
















# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) <a href="#">2016/0397(COD)</a> Regulation</p>	<p>Awaiting Parliament 1st reading / single reading / budget 1st stage</p> <p>11/12/2018 Decision to enter into interinstitutional negotiations confirmed by plenary (Rule 69c)</p>
<p>Coordination of social security systems: benefits</p> <p>Amending Regulation (EC) No 883/2004 <a href="#">1998/0360(COD)</a> Amending Regulation (EC) No 987/2009 <a href="#">2006/0006(COD)</a></p> <p>Subject 4.10.10 Social protection, social security</p> <p>Legislative priorities <a href="#">Joint Declaration 2017</a> <a href="#">Joint Declaration 2018</a></p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 <a href="#">Employment and Social Affairs</a>	 <a href="#">BALAS Guillaume</a>	14/03/2017
		Shadow rapporteur	
		 <a href="#">SCHULZE Sven</a>	
		 <a href="#">STEVENS Helga</a>	
		 <a href="#">HARKIN Marian</a>	
		 <a href="#">ZIMMER Gabriele</a>	
		 <a href="#">LAMBERT Jean</a>	
		 <a href="#">AGEA Laura</a>	
		 <a href="#">MÉLIN Joëlle</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	 <a href="#">Budgets</a>	The committee decided not to give an opinion.	
	 <a href="#">Civil Liberties, Justice and Home Affairs</a>	The committee decided not to give an opinion.	
	 <a href="#">Women's Rights and Gender Equality</a>	The committee decided not to give an opinion.	
	 <a href="#">Petitions</a>		10/02/2017
		 <a href="#">CABEZÓN RUIZ Soledad</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Employment, Social Policy, Health and Consumer Affairs3625</a>		21/06/2018

European Commission	<a href="#">Employment, Social Policy, Health and Consumer Affairs3583</a>	08/12/2017
	<a href="#">Employment, Social Policy, Health and Consumer Affairs3569</a>	23/10/2017
	<a href="#">Employment, Social Policy, Health and Consumer Affairs3548</a>	15/06/2017
	<a href="#">Employment, Social Policy, Health and Consumer Affairs3523</a>	03/03/2017
	Commission DG	Commissioner
	<a href="#">Employment, Social Affairs and Inclusion</a>	KING Julian

Key events			
13/12/2016	Legislative proposal published	<a href="#">COM(2016)0815</a>	Summary
19/01/2017	Committee referral announced in Parliament, 1st reading/single reading		
03/03/2017	Debate in Council	<a href="#">3523</a>	
15/06/2017	Debate in Council	<a href="#">3548</a>	
20/11/2018	Vote in committee, 1st reading/single reading		
20/11/2018	Committee decision to open interinstitutional negotiations with report adopted in committee		
23/11/2018	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A8-0386/2018</a>	Summary
17/04/2019	Debate in Parliament		

Technical information	
Procedure reference	2016/0397(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EC) No 883/2004 <a href="#">1998/0360(COD)</a> Amending Regulation (EC) No 987/2009 <a href="#">2006/0006(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 048
Stage reached in procedure	Awaiting Parliament 1st reading / single reading / budget 1st stage
Committee dossier	EMPL/8/08764

Documentation gateway					
Legislative proposal		<a href="#">COM(2016)0815</a>	13/12/2016	EC	Summary
Document attached to the procedure		SWD(2016)0460	14/12/2016	EC	
Document attached to the procedure		SWD(2016)0461	14/12/2016	EC	
Reasoned opinion	FR_SENATE	PE601.141	20/03/2017	NP	
Economic and Social Committee: opinion, report		<a href="#">CES1461/2017</a>	05/07/2017	ESC	
Committee draft report		<a href="#">PE612.058</a>	20/11/2017	EP	

Amendments tabled in committee		<a href="#">PE616.559</a>	23/01/2018	EP	
Amendments tabled in committee		<a href="#">PE616.618</a>	23/01/2018	EP	
Amendments tabled in committee		<a href="#">PE616.619</a>	23/01/2018	EP	
Committee opinion	PETI	<a href="#">PE616.648</a>	30/04/2018	EP	
Amendments tabled in committee		<a href="#">PE619.167</a>	19/11/2018	EP	
Committee report tabled for plenary, 1st reading/single reading		<a href="#">A8-0386/2018</a>	23/11/2018	EP	Summary

### Additional information

Research document

[Briefing](#)

## 2016/0397(COD) - 13/12/2016 Legislative proposal

**PURPOSE:** to bring up to date the Union rules on coordination of social security.

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides, in accordance with the ordinary legislative procedure and on an equal footing with Council.

**BACKGROUND:** the Commission recalls that the right of EU citizens and their families to move freely and reside in any EU country is one of the four fundamental freedoms enshrined in the EU Treaties.

Free movement of persons would not be possible unless the social security rights of mobile

Europeans and their family members were protected. In all, it is estimated that:

- 3.7 million of Europeans are economically inactive mobile citizens;
- nearly 80 000 mobile citizens are entitled to long-term care benefits, totalling EUR 793 million (0.4% of the total EU expenditure on long-term care benefits);
- some 27 300 persons within the EU export their unemployment benefit to another Member State;
- there are 91 700 unemployed cross-border workers per year, 53 500 of whom are frontier workers.

This initiative is part of the European Commission's labour mobility package of 2016. Its objective is to continue the process of modernisation of the EU law on social security coordination set out in Regulations ([EC](#)) No 883/2004 and [No 987/2009](#), by further facilitating the exercise of citizens' rights while ensuring legal clarity, a fair and equitable distribution of the financial burden among the Member States and administrative simplicity and enforceability of the rules.

