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ADDENDUM TO THE NOTE

from : Permanent Representatives Committee (Part I)

to : Council (EPSCO)

No. Cion prop. : 5896/06 SOC 44 CODEC 93 - COM(2006) 16 final

Subject : **Proposal for a Regulation of the European Parliament and of the Council
laying down the procedure for implementing Regulation (EC) No 883/2004
on the coordination of social security systems**
– **Partial general approach**
= **Titles I and II**

Delegations will find in Annex I the text of Titles I and II of the draft Regulation, as agreed by the Committee of Permanent Representatives, together with an explanatory note as set out in Annex II which explains the nature of the agreement on these Titles.

Proposal for a
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
laying down the procedure for implementing Regulation (EC) No 883/2004 on
the coordination of social security systems

(Text with relevance for the EEA and for Switzerland)

TITLE I – GENERAL PROVISIONS

Chapter I - Definitions

Article 1

Definitions¹

1. For the purposes of this Regulation:
 - a) "basic Regulation" means Regulation (EC) No 883/2004;
 - b) "implementing Regulation" means this Regulation;
 - c) the definitions set out in the basic Regulation shall apply.

2. In addition to the definitions referred to in paragraph 1,
 - a) "access point" means any electronic contact point designated by the competent authority of a Member State for one or more branches of social security referred to in Article 3 of the basic Regulation, to send and receive electronically the data necessary for the application of the basic Regulation and the implementing Regulation via the joint network between the Member States;

¹ See explanatory note.

- b) “liaison body” means any body designated by the competent authority of a Member State, for one or more branches of social security referred to in Article 3 of the basic Regulation, to respond to requests for information and assistance for the application of the basic Regulation and the implementing Regulation and which has to fulfil the tasks assigned to it under Title IV of the implementing Regulation;
- c) “document” means a set of data, irrespective of the medium used, structured in such a way that it could be exchanged electronically and which must be communicated to allow the basic Regulation and the implementing Regulation to function;
- d) “standardised electronic message” means any structured document in a format defined for the exchange of information between Member States;
- e) “transmission by electronic means” means transmission of data using electronic equipment for processing (including digital compression) of data and employing wires, radio transmission, optical technologies or any other electromagnetic means;
- f) “Technical Commission” means the body referred to in Article 73 of the basic Regulation;
- g) “Audit Board” means the body referred to in Article 74 of the basic Regulation.

Chapter II – Provisions concerning cooperation and exchanges of data

Article 2

Scope and rules for exchanges between institutions

1. The institutions shall provide or exchange without delay all data necessary for establishing and determining the rights and obligations of persons to whom the basic Regulation applies.

Data shall be transferred between Member States directly by the institutions themselves or indirectly via the liaison bodies.

2. Where data are transferred indirectly via the liaison body of the Member State of destination, time limits for responding to claims shall start from the date when this liaison body received the claim, as if it had been received by the institution in this Member State.
3. (deleted)
4. Where a person has mistakenly submitted information, documents or claims to an institution in the territory of a Member State other than that in which the institution designated in accordance with the implementing Regulation is situated, the information, documents or claims shall be resubmitted without delay by the former institution to the institution designated in accordance with the implementing Regulation, indicating the date on which they were initially submitted. This date shall be binding on the latter institution. However, the institutions of a Member State cannot be held liable, or as having taken a decision by default simply because the transmission of information, documents or claims by other Member States' institutions, has been delayed.

Article 3

Scope and rules for exchanges between the persons concerned and institutions

1. Persons to whom the basic Regulation applies shall be required to forward to the relevant institution the information, documents or supporting evidence necessary to establish their situation or that of their families, to establish or maintain their rights and obligations and to determine the applicable legislation and their obligations under it.
2. (deleted)

3. To the extent necessary for the application of the basic Regulation and the implementing Regulation, the relevant institutions shall forward the information and issue the documents to the persons concerned.
4. (deleted)
5. (deleted)
6. (deleted)
7. (deleted)
8. (deleted)

Article 4

Format and method of exchanging data

1. The Administrative Commission shall lay down the structure, content and format of documents and standardised electronic messages and the modalities for their exchange.
2. The transmission of data between the institutions or the liaison bodies shall be carried out by electronic means either directly or indirectly through the access points under a common secure framework that can guarantee the confidentiality and protection of exchanges of data².
3. In their communications with the persons concerned, the relevant institutions shall use the modalities appropriate for each case and favour the use of electronic means as far as possible. The Administrative Commission shall lay down the practical arrangements for sending that information, documents or decisions by electronic means to the person concerned.

