

January 2015

Coordination of social security systems

- Part of the expected labour mobility package -

[Regulation 883/2004](#)¹ (basic Regulation) and [Regulation 987/2009](#)² (implementing Regulation)

This briefing is one of a series of 'Implementation Appraisals', produced by the European Parliamentary Research Service (EPRS), on the operation of existing EU legislation in practice. Each such briefing focuses on a specific EU law which is, or will shortly be, subject to an amending proposal from the European Commission, intended to update the current text. The series is based on the Commission's intentions, as announced in its Annual Work Programme (CWP). 'Implementation Appraisals' aim to provide a succinct overview of material publicly available on the implementation, application and effectiveness of an EU law to date - drawing on available inputs from, inter alia, the EU institutions and advisory committees, national parliaments, and relevant external consultation and outreach exercises. They are provided to assist parliamentary committees in their consideration of the new Commission proposal, once tabled.

EP committee responsible at time of adoption of the EU legislation: Committee on Employment and Social Affairs (EMPL)

Date of adoption of original legislation in plenary: [20 April 2004](#) (basic Regulation) and [22 April 2009](#) (implementing Regulation)

Date of entry into force of legislation: 20 May 2004 and **1 May 2010** (respectively), but the basic Regulation only applies from the latter date (that of the implementing Regulation)³

Dates foreseen for review of legislation:

Article 65a of the **basic Regulation** [on unemployment benefits for self-employed frontier workers] should have been reviewed after 2 years of experience (after **28 June 2014**), as specified in Recital 6 of amending [Regulation 465/2012](#)⁴. Annex III [on restriction of rights to benefits in kind for members of the family of a frontier worker] should have been reviewed by **31 October 2014** on the basis of the Administrative Commission's report including an impact assessment and possible effects of repealing those provisions completely, as specified in Article 87(10b)⁵. According to the information from the European Commission the report should be presented in the first half of 2015.

In accordance with Article 86 of the **implementing Regulation**, the Administrative Commission should have presented a comparative report on the time limits regarding the introduction and settlement of claims, and on the rules for conversion of periods expressed in different units, by the **end of 2014**. It should also present a report assessing the application of Chapters I⁶ and III⁷ of Title IV, by **1 May 2015**.

¹ OJ L 166 30.04.2004, p. 1 and OJ L 200 07.06.2004, p. 1 (full-text corrigenda for ES, DA, DE, EL, EN, FR, IT, NL, PT, FI and SV).

² OJ L 284 30.10.2009, p. 1.

³ The same rules apply in relation to Switzerland as from 1 April 2012 and in relation to Norway, Iceland and Liechtenstein (EEA countries) as from 1 June 2012.

⁴ OJ L 149, 08.06.2012, p. 4.

⁵ Amended by [Regulation 988/2009](#) (OJ L 284, 30.10.2009, p. 43).

⁶ *Reimbursement of the cost of benefits in application of Article 35 and Article 41 of the basic Regulation.*

Timeline for new amending legislation:

According to the [CWP 2014](#), legislative (including the revision of Regulation 883/2004 and Regulation 987/2009) and non-legislative initiatives (such as an initiative on highly mobile workers) were to be presented to facilitate free movement of persons within the EU by better coordination of social security schemes⁸. An indicative [Roadmap](#) published in March 2013 announced that in addition to a number of technical improvements and changes to the procedure of amending annexes, the new legislative proposal should address two areas which were not - in Commission's view - properly covered by the basic Regulation: the unemployment and long-term care benefits.

1. Background

According to the report of the International Labour Organisation (ILO) there are around 10.5 million migrant workers in the EU, one million people crossing EU borders for work every day and about 250,000 people who have worked in more than one Member State and need to export a part of their pension rights every year.⁹

Coordination of social-security systems was originally a Community/Union competence only as far as it was necessary to provide freedom of movement for workers, on the basis of **Article 48 of the TFEU**¹⁰, but it is now more precise to say that it constitutes a major component of the general freedom of movement¹¹ - a fundamental right of citizens of the European Union, as also stated in **Article 34(2) of the Charter of Fundamental Rights of the EU**¹². The way social security is organised differs among European countries, since every Member State remains free to design its social security system independently. European rules¹³ determine however under which country's system a person should be insured when two or more countries are involved - for instance, if that person lives or works abroad in the EU. In principle, social security coverage must be ensured by the country of employment and for economically non-active EU citizens - by the country of residence.

