



2016/0397(COD)

2.3.2018

AMENDMENTS

33 - 147

Draft opinion
Soledad Cabezón Ruiz
(PE616.648v02-00)

on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004

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

AM_Com_LegOpinion

Amendment 33
Notis Marias

Proposal for a regulation
Citation 1 a (new)

Text proposed by the Commission

Amendment

(1a) having regard to the Protocol (No 1) of the Treaty on the Functioning of the European Union (TFEU) on the role of national parliaments in the European Union,

Or. el

Amendment 34
Notis Marias

Proposal for a regulation
Citation 1 b (new)

Text proposed by the Commission

Amendment

(1b) having regard to the Protocol (No 2) of the Treaty on the Functioning of the European Union (TFEU) on the application of the principles of subsidiarity and proportionality,

Or. el

Amendment 35
Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The definitions and criteria for determining disability and invalidity differ widely across the Member States, which can constitute a major obstacle to the

mutual recognition of national decisions on disability and invalidity issues, in particular as regards access to specific services and facilities, and can put people with a disability or invalidity at a particular disadvantage in the field of social security when moving from one Member State to another. It is therefore necessary, with a view to facilitating the travel and movement of persons with a disability or invalidity from one Member State to another, to ensure the mutual recognition of disability status between Member States, in particular through the swift implementation of the European Disability Card in all Member States which will be connected to the European Health Insurance Card and the European Social Security Card.

Or. en

Justification

The interconnectivity of the three cards (one existing - two to be created) will help the European citizens to gain access to the provision of health insurance and other benefits without administrative burdens both at the competent member state and at the state of origin (if different).

Amendment 36
Tatjana Ždanoka

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) The definitions and criteria for determining disability and invalidity differ widely across the Member States, which can constitute a major obstacle to the mutual recognition of national decisions on disability and invalidity issues, in particular as regards access to specific services and facilities, and can put people with a disability or invalidity at a

particular disadvantage in the field of social security when moving from one Member State to another. It is therefore necessary, with a view to facilitating the travel and movement of persons with a disability or invalidity from one Member State to another, to ensure a common European definition in line with UNCRPD and the mutual recognition of disability status between Member States, in particular through the swift implementation of the European Disability Card in all Member States.

Or. en

Amendment 37
Tatjana Ždanoka

Proposal for a regulation
Recital 3 b (new)

Text proposed by the Commission

Amendment

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

ethnicity, gender, age, social status or ability to pay."

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

Or. en

Amendment 38

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) In order to ensure the effective implementation and enforcement of the UN Convention on the Rights of Persons with Disabilities (UNCRPD), and guarantee the portability of disability benefits, harmonisation of disability policies in the Union, including the adoption of common definition, criteria and methods of evaluation of disability (percentage of disability) for the purpose of social security coordination should be adopted. The need for the adoption of the aforementioned emanated from the accession of the European Union to the UNCRPD, the first international organization to adhere to a UN human rights convention.

Or. en

Justification

In the EU member states there are divergent methods of evaluation and assessment of the degree of disability (also cited as percentage of disability). In some Member States the evaluation is carried out after medical examination. In other Member States a percentage of impairment (perceived as capacity) based on a functional approach. A third method is carried out based on the degree of disability (mild, moderate and severe). The lack of common processes, methods and criteria impedes the correspondence of the disability to a common list of provisions and benefits for persons with disability across the Union.

Amendment 39

Notis Marias

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 and societal context in which they operate by **facilitating and** facilitating **still further** 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.

Or. el

Amendment 40

Tatjana Ždanoka

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) It is to be noted that on 15 March 2017 the European Parliament adopted a resolution on obstacles to EU citizens' freedom to move and work in the internal market^{1a}.

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

Or. en

Amendment 41

Tatjana Ždanoka

Proposal for a regulation
Recital 4 b (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 42
Tatjana Ždanoka

Proposal for a regulation
Recital 4 c (new)

Text proposed by the Commission

Amendment

(4c) Cross-border healthcare is of particular relevance to guarantee an equitable coordination of social security systems. In this regard, the implementation of Directive 2011/24/EU of the European Parliament and of the Council^{1a} differs greatly across the Member States.

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

Or. en

Amendment 43

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

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.³³ 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*

³³ 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 44

Jarosław Wałęsa

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.***³³ ***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.***

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

³³ OJ L 158, 30.4.2004, p. 77.

Or. en

Amendment 45

Notis Marias

Proposal for a regulation

Recital 6

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

Amendment 46
Jarosław Wałęsa

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.³⁴ 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

³⁴ OJ L 018 , 21.01.1997 p. 1.

Amendment 47
Eleonora Evi, Laura Agea

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

(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 services³⁴. 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.

³⁴ OJ L 018, 21.01.1997 p. 1.

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 services³⁴. 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.

³⁴ OJ L 18, 21.1.1997, p. 1.

Or. it

Amendment 48

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Tatjana Ždanoka, Gabriele Zimmer

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*

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 *on the basis of* Article 6.

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 49 **Jarosław Wałęsa**

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.