² See explanatory note.

Article 5

Legal value of documents and supporting evidence issued in another Member State

1. Documents issued by the institution of a Member State and showing the position of a person for the purposes of the application of the basic Regulation and of the implementing Regulation, and supporting evidence on the base of which the documents have been issued, shall be accepted by the institutions of the other Member States so long as they have not been withdrawn or declared to be invalid by the Member State in which they were issued.

2. Where there is doubt about the validity of a document or the accuracy of the facts on which the particulars contained therein are based, the institution of the Member State that receives the document shall contact the issuing institution to ask it for the necessary clarification and, where appropriate, the withdrawal of the said document. It is incumbent on the latter institution to reconsider the grounds for the issue of the document and, if necessary, withdraw it.

3. Where no agreement is reached between the institutions concerned, the matter may be brought before the Administrative Commission via the competent authorities no earlier than one month following the date on which the institution that received the document submitted its request. The Administrative Commission shall try to reconcile the points of view within six months of the date on which the matter was brought before it.

Article 6

Provisional application of legislation and provisional granting of benefits

1. Unless otherwise provided for in the implementing Regulation, where there is a difference of views between the institutions or authorities of two or more Member States about the identification of the applicable legislation, the person concerned shall be made provisionally subject to the legislation of one of these Member States, the order of priority being determined by reference to the following criteria:

- a) that of the Member State where the person actually exercises his/her employment or self-employment if the employment or self-employment is exercised in only one Member State;
 - b) that of the Member State of residence when the person concerned performs part of his/her activity/activities there or when the person is not employed or self-employed;
 - c) that of the Member State concerned in which the application of its legislation has been first requested, in other cases when a person exercises an activity or activities in two or more Member States.
2. Where there is a difference of views between the institutions or authorities of two or more Member States about which institution should provide the benefits in cash or in kind, the person concerned who could claim benefits if there was no dispute shall be entitled, on a provisional basis, to the benefits foreseen by the legislation applied by the institution of his/her place of residence or, if that person does not reside on the territory of one of the Member States concerned, to the benefits foreseen by the legislation applied by the institution to which the request was first submitted;
- 2a. Where no agreement is reached between the institutions or authorities concerned, the matter may be brought before the Administrative Commission via the competent authorities no earlier than one month following the date on which the difference of views as mentioned in paragraphs 1 or 2 occurred. The Administrative Commission shall try to reconcile the points of views within six months from the date on which the matter was brought before it.
3. Where it is established that the applicable legislation is not that of the Member State of provisional membership or where the institution that granted the benefits on a provisional basis was not the competent institution, the institution identified as being competent shall be deemed to be so retroactively as if this difference of views had not existed at the latest from the date of provisional membership or of the first provisional granting of the benefits concerned.

4. If necessary, the competent institution shall settle the financial situation of the person concerned as regards contributions and benefits in cash paid provisionally, where appropriate, on the basis of the arrangements laid down in Articles 71 to 81 of the implementing Regulation.

All benefits in kind granted provisionally by an institution in accordance with the provisions of paragraph 2 shall be reimbursed in accordance with the provisions of Title IV of the implementing Regulation by the institution identified as being competent.³

Article 7

Provisional calculation of benefits and contributions

1. Unless otherwise provided for in the implementing Regulation, where a person is eligible to receive a benefit or to pay contributions in accordance with the provisions of the basic Regulation but the competent institution does not have all the information concerning the situation in another Member State which is needed to calculate definitively the amount of that benefit or contribution, this institution shall award this benefit on request of the person concerned or calculate this contribution on a provisional basis if such a calculation is possible on the basis of the information which is at the disposal of the institution.
2. The benefit or the contribution concerned shall be recalculated once all the necessary supporting evidence or documents are provided to the institution concerned.

Chapter III – Other general provisions for the application of the basic Regulation

Article 8

Administrative arrangements between two or more Member States

1. The provisions of the implementing Regulation shall replace those of the arrangements for the application of the conventions referred to in Article 8 (1) of the basic Regulation, apart from

³ See explanatory note.

the provisions of the arrangements concerning the application of the conventions referred to in Annex II of the basic Regulation, provided that the provisions of the said arrangements are included in Annex 1 of the implementing Regulation.