The international aspect of social security coordination remains outside the scope of this Briefing but in addition to multiple bilateral and multilateral treaties¹⁴, there are now also global instruments on protection of migrant workers, including the ILO conventions¹⁵ and networks of exchanging information and experience - such as the International Social Security Association (ISSA)¹⁶. The European Commission adopted a [Communication on the external dimension of EU social security coordination](#) in March 2012.

The current EU law regulating social security coordination comprises [Regulation 883/2004](#) (basic Regulation) on the coordination of social security systems and [Regulation 987/2009](#) (implementing Regulation) laying down the procedure for implementing Regulation 883/2004. In view of the substantial modifications that those two Regulations brought in comparison with the previous acts (which dated back to 1970s), they are jointly referred to as the 'modernised EU social security coordination rules'.

⁷ *Recovery of benefits provided but not due, recovery of provisional payments and contributions, offsetting and assistance with recovery.*

⁸ The new European Commission of President Juncker made 'workers' mobility' one of its key priorities for 2015 in the Commission's Work Programme.

⁹ ILO report on [Coordination of Social Security Systems in the European Union](#), p.1

¹⁰ Nota bene, unanimity in the Council was required before the Lisbon Treaty. As it is now, any Member State can refer the proposal to the European Council if that country's social security system would be seriously affected.

¹¹ See **Article 21 TFEU**, including a special provision for adopting additional measures concerning social security. Other major EU acts of secondary nature are [Directive 2004/38](#) on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, and [Regulation 492/2011](#) on freedom of movement for workers within the Union.

¹² *Everyone residing and moving legally within the European Union is entitled to social security benefits and social advantages in accordance with the Union law and national law and practices.*

¹³ First set by Regulations No 3 and 4 of 1958 and updated many times since.

¹⁴ For more information see for example "[Social Security and Migrant Workers: selected studies of cross-border social security mechanisms](#)", ed. Roger Blanpain, Bulletin of Comparative Labour Relations 84, Kluwer Law International, 2014.

¹⁵ The full list is available on [ILO website](#)

¹⁶ <http://www.issa.int/topics/understanding/introduction>

Regulation 883/2004 (basic Regulation) repealed Council Regulation 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community, which was amended and updated on numerous occasions in order to take into account new developments (including Court of Justice judgments) and changes in national legislation. It applies to EU nationals in Member States (as well as Iceland, Norway, Liechtenstein and Switzerland)¹⁷, stateless persons and refugees resident in the territory of a Member State who are or have been subject to the social security legislation of one or more Member States, as well as to the members of their families and to their survivors. Since 1 January 2011, [Regulation 1231/2010](#) (not applicable to Denmark or the United Kingdom¹⁸) extended modernised coordination rules to nationals of non-EU countries (third-country nationals) legally resident in the EU and in a cross-border situation¹⁹. Their family members and survivors are also covered if they are in the EU.

The material scope of the basic Regulation includes classical social security: sickness benefits²⁰, maternity and equivalent paternity benefits, benefits for accidents at work and occupational diseases, invalidity benefits, family benefits and death grants, old-age and survivors' benefits, statutory pre-retirement schemes and unemployment benefits. As a rule, Regulation 883/2004 replaced all social security conventions applicable between Member States falling under its scope. In accordance with the conflict-of-law rules set out in Title II, persons to whom this Regulation applies shall be subject to the legislation of a single Member State only. Title III contains special provisions concerning the various categories of benefits (see details in part 3 below). The EU rules should also be applied by the national authorities by analogy, where the adverse effects experienced by a worker can be overcome without Community co-ordination measures.²¹

The implementing **Regulation 987/2009** (which replaced Council Regulation 574/72 fixing the procedure for implementing Regulation 1408/71) establishes procedures to ensure that benefits are granted quickly and efficiently, introducing specific rules on electronic communication, ensuring the provisional application of legislation and provisional calculation and granting of benefits. For this purpose, a special system will be set up - the [Electronic Exchange of Social Security Information](#) (EESSI) - to allow a secure exchange of data between national institutions concerning persons covered by social security coordination rules. Structured Electronic Documents (SEDs) have been designed to replace the paper E-forms used under the former implementing Regulation, and to make communication of data between institutions easier and more efficient. During the transitional period between 1 May 2010 and the entry into production of the EESSI system, paper versions of the SEDs can be used.