Or. en

Justification

This system is 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 50

Eleonora Evi, Laura Agea

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, ***taking into account, however, 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 51

Eleonora Evi, Laura Agea

Proposal for a regulation
Recital 9

Text proposed by the Commission

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

³⁵ COM(2013) 269 final.

Amendment

(9) 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.

Or. it

Amendment 52

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation
Recital 9

Text proposed by the Commission

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

³⁵ COM(2013) 269 final.

Amendment

(9) Following the recommendations in the EU Citizenship Report 2013,³⁵ there is a need to extend the minimum duration of export of unemployment benefits *until exhaustion of the rights acquired by the job seeker* in order to improve the opportunities for unemployed persons moving to another Member State to look for work and their chances for *requalification and* reintegration into the labour market and to address skills mismatches across borders.

³⁵ COM(2013) 269 final.

Or. en

Amendment 53
Eleonora Evi, Laura Agea

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 **that** frontier workers **can choose where to** receive unemployment benefits.

Or. it

Amendment 54
Notis Marias

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 **for there to be** 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.

Or. el

Amendment 55
Notis Marias

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 income during child-raising periods ***should above all*** meet ***the needs of the child and*** 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. el

Amendment 56

Lukas Mandl, Sven Schulze, Heinz K. Becker

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

Amendment 57

Tatjana Ždanoka

Proposal for a regulation

Recital 11 a (new)

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

Or. en

Amendment 58

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the **European** Commission in **respect of amending** the Annexes to this Regulation and Regulation (EC) No 987/2009. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.³⁶ In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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 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 2016.³⁶ In particular, to ensure equal participation in the preparation of delegated acts, the

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

³⁶ OJ L 123, 12.5.2016, p. 1–14 .

³⁶ OJ L 123, 12.5.2016, p. 1–14 .

Or. en

Amendment 59

Notis Marias

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and Regulation (EC) No 987/2009. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016³⁶. 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

(12) In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and Regulation (EC) No 987/2009. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016³⁶. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council ***should immediately*** receive all documents at the same time as Member States' experts, and their experts systematically ***should*** have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Or. el

Amendment 60

Lukas Mandl, Sven Schulze, Heinz K. Becker

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 61

Notis Marias

Proposal for a regulation

Recital 13

Text proposed by the Commission

Amendment

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

deleted

another Member State in order to identify errors or inconsistencies that require further investigation.

Or. el

Amendment 62

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Recital 15

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 63

Notis Marias

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 ***one month***.

Or. el

Amendment 64
Notis Marias

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) If a Member State is unable to notify within the deadline the annual average cost per person in each age group for a reference year, it is necessary to provide an alternative that the Member State may submit claims for that year based on the annual average costs for the immediately preceding year published in the Official Journal. The reimbursement of the expenditure on benefits in kind on the basis of fixed amounts should be ***as close as possible*** to the actual expenditure; therefore a derogation from the notification

Amendment

(18) If a Member State is unable to notify within the deadline the annual average cost per person in each age group for a reference year, it is necessary to provide an alternative that the Member State may submit claims for that year based on the annual average costs for the immediately preceding year published in the Official Journal. The reimbursement of the expenditure on benefits in kind on the basis of fixed amounts should ***where possible be in any case closer*** to the actual expenditure; therefore a derogation from

obligation should be subject to the approval by the Administrative Commission and should not be granted in a consecutive year.

the notification obligation should be subject to the approval by the Administrative Commission and should not be granted in a consecutive year.

Or. el

Amendment 65

Yana Toom

Proposal for a regulation

Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Article 6 of Regulation 987/2009 should also apply in situation where a worker has been wrongly affiliated to a Member State due to breach of applicable legislation, irrespective of the existence of a dispute between institutions. This refers to situations where the employer has wrongly kept the worker registered in the Member State of the employer rather than the Member State where the worker resides.

Or. en

Amendment 66

Jarosław Wałęsa

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.⁴⁰

⁴⁰ OJ L 158, 30.4.2004, p. 77

Or. en

Amendment 67

Lukas Mandl, Sven Schulze

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.⁴⁰

⁴⁰ OJ L 158, 30.4.2004, p. 77

Or. en

Amendment 68

Lukas Mandl, Sven Schulze, Heinz K. Becker

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 under the different national legislation for the persons concerned.

Or. en

Amendment 69

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 883/2004

Recital 5 a

Text proposed by the Commission

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

Amendment

deleted

law is necessary.

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 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 70

Lukas Mandl, Sven Schulze

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 883/2004

Recital 5 a

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 71
Jarosław Wałęsa

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

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 72
Jarosław Wałęsa

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

Text proposed by the Commission

Amendment

(5b) *Member States should ensure that economically inactive EU mobile citizens* ***deleted***

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.

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 73

Lukas Mandl, Sven Schulze

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 883/2004

Recital 5 b

Text proposed by the Commission

Amendment

<i>(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.</i>	<i>deleted</i>
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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 74

Yana Toom

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 883/2004

Recital 5 b

Text proposed by the Commission

(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.

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, ***in particular in systems where access is granted on the basis of residency***. 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.

Or. en

Amendment 75

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 883/2004

Recital 5 b

Text proposed by the Commission

(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.

