



# Revision of the Social Security Coordination Rules

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**DG Employment, Social Affairs, Skills and Inclusion**

**Social Dialogue Committee – Cleaning Industry – 27 March 2017**

# Jean-Claude Juncker, President of the European Commission

***Free Movement of Workers: one of the key pillars of the internal market***

***Right of national authorities to fight abuse of fraudulent claims***

***Free movement is an economic opportunity and not a threat (vacancies and skill matching)***



*Political Guidelines for the new Commission (15 July 2014)*

## **Marianne Thyssen, Commissioner for Employment, Social Affairs, Skills and Labour Mobility**

*"My policy action will be focused on four priorities: boosting jobs, fairness, skills and mobility. I will seek to pursue concrete actions that deliver for citizens in those areas."*



# Labour Mobility Package 2016

## *A Balanced Approach*

*Lifting remaining obstacles to free movement of workers and promoting labour mobility, especially in fields with large skill mismatches or unfilled vacancies*

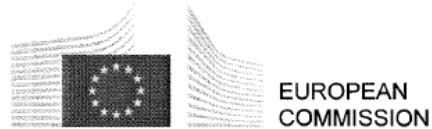
*Improving Member States' capacity to prevent and fight social dumping, frauds and abuse, as regards, in particular, the posting of workers and the access to welfare benefits.*

# Revision of the Regulations on the Coordination of Social Security Systems

Main areas:

- Equal treatment and access to tax-financed social benefits
- Coordination of long-term care benefits
- Coordination of unemployment benefits (aggregation, export, cross-border workers)
- Family benefits (intended to replace income)
- Posting provisions (exception to lex loci laboris principle)
- Technical Amendments





Strasbourg, 13.12.2016  
COM(2016) 815 final

2016/0397 (COD)

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**

**(Text with relevance for the EEA and Switzerland)**

{SWD(2016) 460 final}  
{SWD(2016) 461 final}

## **Prohibition of direct and indirect discrimination – Article 4**

- **Equal treatment in matters of social security not only requires abolishing all discrimination or distinction based on nationality,**
- **but also all covert forms of discrimination which, through the application of other distinguishing criteria, lead in fact to the same result because they affect essentially migrant workers.**

## **Equal access to tax-financed social benefits– Article 4(2)**

- **Jurisprudence of the CJEU in cases :**
  - **Brey C-140/12**
  - **Dano C-333/13**
  - **Alimanovic C-67/14**
  - **Garcia Nieto C-299/14**
  - **Commission vs. UK C-308/14**
- **A Member State may require that the access of economically inactive persons residing in the 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 (i.e. sufficient means and comprehensive sickness insurance).**



## Long-term care benefits

- **Currently treated as sickness benefits (CJEU case C-160/96 - Molenaar)**
  
- **Proposal:**
  - **Definition: Article 1 (vb)**
  - **Separate Chapter 1a: (Article 35a – 35c)**

# Unemployment Benefits (Aggregation)

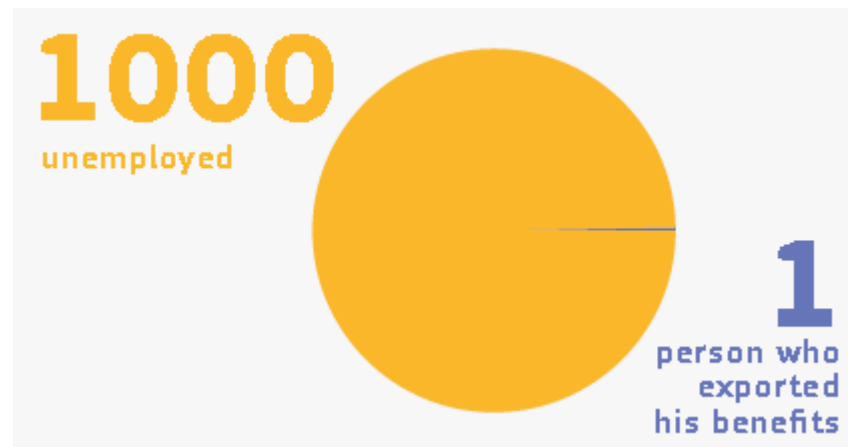
- **Aggregation of insurance periods  
(Article 61+64a)**
  - **Correction of CJEU ruling in case 388/87,  
*Warmerdam-Steggerda***
  - **Only after completion of a period of  
insurance of at least 3 months**
- **Otherwise, the former State of employment  
has to export the benefit.**

# Unemployment Benefits (Export)

- **Export for at least six months instead of three (Article 64)**
- **Monthly information (Article 55 Abs. 4 Regulation (EC) No. 987/2009)**

## Export of Unemployment Benefits

In 2013/2014, 27 000 unemployed persons had their unemployment benefits exported to another Member State. This corresponds to 0.1% of all unemployed persons.



# Unemployment Benefits (frontier workers)

- **Revision of rules for frontier workers (Article 65)**
  - **No differentiation between frontier workers and other cross-border workers**
  - **In principle, the last MS of employment shall become competent unless the person concerned has most recently completed periods of insurance therein for less than 12 months** → **competence of MS of residence.**
  - **Right of choice as regards registration**
  - **No reimbursement of costs between institutions**

# Family Benefits

- **No indexation**
- **Special rules for child-raising allowances intended to replace income during parental leave (Article 68b and Annex XIII)**

# Posting of Workers

**The EU provisions on the coordination of social security systems and the provisions of the Posting of Workers Directive 96/91/EC deal with the situation of "posting" from different perspectives.**

"The posting provisions of Reg 883/2004 comprise any temporary employment in another Member State for a maximum of two years irrespective of whether a service is provided for an undertaking in the Member State of employment or not."