In response to concerns raised in some Member States about the impact of free movement on national social systems following the economic crisis, the European Commission published, in November 2013, a [Communication on the free movement of EU citizens and their families: Five actions to make a difference](#)²², in which it stated, *inter alia*, that mobile EU citizens are - on average - more likely to be in employment than nationals of the host country, and that in most Member States mobile EU citizens are net contributors to the host country's welfare system —paying more in tax and social security contributions than they receive in benefits. The second action listed in this Communication was '*Helping authorities apply EU social security coordination rules*' within the framework of which the Commission soon published an updated [Practical guide](#)²³ to clarify, among other things, the notion of 'habitual residence'²⁴.

¹⁷ See footnote 3.

¹⁸ Ireland used the possibility provided for the Treaty to opt-in.

¹⁹ This regulation replaced Regulation 859/2003, which did the same with regard to the coordination legislation adopted in the 1970s.

²⁰ In which respect the Regulation was later supplemented by [Directive 2011/24](#) on the application of patients' rights in cross-border healthcare. The current rules for sickness benefits apply also to the long-term care (LTC) benefits - see further below in part 3.

²¹ See Court of Justice ruling in Case C-443/93 *Vougioukas* [1995] E.C.R. I-4033, paras 39-42.

²² COM(2013) 837 final

²³ <http://ec.europa.eu/social/BlobServlet?docId=11366&langId=en>

²⁴ Article 1(j) of the basic Regulation only states that 'residence' means the place where a person habitually resides.

2. EU-level reports, evaluations and impact assessments

During specific workshops²⁵ which the European Commission organised already in March 2011 (that is less than 1 year after the start of application of the new rules), the implementation of the new regulations was considered to be generally successful and did not create any major problems. Various sectors were found to have been affected in a different way by the new regulations (especially on applicable legislation and family benefits) and further interpretative tools were requested to complement some provisions. Most changes introduced by the new regulations were considered positively by the national institutions.²⁶

In response to concerns about the consequences of the interface between Regulation 883/2004 and Directive 2004/38 - namely 'welfare tourism' that could undermine the sustainability of Member States' social security schemes - a special [Study on the impact of non-active EU mobile citizens on social security](#) was presented in December 2013. It provided quantitative and qualitative evidence to assess the nature and scale of the problem, especially with regard to the special non-contributory cash benefits and healthcare. The analysis confirmed, among other findings, that migrants are less likely than other citizens to receive disability benefits but more likely to receive unemployment benefits.

In a separate research note (published in December 2013 and revised in February 2014) on [Access of mobile EU citizens to social protection](#), it was shown that for most benefits (unemployment, education, social exclusion), the differences between home-based and mobile EU citizens are small and statistically insignificant in most of the countries. Higher benefit receipt among European citizens was found in the case of housing benefit in a few countries, but being a mobile citizen in most of them seems to be associated with a lower probability of receiving family and child-related benefits.

In the trESS network's (see point 6 below) [European report 2013](#), also published in December 2013, various challenges faced at national level were identified, indicating possible modifications to the current regulatory framework, also in the view of most recent, significant cases of the Court of Justice²⁷. Its authors openly admit that 'some of these developments will require brave decisions about rather fundamental changes' in the rules and principles of the two Regulations.

In a paper by the Migration Policy Institute Europe titled '[Reaping the benefits? Social security coordination for mobile EU citizens](#)', its author argues that while the EU rules were intended to enable people to move within Europe without losing their benefits, coordinating diverse national models into a single set proved to be difficult. The expert considered that current rules on residence-based benefits are not well understood or appreciated, and that their 'implementation has been patchy'.