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. 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 76

Lukas Mandl, Sven Schulze

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EC) No 883/2004

Recital 5 c

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***

Amendment

deleted

(Article 35).

Or. en

Amendment 77
Jarosław Wałęsa

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

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 78
Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

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

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

(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 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).

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. en

Amendment 79
Lukas Mandl, Sven Schulze

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 80
Lukas Mandl, Sven Schulze

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

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 81
Lukas Mandl, Sven Schulze

Proposal for a regulation
Article 1 – paragraph 1 – point 3 c (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 82

Yana Toom

Proposal for a regulation

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

Regulation (EC) No 883/2004

Recital 24 a (new)

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 83

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EC) No 883/2004

Recital 35 a

Text proposed by the Commission

Amendment

(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

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

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.

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 84

Lukas Mandl, Sven Schulze, Heinz K. Becker

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 85
Lukas Mandl, Sven Schulze, Heinz K. Becker

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 86
Lukas Mandl, Sven Schulze, Heinz K. Becker

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

(46) In order to enable a timely update of this Regulation to the developments at the national level, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the European Commission in respect of amending the Annexes to this Regulation and Regulation (EC) No 987/2009. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.⁴³ In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁴³ COM(2015) 216 final.

(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 2016.⁴³ 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.

⁴³ COM(2015) 216 final.

Or. en

Amendment 87

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

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 the social security branches covered under TITLE III CHAPTER 1, in conjunction with an own definition in Article 1 and a list of benefits in Annex XII.

Amendment 88

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Tatjana Ždanoka, Gabriele Zimmer

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

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.))

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 the social security branches covered under TITLE III CHAPTER 1, in conjunction with an own definition in Article 1 and a list of benefits in Annex XII.

Amendment 89

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Tatjana Ždanoka, Gabriele Zimmer

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point c

Regulation (EC) No 883/2004

Article 1 – point v a – 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)(i) **within** the term “Title III, Chapter 1 (sickness, **long-term care**, maternity and equivalent paternity benefits),” the term “and Chapter 1a (long-term care benefits)” is inserted and the last sentence is deleted.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

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 the social security branches covered under TITLE III CHAPTER 1, in conjunction with an own definition in Article 1 and a list of benefits in Annex XII.

Amendment 90

Lukas Mandl, Sven Schulze

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation (EC) No 883/2004

Article 4 – paragraph 1

Text proposed by the Commission

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

Amendment

deleted

obligations under the legislation of any Member State as the nationals thereof.

Or. en

Amendment 91

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Article 1 – paragraph 1 – point 11

Regulation 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.⁴⁴ . *deleted*

⁴⁴ OJ L 158, 30.4.2004, p. 77.

Or. en

Amendment 92

Jarosław Wałęsa

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 *deleted*

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.⁴⁴ .

⁴⁴ OJ L 158, 30.4.2004, p. 77.

Or. en

Amendment 93
Lukas Mandl, Sven Schulze

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.⁴⁴* *deleted*

⁴⁴ OJ L 158, 30.4.2004, p. 77.

Or. en

Amendment 94
Lukas Mandl, Sven Schulze

Proposal for a regulation
Article 1 – paragraph 1 – point 11 a (new)
Regulation (EC) No 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 95
Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Tatjana Ždanoka, Gabriele Zimmer

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*⁴⁶ *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.

⁴⁶ *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 or sent to replace another employed or self-employed person previously posted or sent within the meaning of this Article; *and*

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

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 96
Eleonora Evi, Laura Agea

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

Text proposed by the Commission

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

⁴⁶ 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 services⁴⁶ 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 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.***

⁴⁶ OJ L **18**, 21.**1**.1997, p. 1.

Or. it

Amendment 97
Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Tatjana Ždanoka, Gabriele Zimmer

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

Text proposed by the Commission

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

Amendment

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

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

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

Or. en

Amendment 98

Eleonora Evi, Laura Agea

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

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 replacing another posted

or self-employed person.”.

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 99
Jarosław Wałęsa

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.

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 100
Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

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

Text proposed by the Commission

Amendment

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

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 101

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Tatjana Ždanoka, Gabriele Zimmer

Proposal for a regulation

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

Regulation (EC) No 883/2004

TITLE III – Chapter 1 – Title

Present text

Amendment

Sickness, maternity and equivalent
paternity benefits

14a. In Title III, the title of Chapter 1 is replaced by the following:

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

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

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 the social security branches covered under TITLE III CHAPTER 1, in conjunction with an own definition in Article 1 and a list of benefits in Annex XII.

Amendment 102

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 19

Present text

Article 19

Stay outside the competent Member State

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

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

Amendment

Article 19 is replaced by the following:

“Article 19

Stay outside the competent Member State

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

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

institution providing the *care*.

institution providing the *benefit*.

Or. en

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

Justification

Long-term care should be added to the social security branches covered under TITLE III CHAPTER 1, in conjunction with an own definition in Article 1 and a list of benefits in Annex XII. In order to include long-term care benefits as a specific benefit into CHAPTER 1 of TITLE III the related paragraphs must be amended accordingly.