# Posting of Workers

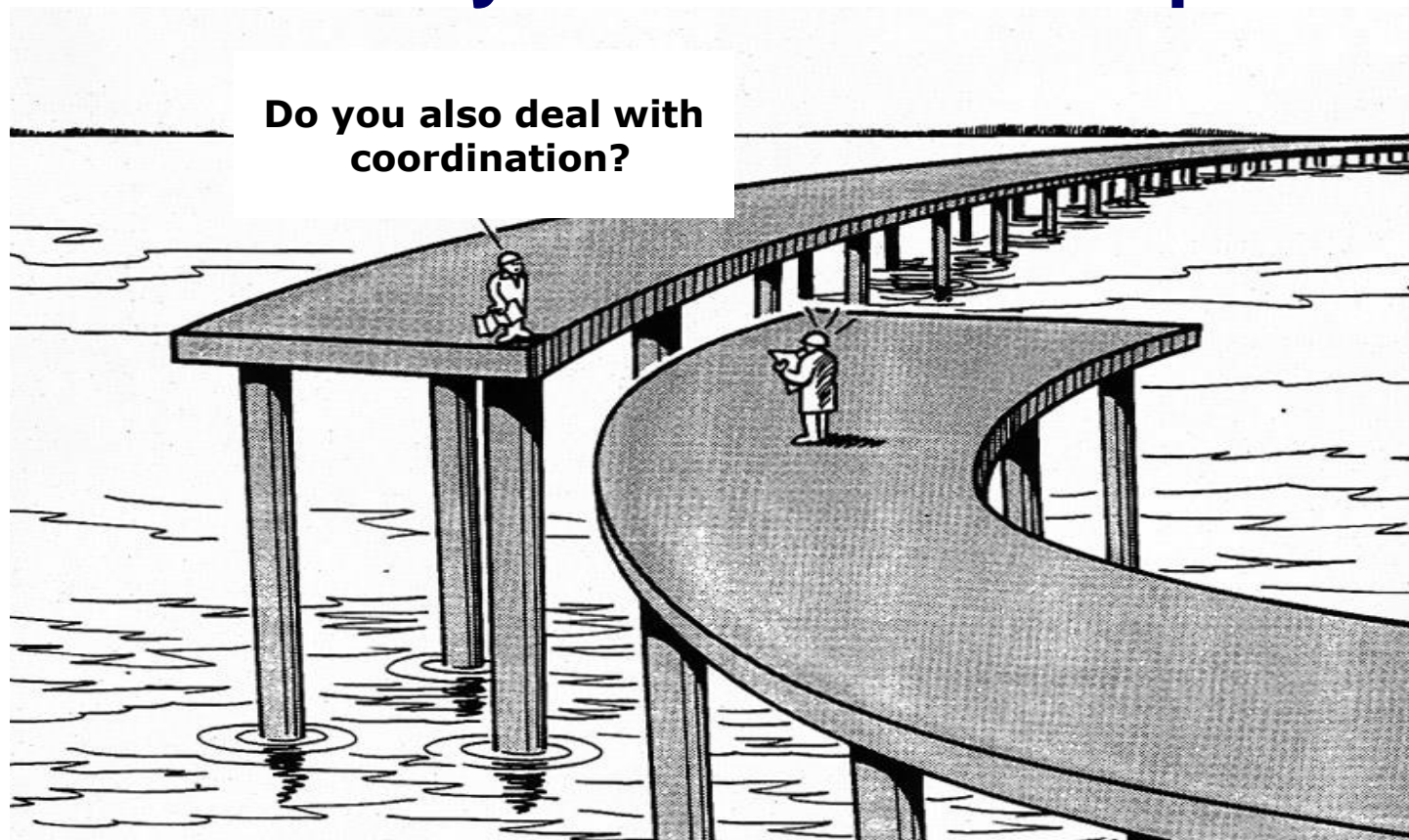
- **Definitions (Replacement ban, relationship to PWD Directive 96/71 – Article 12 Reg. 883/2004)**
- **Power to adopt implementing acts (Article 76a Reg. 883/2004)**
- **Retroactive withdrawal of PD A1 in case of fraud (Article 5 Reg. 987/2009)**
- **Improved data exchange (Article 19(4) and (5) of Reg. 987/2009)**
- **Settlement of claims and debts in case of retroactive change of legislation (Article 73 Reg. 987/2009)**



## Technical Amendments

- **Priority provisions for derived rights to sickness "family" insurance (Article 32(3))**
- **Reimbursement of medical examinations**
- **Calculation of annual average sickness costs (Articles 64 + 65 Reg. 987/2009)**
- **Exchange of personal data (Article 19 (4) and (5) Reg. 987/2009)**
- **Cross-border recovery of claims**

# Coordination of social security constantly needs to be adapted!



**Further Information @**

**<http://ec.europa.eu/social/main.jsp?langId=en&catId=849>**

**Thank you for your  
attention!**