The trESS Analytical Study 2013 on [Impact assessment of the revision of selected provisions of Regulations 883/2004 and 987/2009](#) provides analysis of four potential amendments - to Articles 13 and 32 of the basic Regulation and Articles 65(1) and 87(6) of the implementing Regulation - based on mapping of their specific impact in the different Member States. The report indicates legal, administrative and practical challenges related to the analysed proposals.

[Key challenges for the social security coordination: Regulations in the perspective of 2020](#), **trESS, Think Tank report 2013** - This report identifies key challenges for the coordination Regulations, their impact on the principles, and proposes broad solutions on how the existing rules could be best adapted in order to respond to the objectives of the Treaty. It takes into account developments generating such challenges as: new types of benefits, increased mobility, flexicurity, ageing society, and the development of the internal market. On the basis of this report, the Administrative Commission established a 'reflection forum' to allow for further discussion and brainstorming on the most vital topics and challenges for social security.

²⁵ <http://ec.europa.eu/social/main.jsp?catId=866&langId=en&eventsId=333&furtherEvents=yes>

²⁶ The details are available in: [Modernised EU social security coordination: Follow-up report on the implementation of Regulations \(EC\) No 883/2004 and \(EC\) No 987/2009](#), April 2011.

²⁷ Nota bene: In a [Dano judgement](#) delivered on 11 November 2014 in Case C-333/13, the Court of Justice clearly allowed a Member State to exclude an EU citizen from social benefits if that person is solely present on its territory to take advantage of that country's social security system.

3. Specific provisions

A) General principles

The basic Regulation 883/2004 sets out such principles as:

- **equality of treatment** (Article 4), by which nationals of a Member State, and persons residing in that country without being nationals of it, are equal in terms of the rights and obligations provided for by the national legislation;
- **equal treatment of benefits, income, facts or events** (Article 5) in respect of their legal effects; and
- **aggregation of periods** (Article 6), pursuant to which periods of insurance, employment or residence in one Member State are taken into account in all the other EU countries.

While Article 11 spells out the general rules to determine which legislation should apply (the Member State of employment or residence, with notable exceptions provided inter alia for civil servants and ship/plane personnel), special solutions regarding social security are provided for posted workers (Article 12; with a 24-month limit to apply the law of the posting Member State) and those working in two or more Member States (Article 13; with a preference for the Member State of residence).

In view of various interpretations of these provisions (including Articles 14 and 16 of the implementing Regulation 987/2009), especially possible for terms such as '*normally* pursues an activity' and '*a substantial part of activity*', the Administrative Commission adopted in June 2009 a [Decision A2](#)²⁸ on the interpretation of Article 12 of the basic Regulation, and the European Commission followed it with a [Practical guide](#)²⁹ which dealt with both the posting of workers and those pursuing activity in more than one Member State. Early information about the implementation of these provisions indicated a need for appropriate verification of applications by the posting Member State, taking the circumstances of each case under consideration, and the attractiveness of using the option of exception agreements permitted on the basis of Article 16 of the basic Regulation. Some difficulties with the concept of residence and the determination of the country of residence were addressed by the updated Practical guide mentioned above.

B) Special provisions on specific benefits

- **Sickness, maternity and paternity - benefits in kind and in cash**

In accordance with basic Regulation's Chapter 1 of Title III, insured persons residing in another Member State than the competent one are entitled to receive benefits in kind in the country of residence on behalf of the competent State. As regards frontier workers, they are covered by social security of the country in which they work while residing in another Member State, and have access to health care in both. When travelling abroad with a purpose of receiving benefits in kind (planned care) an insured person has to obtain authorisation and full costs of treatment are covered by the competent State³⁰. When on holidays, the possibility to receive necessary care is ensured, with the legislation of the Member State of stay determining the conditions for its award, and the costs reimbursed by the social security of the country of origin³¹. The basic Regulation also provides for the specific rules for pensioners residing outside of their competent Member State and for retired frontier workers as well as for members of families of these two categories. Concerning family members of the retired frontier workers³², the Regulation includes some entitlements (partially depending on Member States' opt-in) even if they reside in a country other than that of the retired worker. The adequate procedural requirements for competent authorities are set by the implementing

²⁸ OJ C 106, 24.4.2010, p. 5

²⁹ First published in 2011 under the title 'The legislation that applies to workers', updated in November 2012 and then December 2013, as already mentioned earlier.