Amendment 103

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Tatjana Ždanoka, Gabriele Zimmer

Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 30

Present text

Article 30

Contributions by pensioners

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

2. Where, in the cases referred to in Article 25, the acquisition of sickness, maternity and equivalent paternity benefits is subject to the payment of contributions or similar payments under the legislation of a Member State in which the pensioner

Amendment

Article 30 is replaced by the following:

“Article 30

Contributions by pensioners

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

2. Where, in the cases referred to in Article 25, the acquisition of sickness, ***long-term care***, maternity and equivalent paternity benefits is subject to the payment of contributions or similar payments under the legislation of a Member State in which

concerned resides, these contributions shall not be payable by virtue of such residence.

the pensioner concerned resides, these contributions shall not be payable by virtue of such residence. ”

Or. en

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

Justification

Long-term care should be added to the social security branches covered under TITLE III CHAPTER 1, in conjunction with an own definition in Article 1 and a list of benefits in Annex XII. In order to include long-term care benefits as a specific benefit into CHAPTER 1 of TITLE III the related paragraphs must be amended accordingly.

Amendment 104

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EC) No 883/2004

Chapter 1 a

Text proposed by the Commission

Amendment

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

deleted

CHAPTER 1a

Long-term care benefits

Article 35a

General provisions

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

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

3. By way of derogation from

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

Article 35b

Overlapping of long-term care benefits

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

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

Article 35c

Reimbursement between institutions

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

2. If the legislation of a Member State where the competent institution under this Chapter is situated does not provide for long-term care benefits in

kind, the institution which is or would be competent in that Member State under Chapter 1 for the reimbursement of sickness benefits in kind granted in another Member State shall be deemed to be the competent one also under Chapter 1a..

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.))

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 the social security branches covered under TITLE III CHAPTER 1, in conjunction with an own definition in Article 1 and a list of benefits in Annex XII.

Amendment 105

Eleonora Evi, Laura Agea

Proposal for a regulation

Article 1 – paragraph 1 – point 17

Regulation (EC) No 883/2004

Article 35 a – paragraph 2

Text proposed by the Commission

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

Amendment

2. The Administrative Commission, *after properly consulting the social partners concerned and all relevant stakeholders*, shall draw up *an exhaustive and* detailed list of long-term care benefits which meet the criteria contained in Article 1(vb) of this Regulation, specifying which are benefits in kind and which are benefits in cash.

Or. it

Amendment 106

Jarosław Wałęsa

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EC) No 883/2004

Article 61

Text proposed by the Commission

Amendment

19. Article 61 is replaced by the following: *deleted*

‘Article 61

Special rules on aggregation of periods of insurance, employment or self-employment

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

2. Where an unemployed person does not satisfy the conditions for the aggregation of periods in accordance with paragraph 1 because the total duration of his or her most recently completed periods of insurance, employment or self-employment in that Member State is less than three months that person shall be entitled to unemployment benefits in accordance with the legislation of the Member State where he or she had previously completed such periods under the conditions and subject to the limitations laid down in Article 64a.. ’

Or. en

Amendment 107

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Text proposed by the Commission

Amendment

19. Article 61 is replaced by the following: **deleted**

‘Article 61

Special rules on aggregation of periods of insurance, employment or self-employment

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

2. Where an unemployed person does not satisfy the conditions for the aggregation of periods in accordance with paragraph 1 because the total duration of his or her most recently completed periods of insurance, employment or self-employment in that Member State is less than three months that person shall be entitled to unemployment benefits in accordance with the legislation of the Member State where he or she had previously completed such periods under the conditions and subject to the limitations laid down in Article 64a.. ’

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout)

Or. en

Justification

The introduction of a three month time period would make the rules more complicated for moving citizens and for administrations. In order to simplify rules, Article 6 should be deleted and unemployment benefits aggregated on the basis of Article 6.

Amendment 108
Lukas Mandl, Sven Schulze

Proposal for a regulation
Article 1 – paragraph 1 – point 19
Regulation (EC) No 883/2004
Article 61

Text proposed by the Commission

Amendment

19. Article 61 is replaced by the following: **deleted**

‘Article 61

Special rules on aggregation of periods of insurance, employment or self-employment

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

2. Where an unemployed person does not satisfy the conditions for the aggregation of periods in accordance with paragraph 1 because the total duration of his or her most recently completed periods of insurance, employment or self-employment in that Member State is less than three months that person shall be entitled to unemployment benefits in accordance with the legislation of the Member State where he or she had previously completed such periods under the conditions and subject to the limitations laid down in Article 64a.. ’

Or. en

Amendment 109
Eleonora Evi, Laura Agea

Proposal for a regulation
Article 1 – paragraph 1 – point 19
Regulation (EC) No 883/2004
Article 61 – paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 110
Jarosław Wałęsa

Proposal for a regulation
Article 1 – paragraph 1 – point 19
Regulation (EC) No 883/2004
Article 61– paragraph 1

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

This system is 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 111

Eleonora Evi, Laura Agea

Proposal for a regulation

Article 1 – paragraph 1 – point 19

Regulation (EC) No 883/2004

Article 61 – paragraph 2

Text proposed by the Commission

2. Where an unemployed person does not satisfy the conditions for the aggregation of periods in accordance with paragraph 1 because the total duration of his or her most recently completed periods of insurance, employment or self-employment in that Member State is less than **three months** that person shall be entitled to unemployment benefits in accordance with the legislation of the Member State where he or she had previously completed such periods under the conditions and subject to the limitations laid down in Article 64a.”.