2. The Member States may conclude between themselves, if necessary, arrangements pertaining to the application of conventions referred to in Article 8 (2) of the basic Regulation provided that these arrangements do not adversely affect the rights and the obligations of the persons concerned and are included in Annex 1 of the implementing Regulation.

Article 9

Other procedures between authorities and institutions

1. Two or more Member States, or their competent authorities, may agree other procedures than those foreseen by the implementing Regulation, provided that these procedures do not adversely affect the rights or obligations of the persons concerned.
2. Any agreements concluded to this end shall be notified to the Administrative Commission and listed in Annex 1 to the implementing Regulation.

Article 10

Prevention of overlapping of benefits

Notwithstanding other provisions in the basic Regulation, when benefits due under the legislation of two or more Member States are mutually reduced, suspended or withdrawn, any amounts that would not be paid in the event of strict application of the rules concerning reduction, suspension or withdrawal laid down by the legislation of the Member States concerned shall be divided by the number of benefits subjected to reduction, suspension or withdrawal.

Article 11⁴

Elements for determining residence

1. Where there is a difference of views between the institutions of two or more Member States about the determination of the residence of a person to whom the basic Regulation applies, these institutions shall establish by common accord the centre of interests of the person concerned, based on an overall assessment of all available information related to relevant facts, which may include as appropriate:
 - a) the duration and continuity of presence on the territories of the Member States concerned;
 - b) the elements of the personal situation:
 - i) the character and the conditions of an exercised activity, in particular the place where the activity is usually exercised, the stable nature of the activity or the duration of a work contract;
 - ii) the family status and family ties;
 - iii) the exercise of activities which are not gainful;
 - iv) in the case of students, the source of their income;
 - v) the housing situation, in particular its permanent nature;
 - vi) the Member State in which the person is deemed to reside for taxation purposes.

⁴ New recital (9a) to be inserted in the Preamble: "*Member States should co-operate to determine the residence of an individual for the purposes of this Regulation and the basic Regulation and, in cases of dispute, each Member State should take into consideration all relevant criteria to achieve that end. These may include those referred to in the appropriate Article of this Regulation.*"

c) (deleted)

d) (deleted)

2. Where the application of the various criteria based on relevant facts set out in paragraph 1 does not lead to agreement between the institutions concerned, the person's intention, as is apparent from such facts and circumstances, especially the reasons that led the person to move, shall be considered to be decisive for establishing his/her actual place of residence.

Article 12

Aggregation of periods

1. For the purposes of applying Article 6 of the basic Regulation, the competent institution shall contact the institutions of the Member State to whose legislation the person concerned was also subject in order to find out all the periods completed under this legislation.
2. The periods of insurance, employment, self-employment or residence completed under the legislation of a Member State shall be added to the periods of insurance, employment, self-employment or residence completed under the legislation of any other Member State, insofar as it is necessary, for the purposes of applying Article 6 of the basic Regulation, provided that these periods do not overlap.
3. Where a period of insurance or residence that is completed in accordance with insurance that is compulsory under the legislation of a Member State coincides with a period of insurance completed on the basis of voluntary insurance or continued optional insurance under the legislation of another Member State, only the period completed on the basis of compulsory insurance shall be taken into account.

4. Where a period of insurance or residence other than an equivalent period completed under the legislation of a Member State coincides with an equivalent period on the basis of the legislation of another Member State, only the period other than an equivalent period shall be taken into account.
5. Any period regarded as equivalent under the legislation of two or more Member States shall be taken into account only by the institution of the Member State to whose legislation the person concerned was last compulsorily subject before the said period. In the event that the person concerned was not compulsorily subject to the legislation of a Member State before the said period, the latter shall be taken into account by the institution of the Member State to whose legislation the person concerned was compulsorily subject for the first time after the said period.
6. In the event that the time in which certain periods of insurance or residence were completed under the legislation of a Member State cannot be determined precisely, it shall be presumed that these periods do not overlap with periods of insurance or residence completed under the legislation of another Member State, and account shall be taken thereof, where advantageous, insofar as they can reasonably be taken into consideration.
7. Where periods of insurance or residence are not taken into account pursuant to this Article because other periods that do not qualify for the benefit concerned take precedence, the periods not taken into account shall not lose their effect, provided by national legislation, as regards the acquisition, retention or recovery of the right to benefits.⁵

⁵ See explanatory note.