³⁰ The application of Article 20 of the basic Regulation and Article 26 of the implementing Regulation raised concerns of some Member States, especially with regard to the automatic authorisation in case the request is not answered negatively within the given deadline (set by national legislation, not at the EU level).

³¹ This right is certified by the [European Health Insurance card](#), which every insured person may request from a social security body.

³² Nota bene: revision of the related Annex III is one of the formal reasons for the expected Commission package (*see above*)

Regulation (Chapter I of Title III). Adequate provisions provide also rules for entitlement and calculation of sickness, maternity and paternity benefits in cash.

In respect of the provision of information, which is crucial for the workers' and citizens' use of the EU law in that area, each Member State was free to choose the appropriate means (such as direct communication, leaflets, publicity, etc.). Although access to information is generally considered to be good, it requires constant efforts, in particular in view of the dual EU legal framework in this area³³.

- **Benefits for accidents at work and occupational diseases**

An increased coverage is provided for persons subject to those situations (accident/disease), with the benefits provided by the institution of the place of stay or residence in accordance with that Member State's legislation. The country of residence bears the costs of transporting that person back, following an agreement on its form (except in the case of frontier workers). Relevant provisions of the implementing Regulation complete the basic Regulation with procedures for the exchange of information and in case of disputes. A specific problem with the application of Article 39 of the basic Regulation (on the aggravation of occupational diseases) was identified because of little practical experience of Member States³⁴.

- **Death grants**

The relatively uncomplicated rule (Article 43 of the basic Regulation) is that when an insured person or member of his/her family dies in a Member State other than the competent one, death is deemed to have occurred in the former. Article 42 of the implementing Regulation allows the claim to be sent to adequate institutions in either country, with a necessary transmission following via official channels. No specific problem with the implementation of these provisions was identified so far.

- **Invalidity benefits, old age and survivors' pensions**

The general rule on old-age pensions is that they are paid by each country in which a person has been insured when reaching the age of retirement. With regard to invalidity, a distinction is made between benefits calculated based on the periods of insurance completed (type B legislation) and benefits awarded independently of the duration of these periods (type A legislation, listed in Annex VI to the basic Regulation). Special provisions regulate issues such as the overlapping of benefits and their award and calculation. The implementing Regulation (Chapter IV of Title III) completed these rules inter alia with provisions concerning the calculation of child-raising periods and determination of the degree of invalidity.

- **Pre-retirement**

As a rule, beneficiaries of statutory pre-retirement schemes may receive their benefits in another Member State, but since such schemes exist only in few countries, Article 66 of the basic Regulation excludes the application of its Article 6 (on aggregation of periods) in this case.

- **Family benefits**

In accordance the basic Regulation (Article 67), a person is entitled to family benefits in the competent Member State, including for members of his/her family residing in another Member State, as if they were residing in the former Member State. In the case of overlapping benefits, family benefits are provided in line with the priority rules set out in Article 68 (and Article 58 of the implementing Regulation). Diversity persists between Member States with regard to the calculation methods for the differential supplement (per child or per family) but the tendency seems to be to change national legislation towards the 'per child' principle.

It is worth noting that an additional Article 68a was inserted in 2009 (via [Regulation 988/2009](#)³⁵), stating that 'in the event that family benefits are not used by the person to whom they should be provided for the

³³ With [Directive 2011/24](#) on the application of patients' rights in cross-border healthcare setting out alternative rights of patients in access to healthcare in another Member State than the State of residence.

³⁴ "It remains somewhat unclear what the institutions actually do." - [Follow-up report on the implementation of Regulations](#), page 31

³⁵ OJ L 284, 30.10.2009, p. 43

maintenance of the members of the family, the competent institution shall discharge its legal obligations by providing those benefits to the natural or legal person in fact maintaining the members of the family, at the request and through the agency of the institution in their Member State of residence [...].

