Council of the European Union

Brussels, 23 April 2026
(OR. en)

8387/26

Interinstitutional File:
2016/0397 (COD)

LIMITE

EMPL 93
SOC 205
CODEC 717

PUBLIC

NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	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) - Analysis of the final compromise text with a view to agreement

INTRODUCTION

On 13 December 2016, the Commission submitted to the Council and the European Parliament a proposal to amend 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 general objective of the proposal was to continue the modernisation of EU social security coordination rules by making them clearer and fairer, and by improving their enforceability, thus contributing to the facilitation of free movement of persons within the EU and, on the other hand, the fight against fraud and abuse.

In particular, the proposal introduced significant changes in six areas:

(i) access by economically inactive mobile citizens to certain social benefits,
(ii) applicable legislation for posted workers and persons working in two or more Member States,
(iii) long-term care benefits,
(iv) family benefits,
(v) unemployment benefits,
(vi) miscellaneous amendments.

The proposal is based on Article 48 TFEU, which requires that the European Parliament and the Council act in accordance with the ordinary legislative procedure.

The European Economic and Social Committee delivered its opinion on 5 July 2017[1].

The Committee of Regions delivered its opinion at its session on 12-13 July 2017[2].

The Council reached a general approach on 21 June 2018[3].

The European Parliament adopted its negotiations mandate on 11 December 2018[4].

STATE OF PLAY

The adoption of the general approach by the Council in June 2018 and the endorsement of the mandate by the European Parliament in December 2018 made it possible to start trilogues.

At the eighth trilogue, on 19 March 2019, the negotiating teams of the Council and the Parliament reached a provisional agreement, which however did not gather the necessary majority in Coreper.

In October 2019, during the Finnish Presidency, Coreper endorsed the scope for further negotiations with the European Parliament[5], limited to three issues only:

– the obligation to notify in advance the intention to post a worker to another Member State (prior notification);

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1 OJ C 345, 13.10.2017, p. 85.
2 OJ C 342, 12.10.17, p. 65.
3 ST 10295/18
4 A8-0386/2018
5 12917/19

– the determination of the "registered office or place of business" for the purpose of determining the applicable legislation (pluriactivity); and

– the rules for the payment of unemployment benefits to frontier and other cross-border workers.

On 24 February 2021, Coreper agreed on an updated negotiation mandate based on the Portuguese Presidency's proposal.[6] A provisional agreement[7] found with the European Parliament under Slovenian Presidency at the 17th trilogue on 16 December 2021 was rejected by Coreper on 22 December 2021.

The Polish Presidency presented to Coreper on 11 April 2025 a proposal for a revised mandate[8], which was accepted by Coreper. Subsequently, the 19th trilogue, inconclusive, took place in June 2025.

In 2026, the Cyprus Presidency presented to delegations the full text of the amending regulation, by which the Cyprus Presidency translated the Coreper mandate of 11 April 2025[9] into a legal text. The purpose of this text was to serve as a basis on the Council side for the further negotiations with the European Parliament. This text built on the provisional agreement of December 2021, which was the last full text exchanged between co-legislators. This text also included updates to the Annexes, based on the work of the Administrative Commission for the Coordination of Social Security.

The Cyprus Presidency held extensive bilateral talks with all delegations at Attaché as well as at Ambassador level. It informed Coreper on 1 April 2026 about its intention to hold a trilogue based on the latest Council mandate and the results of these bilateral contacts.

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6 6051/21
7 15068/21
8 7688/25
9 6349/26

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III. ELEMENTS OF THE PROVISIONAL AGREEMENT

At the 20th trilogue, on 22 April 2026, the negotiating teams of the Council and the European Parliament reached a provisional agreement. The text of the provisional agreement is laid down in Addendum 1 to this Note.

The negotiations led to a balanced outcome. The Presidency could achieve important concessions from the Parliament in relation to unemployment benefits in exchange for limited concessions on prior notification, namely removing the possibility for a delayed notification in emergency situations and agreeing to an exemption of the construction sector from the application of the 3 days temporal exception. On pluriactivity, a balanced solution was also found: the EP accepted that factors to be taken into account in the identification of the registered office or place of business are mentioned in a recital only, whereas the Council accepted to delete two factors from the list.

The provisional agreement includes the following main elements:

1) i) Family Benefits, ii) Access by economically inactive mobile citizens to certain social benefits, iii) Long-Term Care Benefits and iv) Miscellaneous

The content of these four chapters, as agreed in the provisional agreement reached on 19 March 2019 and reconfirmed in the provisional agreement on 16 December 2021, has not been modified since.

2) Unemployment Benefits

i) Unemployed persons who resided in a Member State other than the competent Member State: The minimum affiliation period (period of insurance, employment or self-employment) required after which the Member State of last employment becomes competent has been set to 22 weeks.

ii) Export: All mobile workers shall retain their entitlement to benefits for a period of six months in case they take residence in another Member State. There is no prolonged export period for cross-border and frontier workers.

In addition, the Implementing Regulation has been amended with wording in the operative part, namely Article 55, on activation and job placement procedures, to place more emphasis on controls and activation.

3) Applicable Legislation

Prior notification: A mandatory prior notification is introduced as a general rule, with two exemptions:

- business trips;
- activities with a duration of no more than 3 consecutive days within a period of 30 consecutive days – with this latter exemption not applying to the Construction sector.

In addition, the provisional agreement contains the following elements in relation to the notification obligation:

- The business trips and 3-days exemptions will now also apply to the notification obligation "whenever possible before the start of the activity" for civil servants and military personnel.
- A new recital related to Member States' responsibility to uphold obligations arising from the social security coordination regulations.
- An automatic acknowledgement of receipt shall be issued in case the attestation certifying the applicable social security legislation (PDA1) is not delivered immediately, indicating its date of issuance and the information contained in the request.
- Recitals on the digitalisation of the process of requesting and receiving social security attestations.
- A recital on the role of the European Labour Authority (ELA) in assisting Member States in the application and enforcement of Union law.

Activity in two or more Member States (pluriactivity):

An indicative and non-exhaustive list of factors to determine the place of business or registered office in case of pluriactivity features in the recital and not in the operative part. It contains the turnover, the places where general meetings are held, and the habitual nature of the activity pursued. These factors among others are to be given due weight depending on their relevance. The factors 'length of time that the undertaking has been established in the Member State' and 'the place where the undertaking uses office space' have been deleted.

The elements of the Unemployment Benefits and Applicable Legislation chapters other than the ones described above have been kept as in the provisional agreement of December 2021.

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IV. CONCLUSION

The Presidency considers that the provisional agreement presented in this Note and set out in the Addendum to this Note represents the best possible compromise between the co-legislators and respects the spirit of the mandate it has been granted.

The Permanent Representatives Committee is therefore invited to:

- analyse and agree on the text of the final compromise as set out in Addendum 1 to this Note with a view to reaching an agreement at first reading with the European Parliament, and to

- authorise the Chair of the Permanent Representatives Committee (Part II) to send a letter to inform the Chair of the European Parliament's Employment and Social Affairs Committee that, should the European Parliament adopt its position at first reading on the text of the proposal in the exact form as set out in Addendum 1 to this Note, and subject to revision of that text by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position.

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