

Or. fr

### *Justification*

*This amendment consists in requesting that form A1 be issued before the worker's posting commences. It also stipulates that, where the institution has not been able to provide Form A1 before the secondment for reasons of time, it must be able to prove that the company's request was made before the start of the secondment mission.*

## **Amendment 299**

**Claude Rolin**

### **Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 16 a (new)

*Text proposed by the Commission*

*Amendment*

**14a. The following Article shall be inserted:**

**“Article 16a**

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

***The prior issuance by the sending institution to the host institution of a document attesting to the social security legislation applicable to a worker, drafted in accordance with Articles 11 to 16 and Article 19 of Regulation (EC) No 987/2009, before posting to the host country, shall be compulsory.”***

Or. fr

**Amendment 300**

**Gabriele Zimmer, Patrick Le Hyaric, João Pimenta Lopes, Kostadinka Kuneva**

**Proposal for a regulation**

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

Regulation (EC) No 883/2004

Article 16 a (new)

*Text proposed by the Commission*

*Amendment*

**(14a) The following Article is inserted:**

**“Article 16a**

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

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

Or. en