- **Special non-contributory cash benefits**

Special benefits such as social pensions, disability allowances and certain job-seekers allowances are often paid to persons in need of assistance even if they never contributed to the relevant social security systems. Contrary to the general rules mentioned above, these benefits are not exportable if they fulfil certain criteria, specified in Article 70 of the basic Regulation (including being listed in its Annex X). Such a decision confirmed the Court of Justice's jurisprudence³⁶ which included them in the scope of the previous coordination rules, and solved the problem whether they should be subject to transfer to another state.

- **Unemployment benefits**

As a rule, the competent institution of a Member State must take into account the periods of insurance, employment or self-employment completed under the legislation of any other country as though they were completed under the legislation it applies (Article 61 of the basic Regulation). Its application proved to be quite problematic, with 'remarkable divergences in Member States' interpretations³⁷. A proposal for a more uniform application of the aggregation principle is among the major elements expected from the new package of the European Commission.

An unemployed person may also move to another Member State in order to seek work while retaining entitlement to benefits for three months and the competent institution may extend this period up to a maximum of six months (Article 64 of the basic Regulation & Article 55 of the implementing Regulation).

As for Article 65a (introduced by [Regulation 465/2012](#)³⁸) on special provisions for wholly unemployed (and previously self-employed) frontier workers where no adequate unemployment benefits exist in the Member State of residence, it is considered to be an important precedent that could lead to a broader re-thinking of the coordination rules, namely towards the Member State of a person's last activity becoming the competent State (with the unemployed currently being entitled to make a choice between that state and the state of residence), but a number of challenges were already identified by the experts³⁹. One of them is related to the aspect of availability, as formulated by the Court of Justice: 'That benefit is not merely pecuniary, but includes the assistance in finding new employment which the employment services provide for workers who have made themselves available to them'.⁴⁰

Another complementary idea which has recently been added to the debate, is the common unemployment insurance scheme for the euro area, subject inter alia to a special [Cost of Non-Europe report](#)⁴¹ prepared on Parliament's request, proposed as a 'shock absorber' to overcome coordination failures and individual Member States' budget constraints.

- **Long-term care benefits (LTC)**

These benefits fall within the material scope of the basic Regulation without being defined and listed in the exhaustive list of the social security branches, and are coordinated under the regime designed for sickness benefits according to the interpretation by the Court of Justice⁴². It is widely expected that any revision of the EU law will be an opportunity for their explicit inclusion in the coordination rules, but it might be

³⁶ Considering the coordination rules as an elaboration of the right of free movement and non-discrimination; see for example *Hendrix* judgment, Case C-287/05, ECR I-6909 (2007).

³⁷ See [Coordination of unemployment benefits – features and challenges](#), trESS Think Tank Report 2012, p. 16

³⁸ See footnote 4.

³⁹ See [Coordination of unemployment benefits – features and challenges](#), trESS Think Tank Report 2012, p. 22

⁴⁰ *Miethe*, C-1/85 [1986] ECR 1837, paragraph 16.

⁴¹ <http://epthinktank.eu/2014/10/10/common-unemployment-insurance-scheme-for-the-euro-area-cost-of-non-europe-report/>

⁴² Cases C-160/95 Molenaar, C-215/99 Jauch, C-299/05 Commission vs. European Parliament and Council.

problematic because the LTC benefits do not fit in the classical policy on social risks (they were considered as special non-contributory benefits in the past) and because there is no legal definition of them.

The trESS network's Analytical Study 2012 ([Legal impact assessment for the revision of Regulation 883/2004 with regard to the coordination of long-term care benefits](#)) aimed at developing a common understanding on a definition of long-term care benefits, based on an extensive mapping of the national schemes which showed that several Member States have benefits that contain some elements of long-term care and that could be described as LTC benefits. It analysed a number of options for changes to present coordination, albeit with a disclaimer that any future amendments to present Regulations would have to be accompanied by a proper impact assessment.

An earlier trESS Think Tank Report 2011 ([Coordination of long-term care benefits, current situation and prospects](#)) provided the basic description of the national schemes on providing long term care, trying to formulate common criteria and describing challenges linked to the application of the existing EU rules, as well as proposing some practical solutions for coordination of LTC.