Amendment

2. Where an unemployed person does not satisfy the conditions for the aggregation of periods in accordance with paragraph 1 because the total duration of his or her most recently completed periods of insurance, employment or self-employment in that Member State is less than **one month** that person shall be entitled to unemployment benefits in accordance with the legislation of the Member State where he or she had previously completed such periods under the conditions and subject to the limitations laid down in Article 64a.”.

Or. it

Amendment 112

Lukas Mandl, Sven Schulze

Proposal for a regulation

Article 1 – paragraph 1 – point 20

Regulation (EC) No 883/2004

Article 64

Text proposed by the Commission

20. **Article 64 is amended as follows:**
(a) **In paragraph 1(c) the word “three” shall be replaced by “six” and the**

Amendment

deleted

words “of three months up to a maximum of six months” shall be replaced by the words “of six months up to the end of the period of that person's entitlement to benefits”;

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

Or. en

Amendment 113

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Article 1 – paragraph 1 – point 20 – point a

Regulation (EC) No 883/2004

Article 64 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

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

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

Or. en

Justification

In order to enhance mobile Union citizens' chances to find employment and to reduce administrative difficulties the entitlement to unemployment benefits shall be maintained until their expiry when a person exports his or her unemployment benefit.

Amendment 114

Eleonora Evi, Laura Agea

Proposal for a regulation

Article 1 – paragraph 1 – point 20 – point a

Regulation (EC) No 883/2004

Article 64 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

(a) In paragraph 1, *point (c) is amended as follows:*

(c) *“unemployment benefits shall be extended to the entire period of entitlement”;*

Or. it

Amendment 115

Tatjana Ždanoka

Proposal for a regulation

Article 1 – paragraph 1 – point 20 – point a

Regulation (EC) No 883/2004

Article 64 – paragraph 1 – point c

Text proposed by the Commission

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

Amendment

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

“(c) entitlement to unemployment benefits should have a reasonable duration of at least 6 months;”

Or. en

Amendment 116

Eleonora Evi, Laura Agea

Proposal for a regulation

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

Regulation (EC) No 883/2004

Article 64 – paragraph 2

Text proposed by the Commission

Amendment

(aa) *Paragraph 2 is deleted;*

Or. it

Amendment 117

Eleonora Evi, Laura Agea

Proposal for a regulation

Article 1 – paragraph 1 – point 20 – point b

Regulation (EC) No 883/2004

Article 64 – paragraph 3

Text proposed by the Commission

Amendment

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

(b) *Paragraph 3 is deleted.*

Or. it

Amendment 118

Jarosław Wałęsa

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 883/2004

Article 64 a

Text proposed by the Commission

Amendment

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

deleted

‘Article 64a

Special rules for unemployed persons who moved to another Member State without

fulfilling the conditions of Article 61(1) and Article 64

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

Or. en

Justification

This system is 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 119

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Article 1 – paragraph 1 – point 21

Regulation (EC) No 883/2004

Article 64 a

Text proposed by the Commission

Amendment

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

‘Article 64a

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

In the situations referred to in Article 61(2), the Member State to whose legislation the unemployed person was

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

Or. en

Justification

When Article 61 is deleted entirely and unemployment benefits are aggregated solely on the basis of Article 6, Article 64a should be deleted, too.

Amendment 120

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 22 a (new)

Regulation (EC) No 883/2004

Article 67 a (new)

Text proposed by the Commission

Amendment

22a. The following article is inserted:

“Article 67a

Derogation for family members residing in a Member State other than the competent Member State

1. By way of derogation from Article 67, family benefits due from the competent Member State for family members residing in another Member State shall be adjusted in accordance with the adjustment mechanism provided for in Article 67b, taking into account the up- and downgrading factors referred to in Article 67c.

2. Member States that apply this derogation shall be listed in Annex XIIIb by means of the procedure provided for in Article 67b.”

Or. en

Amendment 121

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 22 b (new)

Regulation (EC) No 883/2004

Article 67 b (new)

Text proposed by the Commission

Amendment

22b. The following article is inserted:

“Article 67b

Delegated acts for the creation of an adjustment mechanism for exported family benefits

The Commission is empowered to adopt delegated acts in accordance with Article 88a in order to supplement this Regulation by establishing a consistent and functional adjustment mechanism for exported family benefits and to amending the list of Member States and competent regional authorities set out in Annex XIIIb which apply the adjustment mechanism.”

Or. en

Amendment 122

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 22 c (new)

Regulation (EC) No 883/2004

Article 67 c (new)

Text proposed by the Commission

Amendment

22c. The following article is inserted:

“Article 67c

Implementing acts establishing up- and downgrading factors for the adjustment mechanism

The Commission shall adopt implementing acts in order to establish up- and downgrading factors for the adjustment mechanism provided for in Article 67b for each Member State. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 88b.”