**IMPACT ASSESSMENT :** the Commissions preferred options include the following:

- to amend the current equal treatment provisions with regard to the access of economically inactive citizens to social benefits;
- the establishment of a coherent regime for long-term care benefits;
- new arrangements for the coordination of unemployment benefits in cross-border cases (aggregation of periods of insurance; the export of unemployment benefits; paying unemployment benefits to frontier workers);
- the coordination of family benefits intended to replace income during child-raising periods.

**CONTENT:** the proposal focuses on four areas of coordination where improvements are required: (i) economically inactive citizens' access to social benefits, (ii) long-term care benefits, (iii) unemployment benefits and (iv) family benefits. Each Member State is free to determine the features of its own social security system - which benefits are provided, the conditions for eligibility, how these benefits are calculated and what contributions should be paid, and for all social security branches (old age, unemployment and family benefits), provided that such national provisions respect the principles of EU law in particular concerning equal treatment and non-discrimination.

Access to social benefits claimed by economically inactive EU mobile citizens: further to recent case-law of the Court of Justice of the European Union, the proposal specifies 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.

The proposal clearly distinguishes an economically inactive citizen from a jobseeker whose right of residence is conferred directly by Article 45 of the Treaty on the Functioning of the European Union.

**Long-term care benefits:** the proposed revision aims to establish a coherent regime for the coordination of long-term care benefits (currently dealt with under the sickness chapter) by introducing a separate Chapter for their coordination in Regulation (EC) No 883/2004, by including a definition and providing for a list of those benefits.

**Unemployment benefits:** the proposal sets out new arrangements for the coordination of unemployment benefits in cross-border cases. The proposal:

- requires a minimum qualifying period of three months insurance in the Member State of most recent activity before a right to aggregate past periods of insurance arises (while requiring the Member State of previous activity to provide benefits when this

- condition is not fulfilled);
- extends the minimum period for an export of unemployment benefits from three to six months while providing for the possibility of exporting the benefit for the whole period of entitlement. The aim is 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;
- makes the Member State of most recent employment responsible for the payment of unemployment benefits when the frontier worker has worked there for at least 12 months and otherwise attributing the responsibility to the Member State of residence.

Child benefits: the proposal aims to change the current coordination provisions so that child-raising allowances are considered individual and personal rights and to permit an optional right for the secondary competent Member State to pay the benefit in full.

Posted workers: the proposal clarifies the rules on applicable legislation and the relationship between the Regulations on coordination and [Directive 96/71/EC](#) of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services. It strengthens the administrative rules on social security coordination in the fields of information exchange and verification of the social security status of such workers in order to prevent potentially unfair practices or abuse.

Technical amendments: the proposed amendments concern: (i) the prioritisation of derived rights to sickness benefits; (ii) the reimbursement of costs for medical examination; (iii) the calculation of the annual average costs in the field of sickness benefits; and (iv) the introduction of measures to facilitate identification of fraud or error in the application of the Regulations, including the introduction of a permissive ground for Member States to periodically exchange personal data.

Furthermore, the procedures for recovery of unduly paid social security benefits have been revised to align them with the equivalent procedures in Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

## 2016/0397(COD) - 23/11/2018 Committee report tabled for plenary, 1st reading/single reading

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The Committee on Employment and Social Affairs adopted the report by Guillaume BALAS (S&D, FR) 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.

The report highlighted that there is a need to ensure the portability of social security benefits (e.g. state pensions, health insurance, unemployment benefits and family benefits) and consequently reduce barriers to labour mobility in the Union.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission's proposal as follows.

Exportability of benefits: Members agreed that an insured person may retain unemployment benefits for six months after leaving a Member State and this Member State would be able to prolong the period until the benefit expires.

Uniform rules for aggregation of periods: insurance periods completed elsewhere should accumulate. Aggregation would kick in after a worker is insured in a new Member State for at least one day.

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

The Member State of last employment will be required to pay unemployment benefits if the cross-border worker worked there for at least 12 months. Under the current rules, the Member State of residence is competent, even though cross-border workers pay social security contributions in the country of activity.

It is also important to strengthen cooperation between national competent authorities and to clarify the regulatory framework applicable in order to ensure that the Member State of last activity, the Member States of previous activities and the Member State of residence do not each declare themselves not to be competent to pay benefits, to the detriment of insured persons.

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

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

- the anticipated or actual duration of such work does not exceed 18 months;
- the person concerned is subject to the legislation of the Member State where the employer is established for a period of at least three months immediately preceding the start of the work as an employed person;
- the competent institution of the Member State where the employer is established has been notified about the sending and received at request prior to the commencement of the work for the continued application of its legislation, prior to the performance of the work. No such formal request need to be made where the work concerns a business trip.

Long-term care: the amended report stipulated that in the field of sickness, long-term care, maternity and equivalent paternity benefits, insured persons, as well as the members of their families, living or staying in a Member State other than the competent Member State, should be afforded protection.

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

Family benefits: Members agreed that family benefits in cash, which are primarily intended to replace income when a person has given up work to raise a child, should be distinguished from other family benefits, so that they count as a personal benefit for the parent concerned in a competent Member State. In cases where family benefits in a place of residence and in a place of insurance overlap, Member States would be able to allow such personal benefits to be kept.

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

Reporters of European media organisations posted to another Member State: reporters of European media organisations posted to another Member State may choose between application of the legislation of the Member State in which they are employed, of the Member State of which they are nationals or of the Member State in which their principal employer is based.

Portable documents: the report also supported the Commission in its intention to standardise the issuance procedures, format and content of portable documents certifying membership of a social security scheme and to specify the situations in which such a document is issued and the procedures for its withdrawal when its accuracy and validity is contested by the institution of the Member State of employment.