C) Provisions on administrative mechanisms

The basic Regulation established an Administrative Commission on coordination of social security systems, consisting of one government representative from each Member State, charged in particular with dealing with all administrative questions or questions of interpretation⁴³, and with promoting further cooperation between the Member States, as well as a Technical Commission with specific responsibilities in the field of data-processing. In addition, an Advisory Committee for the Coordination of Social Security Systems was created, comprising representatives of governments, trade unions and employers' organisations. A separate Audit Board establishes the average costs for reimbursement of healthcare costs in Member States.

The modernised EU social security coordination rules reinforced the principle of good administration, with the institutions obliged to respond to all queries within a reasonable period of time and to provide the persons concerned with any information required for exercising the rights conferred on them by the basic Regulation 883/2004. In the event of difficulties in the interpretation or application of the rules, the institutions involved must contact each another in order to find an appropriate solution.

A large part of the implementing Regulation 987/2009 established procedures for exchanging information between the competent authorities, solving disputes and reimbursing benefits granted in the application of the basic Regulation. A few specific provisions (mentioned in the table in the beginning of this Briefing) envisaged a review of their effectiveness and efficiency after a couple of years.

In its [Communication](#) in November 2013⁴⁴, the European Commission additionally supported Member States in their efforts to combat fraud⁴⁵ and error⁴⁶ in the field of social security, referring to the system improving cooperation in the framework of the Administrative Commission and containing a network of Contact Points to improve coordination, inter alia by providing annual reports on the problems mentioned above.

4. European Parliament position / MEP oral and written questions

Non-legislative resolutions

[Resolution of 14 January 2014 on social protection for all, including self-employed workers](#) - TA(2014)0014, 2013/2111(INI)

[Resolution of 16 January 2014 on respect for the fundamental right of free movement in the EU](#) - TA(2014)0037, 2013/2960(RSP)

⁴³ See its decisions and recommendations listed in <http://ec.europa.eu/social/BlobServlet?docId=4987&langId=en>

⁴⁴ See footnote 22

⁴⁵ Part A, Section 2(a) of the Council Resolution of 22 April 1999; OJ C 125, 6.5.1999, p. 1.

⁴⁶ Decision No H5 of the Administrative Commission for the coordination of social security systems of 18 March 2010 concerning cooperation on combating fraud and error; OJ L 149, 8.6.2010, p. 5.

[Resolution of 9 September 2010 on long-term care for older people](#) - TA(2010)0313, 2010/2759(RSP)

Parliamentary questions

Question for a written answer of 15 April 2014 - [Problem affecting Italian workers who have emigrated to another Member State](#)

Question for a written answer of 31 October 2011 - [Habitual residence test](#)

Question for a written answer of 25 August 2011 - [Free movement of workers, coordination of social security systems and measures for migrants, including migrants from third countries](#)

Petitions

The Committee on Petitions regularly receives petitions that reveal problems in the area of accessing social security benefits, mainly involving a lack of cooperation on the part of national authorities, incorrect application of the principle of aggregation of benefits payable in several Member States, and failure to provide correct information on the applicable rules. For one of the most recent examples, please see [Petition 0674/2013 on discrimination against frontier workers in Luxembourg](#) (in response to which the European Commission also referred to its intention to propose the revision of Regulation 883/2004).

5. Positions of European Economic and Social Committee (EESC)

[EESC opinion of 25 March 2009 on the Identification of outstanding barriers to mobility in the internal labour market](#)⁴⁷, CESE 629/2009 - SOC/324 (Exploratory Opinion)

[EESC opinion of 14 November 2012 on the External Dimension of EU Social Security Coordination](#)⁴⁸, CASE 930/2012 - REX/363 (Referral)

The EESC supports the efforts to enhance the coordination of social security at Community level, and called for the implementing regulation for Regulation No 883/2004 to enter into force as soon as possible. It also underlined the need to focus on how the latter ties in with other pertinent legislation and the relevant decisions of the Court of Justice with a view to ensuring greater transparency, legal security and compliance with the principle of equality in the Member States. In the second opinion, the EESC supported the external dimension of coordination rules and efforts to ensure complementarity between national and EU approaches in order to avoid imbalances, loopholes and vacuums.