Or. en

Amendment 123

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 22 d (new)

Regulation (EC) No 883/2004

Article 68 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

22d. In Article 68, the following paragraph is inserted:

"2a. For the purposes of calculating the differential supplement for family benefits as referred to in paragraph 2, there shall be two categories of benefits of the same kind:

(a) family benefits in cash primarily intended to replace part or the whole of income that claimant has not earned or cannot earn due to child-raising; and

(b) all other family benefits.”

Or. en

Amendment 124

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 23

Regulation (EC) No 883/2004

Article 68 b – paragraph 1

Text proposed by the Commission

1. Family benefits ***in cash which are intended to replace income during periods of child-raising and*** which are listed in Part ***I*** of Annex XIII shall be awarded ***solely to the person subject to*** the legislation of the competent Member State ***and*** there shall be no derived right ***for his or her family members*** to such benefits. Article 68a of this Regulation shall not apply to such benefits nor shall the competent institution be required to take into account a claim submitted by the other parent, a person treated as a parent or institution acting as guardian of the child or children pursuant to Article 60(1) of the Implementing Regulation.

Amendment

1. ***1.*** Family benefits ***referred to in point (a) of Article 68(2a)*** which are listed in Part ***I*** of Annex XIII shall be awarded ***under*** the legislation of the competent Member State ***solely to the person subject to that legislation.*** There shall be no derived right to such benefits. Article 68a of this Regulation shall not apply to such benefits nor shall the competent institution be required to take into account a claim submitted by the other parent, a person treated as a parent or institution acting as guardian of the child or children pursuant to Article 60(1) of the Implementing Regulation.

Or. en

Justification

The ECJ Wiering ruling (C-347/12) sets different categories of family benefits which have to be considered by the secondary competent Member State when calculating the differential supplement payment. The European Commission's proposal on the Amendment of Regulation 883/2004 does not categorize family benefits as required by this ECJ ruling. I therefore suggest introducing two categories of family benefits in the text of the proposal: the first category covers parental cash benefits and the second category includes all other family benefits. By introducing these two new categories due regard is paid to the ECJ's ruling on the individuality of parental allowance. The suggested amendment is furthermore easily administrable for Member States. Moreover, the European Commission's proposal needs to be adapted concerning the special nature of parental benefits as an income replacement as well as in terms of legibility, comprehensibility and accuracy. In our amendment to the European Commission's proposal the definition of parental benefits has been broadened to ensure that parental benefits which replace income that the person cannot earn are also covered by the suggested text. In addition, the overall comprehensibility of the text has been improved. This reasoning applies to all other amendments for this issue.

Amendment 125
Lukas Mandl, Sven Schulze

Proposal for a regulation
Article 1 – paragraph 1 – point 23 a (new)
Regulation (EC) No 883/2004
Article 70 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

23a. In Article 70, the following paragraph is added:

“4a. By way of derogation from Article 4 of this Article, a Member State may, in accordance with Union law, provide that access to the benefits referred to in paragraph 2 of this Article, which also constitute social assistance within the meaning of Directive 2004/38/EC, is subject to the fulfilment of the conditions for equal treatment under Article 24 of that Directive by the claimant.”

Or. en

Amendment 126
Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation
Article 1 – paragraph 1 – point 25
Regulation (EC) No 883/2004
Article 76 a – paragraph 1 – indent 4

Text proposed by the Commission

Amendment

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

– the withdrawal of the document:

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

– ***when the issuing institution fails to***

respond within the specified deadline.

Or. en

Amendment 127

Kostadinka Kuneva, Gabriele Zimmer, Sofia Sakorafa, Takis Hadjigeorgiou

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Regulation (EC) No 883/2004

Article 88

Text proposed by the Commission

Amendment

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

‘Article 88

Delegating the power to update the Annexes

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

Article 88a

Exercise of the delegation

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

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

3. The delegation of the power referred to in Article 88 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall

take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016

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

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

Or. en

Justification

Vesting the Commission the power to adopt delegated acts on the coordination of social security systems goes against legal certainty and the protection of legitimate interests of the beneficiaries.

Amendment 128

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Text proposed by the Commission

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

Amendment

2. The delegation of power referred to in **Articles 67b and 88** shall be conferred on the European Commission for an indeterminate period of time from the [the date of entry into force of the Regulation (EU) xxxx].

Or. en

Amendment 129

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Regulation (EC) No 883/2004

Article 88 a – paragraph 3

Text proposed by the Commission

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

Amendment

3. The delegation of the power referred to in Article **67b and 88** may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force

Or. en

Amendment 130

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 27

Text proposed by the Commission

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

Amendment

6. A delegated act adopted pursuant to **Articles 67b and** Article 88 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiring of that period, the European Parliament and the Council have both informed the European Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council..

Or. en

Amendment 131

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 1 – paragraph 1 – point 27 a (new)

Regulation (EC) No 883/2004

Article 88 b (new)

Text proposed by the Commission

Amendment

27a. The following article is inserted:

"Article 88b

Committee procedure

1. The Commission shall be assisted by the Administrative Commission. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply."

Or. en

Amendment 132

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 987/2009

Article 1 – point 2 – point e a

Text proposed by the Commission

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

Amendment

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

Or. en

Amendment 133

Jarosław Wałęsa

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 987/2009

Article 1 – point 2 – point e a

Text proposed by the Commission

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

Amendment

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

Or. en

Justification

(ea) The proposed definition of fraud corresponds to that contained in Part A 2 Point (a) of the Resolution of the Council of 22 April 1999. However, a reference has to be inserted that

takes account of the fact that social security benefits can be obtained fraudulently not only in breach of the legal provisions of a Member State, but also by violating the provisions contained in Regulations (EC) No 883/2004 and (EC) No 987/2009

Amendment 134

Eleonora Evi, Laura Agea

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EC) No 987/2009

Article 1 – paragraph 2 – point e a

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 135

Eleonora Evi, Laura Agea

Proposal for a regulation

Article 2 – paragraph 1 – point 5

Regulation (EC) No 987/2009

Article 2 – paragraph 5

Text proposed by the Commission

5. When a person’s rights or obligations to which the basic and implementing Regulations apply have been established or determined, the competent institution may request the institution in the Member State of residence or stay to provide personal data about that person. The request and any response shall **concern** information which enables the competent Member State to identify any inaccuracy in the facts on which a

Amendment

5. When a person’s rights or obligations to which the basic and implementing Regulations apply have been established or determined, the competent institution may request the institution in the Member State of residence or stay to provide personal data about that person, ***while fully complying with privacy requirements***. The request and any response shall ***be confined to*** information which enables the competent Member State

document or a decision determining the rights and obligations of a person under the basic or implementing Regulation is based. The request can also be made where there is no existing doubt about the validity or accuracy of the information contained in the document or on which the decision is based in a particular case. The request for information and any response must be necessary and proportionate.

to identify any inaccuracy in the facts on which a document or a decision determining the rights and obligations of a person under the basic or implementing Regulation is based. The request can also be made where there is no existing doubt about the validity or accuracy of the information contained in the document or on which the decision is based in a particular case. The request for information and any response must be *substantiated*, necessary, and proportionate.

Or. it

Amendment 136
Eleonora Evi, Laura Agea

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EC) No 987/2009
Article 5 – paragraph 2 – point a

Text proposed by the Commission

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

Amendment

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

Or. it

Amendment 137
Jarosław Wałęsa

Proposal for a regulation
Article 2 – paragraph 1 – point 7
Regulation (EC) No 987/2009
Article 5 – paragraph 2 – point c

Text proposed by the Commission

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

Amendment

(c) Where the requesting institution having received the supporting evidence continues to have doubts about the validity of a document or the accuracy of the facts on which the particulars contained therein are based that the information upon which the document was issued is not correct, and where ***both institutions are not able to find an agreement they shall take use of dialogue and conciliation*** procedure ***according to Decision No A1 of 12 June 2009, which shall be the obligatory way to solve the difference of competences.***

Or. en

Justification

Only the issuing institution is able to withdraw A1 form. In case of conflict of positions the dialogue and conciliation procedure, which is currently optional, should be made obligatory. This will enable to solve conflicting situations.

Amendment 138

Eleonora Evi, Laura Agea

Proposal for a regulation

Article 2 – paragraph 1 – point 8 – point a

Regulation (EC) No 987/2009

Article 14 – paragraph 1

Text proposed by the Commission

1. For the purposes of the application of Article 12(1) of the basic Regulation, a ‘person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services⁵²

Amendment

1. For the purposes of the application of Article 12(1) of the basic Regulation, a ‘person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted within the meaning of the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services⁵² or

or sent by that employer to another Member State' shall include a person who is recruited with a view to being posted **or sent to another Member State**, provided that immediately before the start of his employment, the person concerned **is** already subject to the legislation of the **sending** Member State in accordance with Title **II of the basic Regulation**.”.

⁵² OJ L 018, 21.01.1997 p. 1.

sent by that employer to another Member State' shall include a person who is recruited with a view to being posted, provided that, immediately before the start of his employment, the person concerned **has** already **been** subject, **for a period of at least three months**, to the legislation of the Member State **where the employer is established**, in accordance with **this** Title.”.

⁵² OJ L 18, 21.1.1997, p. 1.

Or. it

Amendment 139

Eleonora Evi, Laura Agea

Proposal for a regulation

Article 2 – paragraph 1 – point 11

Regulation (EC) No 987/2009

Article 19 – paragraph 4

Text proposed by the Commission

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

Amendment

4. Where necessary for the exercise of legislative powers at national or Union level, relevant information regarding the social security rights and obligations of the persons concerned shall be exchanged directly between the competent institutions and the labour inspectorates, immigration or tax authorities of the States concerned, **without in any way infringing privacy requirements. This** may include the processing of personal data for purposes other than the exercise or enforcement of rights and obligations under the basic Regulation and this Regulation, **solely** to ensure compliance with relevant legal obligations in the fields of labour, health and safety, immigration and taxation law. Further details shall be laid down by decision of the Administrative Commission.

Or. it

Amendment 140

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer

Proposal for a regulation

Article 2 – paragraph 1 – point 14

Regulation (EC) No 987/2009

Article 23 – last sentence

Text proposed by the Commission

Amendment

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

deleted

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

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Justification

When long-term care is incorporated into the social security branches covered under TITLE III CHAPTER 1 of the basic Regulation, the respective Articles in the implementing regulation must be changed accordingly.