6. EC stakeholder consultations

From 2004 to 2013, the European Commission financed a network of independent experts on European social security, called [trESS \(training and reporting on European Social Security\)](#). Coordinated by Ghent University, trESS organised specialised seminars and established networks between various actors involved in application of social security coordination rules at the national level. It also reported to the European Commission on implementation problems encountered in the EU countries⁴⁹. From 2014, trESS was replaced by [FreSsco \(Free movement of workers and Social security coordination\)](#), which is still a network funded by the European Commission and covers the 28 EU countries as well as Iceland, Liechtenstein, Norway and Switzerland.

The specific consultation on the [revision of the EU provisions on coordination of long-term care benefits and unemployment benefits \(Regulation \(EC\) No 883/2004\)](#) was closed on 5 March 2013, but its results were not made public.

⁴⁷ OJ C 228/14, 22.9.2009, p. 14.

⁴⁸ It was followed by a [conference](#) organised with the European Commission, on 14 March 2013.

⁴⁹ A special reflection group within trESS, called Think Tank, was set up in order to undertake legal research of strategic questions of social security coordination with a long-term perspective.

7. Other documents for reference

[Making the Most of EU Labour Mobility](#), CEPS, October 2014 - The special Task Force report combines the most recent data from Eurostat with national sources to highlight the most significant trends within the EU. The report's authors underline that workers who are willing and able to move around the EU should not be discouraged from doing so by unnecessary barriers to mobility. They conclude that "if the political imperative requires regulations to be changed, such as the one guiding the coordination of social security, it is essential that no new mobility barriers are put in place."

[Freedom of movement and residence of EU citizens: Access to social benefits](#), In-Depth Analysis, European Parliamentary Research Service, June 2014 - This paper provides an overview of the residence and benefits rights of EU citizens in a Member State other than their own, examining criticisms of the current arrangements. It also provides statistical information on intra-EU immigration and access to benefits, as well as on the macro- and microeconomic impact of free movement within the EU.

[Civis Europeus sum? Social assistance and the right to reside in EU law](#), Article by Mel Cousins in *Journal of Social Security Law* 2/2014 - The article examines the current status of EU law as regards making a right to social assistance dependent on having a legal right to reside in the host Member State. It looks in particular at the decision of the Court of Justice in Case C-140/12 (*Brey*) and argues that this ruling did not really help to clarify the legal position⁵⁰, although it was correct to rule that the concepts of social assistance in the Regulation 883/2004 and Directive 2004/38 were not the same.

[Coordination of Social Security within the EU context](#) by Frans Pennings in *Social Security and Migrant Workers*, Kluwer Law International, 2014, p. 117-132 - This article presents how EU social security coordination rules contributed to the free movement of workers, and how the application of those rules was later extended. It also points out how the non-discrimination rule for benefits outside the coordination regulations works differently for EU citizens and third-country persons, and between those economically active and others, with the principal need for objective justification both under EU law and the case law of the European Court of Human Rights.

[Social Benefits and Migration: A Contested Relationship and Policy Challenge in the EU](#), CEPS, September 2013 - The essays in this book analyse controversies affecting different categories of non-citizens in the framework of EU law and policy, examines the use of data, information and social science in the debates concerning the reliance by those persons on social benefits, and presents a set of recommendations addressed to EU policy-makers (including the need for more research and better statistics at all levels).

8. Conclusion

The complex system of EU rules on social security coordination has a long history of contributing to the labour mobility in Europe and requires intensive cooperation between the Member States' authorities. Numerous provisions are subject to problems in implementation, or rather their application in specific cases continues to raise controversies. The opportunity of proposing a legislative revision within a broader package on citizens' and workers' rights would provide the occasion for improvements to the rules.

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Manuscript completed in January 2015. Brussels © European Union, 2015.

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⁵⁰ See also [Free Movement or Benefit Tourism: The Unreasonable Burden of Brey](#), Verschueren H., *European Journal Of Migration & Law*, April 2014.