Amendment 141

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer, Tatjana Ždanoka

Proposal for a regulation

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

Regulation (EC) No 987/2009

Article 23 – paragraph 1

Present text

Amendment

If the legislation of the Member State of residence or stay comprises more than one scheme of sickness, maternity and paternity insurance for more than one category of insured persons, the provisions applicable under Articles 17, 19(1), 20, 22,

(14a) In Article 23, paragraph 1 is replaced by the following:

“If the legislation of the Member State of residence or stay comprises more than one scheme of sickness, ***long-term care***, maternity and paternity insurance for more than one category of insured persons, the provisions applicable under Articles 17,

24 and 26 of the basic Regulation shall be those of the legislation on the general scheme for employed persons.

19(1), 20, 22, 24 and 26 of the basic Regulation shall be those of the legislation on the general scheme for employed persons.”

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

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

Justification

When long-term care is incorporated into the social security branches covered under TITLE III CHAPTER 1 of the basic Regulation, the respective Articles in the implementing regulation must be changed accordingly.

Amendment 142

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Tatjana Ždanoka, Gabriele Zimmer

Proposal for a regulation

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

Regulation (EC) No 987/2009

Article 25 – paragraph 1

Present text

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

Amendment

(15a) in Article 25, paragraph 1 is replaced by the following:

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

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

Justification

When long-term care is incorporated into the social security branches covered under TITLE III CHAPTER 1 of the basic Regulation, the respective Articles in the implementing regulation must be changed accordingly.

Amendment 143

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer, Tatjana Ždanoka

Proposal for a regulation

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

Regulation (EC) No 987/2009

Article 25 – paragraph 3

Present text

3. The benefits in kind referred to in Article 19 (1) of the basic Regulation shall refer to the benefits in kind which are provided in the Member State of stay, in accordance with its legislation, and which become necessary on medical grounds with a view to preventing an insured person from being forced to return, before the end of the planned duration of stay, to the competent Member State to obtain the necessary treatment.

Amendment

(15b) in Article 25, paragraph 3 is replaced by the following:

3. The benefits in kind referred to in Article 19 (1) of the basic Regulation shall refer to the benefits in kind which are provided in the Member State of stay, in accordance with its legislation, and which become necessary on medical grounds ***or due to the need for long-term care*** with a view to preventing an insured person from being forced to return, before the end of the planned duration of stay, to the competent Member State to obtain the necessary treatment.

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

Justification

When long-term care is incorporated into the social security branches covered under TITLE III CHAPTER 1 of the basic Regulation, the respective Articles in the implementing

regulation must be changed accordingly.

Amendment 144

Kostadinka Kuneva, Sofia Sakorafa, Takis Hadjigeorgiou, Gabriele Zimmer, Tatjana Ždanoka

Proposal for a regulation

Article 2 – paragraph 1 – point 19 a (new)

Regulation (EC) No 987/2009

Article 54 – paragraph 1

Present text

1. Article 12(1) of the implementing Regulation shall apply mutatis mutandis to Article **61** of the basic Regulation. Without prejudice to the underlying obligations of the institutions involved, the person concerned may submit to the competent institution a document issued by the institution of the Member State to whose legislation he was subject in respect of his last activity as an employed or self-employed person specifying the periods completed under that legislation.

Amendment

(19a) in Article 54, paragraph 1 is replaced by the following:

1. Article 12(1) of the implementing Regulation shall apply mutatis mutandis to ***unemployment benefits treated under*** article **6** of the basic Regulation. Without prejudice to the underlying obligations of the institutions involved, the person concerned may submit to the competent institution a document issued by the institution of the Member State to whose legislation he was subject in respect of his last activity as an employed or self-employed person specifying the periods completed under that legislation.

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

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

Justification

When Article 61 is deleted and unemployment benefits are aggregated solely on the basis of Article 6 of the basic regulation, changes in the implementing regulation must be introduced accordingly.

Amendment 145

Kostadinka Kuneva, Gabriele Zimmer, Takis Hadjigeorgiou, Sofia Sakorafa

Proposal for a regulation

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

Regulation (EC) No 987/2009

Article 67 – paragraph 5

Present text

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

Amendment

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

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

Or. en

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

Justification

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

Amendment 146

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Annex I – point 7

Regulation (EC) No 883/2004

Annex XIII

Text proposed by the Commission

Part II Member States which award family benefits referred in Article **65b(1)** in full

Amendment

Part II Member States which award family benefits referred in Article **68b** in full

Amendment 147

Lukas Mandl, Sven Schulze, Heinz K. Becker

Proposal for a regulation

Annex I – point 7 a (new)

Regulation (EC) No 883/2004

Annex XIII a (new)

Text proposed by the Commission

Amendment

**7a. The following annex is added:
“Annex XIIIa**

(Article 67c)

***Adjustment mechanism for the allocation
of family benefits in relation to children
residing in Member States other than the
competent Member State***

***Member States and competent regional
authorities adapting family benefits in
accordance with the adjustment
mechanism referred to in Article 67b:”***