Article 13

Rules for conversion of periods

1. Where periods completed under the legislation of a Member State are expressed in different units to those used by the legislation of another Member State, the conversion needed for the purpose of aggregation under Article 6 of the basic Regulation shall be carried out under the following rules:

- a) The period to be used as the basis for the conversion shall be that communicated by the institution of the Member State under whose legislation the period was completed.
- b) In the case of schemes where the periods are expressed in days the conversion from days to other units, and vice versa, as well as between different schemes based on days shall be made according to the following table:

Scheme based on	1 day corresponds to	1 week corresponds to	1 month corresponds to	1 quarter corresponds to	Maximum of days in one calendar year
5 days	9 hours	5 days	22 days	66 days	264 days
6 days	8 hours	6 days	26 days	78 days	312 days
7 days	6 hours	7 days	30 days	90 days	360 days

- c) In the case of schemes where the periods are expressed in other units than days,
 - i) three months or thirteen weeks shall be equivalent to one quarter, and vice versa;
 - ii) one year shall be equivalent to four quarters, 12 months or 52 weeks, and vice versa;

- iii) for the conversion of weeks into months, and vice versa, weeks and months shall be converted into days according to the conversion rules for the schemes based on six days under subparagraph (b).
 - d) In the case of periods expressed in fractions, these figures shall be converted into the next smaller unit applying the rules laid down in subparagraphs (b) and (c). Fractions of years shall be converted into months unless the scheme involved is based on quarters.
 - e) If the conversion under this paragraph results in a fraction of a unit, the next higher entire unit shall be taken as the result of the conversion under this paragraph.
2. The application of paragraph 1 shall not have the effect of producing, for the total sum of the periods completed during one calendar year, a total exceeding the number of days indicated in the last column in the table in paragraph 1(b) or 52 weeks or 12 months or four quarters.

If the periods to be converted correspond to the maximum yearly amount of periods under the legislation of the Member State in which they have been completed, the application of paragraph 1 shall not result within one calendar year in periods that are shorter than the possible maximum yearly amount of periods provided under the legislation concerned.

3. The conversion shall be carried out either in one single operation covering all those periods which were communicated as an aggregate, or for each year, if the periods were communicated on a year-by-year basis.
4. The institution which communicates periods expressed in days shall at the same time indicate whether the scheme it administers is based on five days, six days or seven days.

TITLE II - DETERMINATION OF THE LEGISLATION APPLICABLE

Article 14

Details relating to Articles 12 and 13 of the basic Regulation

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 ... and who is posted by that employer to another Member State" may be a person who is recruited with a view to being posted, provided that the person concerned, immediately before the start of his/her employment, is already subject to the legislation of the State in which the undertaking which employs him/her is established.
2. For the purposes of the application of Article 12(1) of the basic Regulation, the expression "which normally carries out its activities there" refers to an undertaking which ordinarily carries out substantial activities, other than purely internal management activities, in the territory of the Member State of establishment. This shall be determined by taking account of all criteria characterising the activities carried out by the undertaking in question; the relevant criteria must be suited to the specific characteristics of each undertaking and the real nature of the activities carried out.
3. For the purposes of the application of Article 12(2) of the basic Regulation, the expression "who normally pursues an activity as a self-employed person" refers to a person who habitually carries out substantial activities in the territory of the Member State in which he/she is established. In particular, that person must have already pursued his/her activity for some time before the date when he/she wishes to take advantage of the provisions of the above-mentioned Article and, during the period of temporary activity in another Member State, must continue to maintain, in the State where he/she is established, the requisite means for the exercise of his/her activity in order to be able to pursue it on his/her return.

4. For the purposes of the application of Article 12(2) of the basic Regulation, the criterion for determining whether the activity that a self-employed person goes to pursue in another Member State is “similar” to the self-employed activity normally pursued shall be that of the actual nature of the activity, rather than of the designation of employed or self-employed activity that may be given to this activity by the other Member State.
5. For the purposes of the application of Article 13(1) of the basic Regulation a person who “normally pursues an activity as an employed person in two or more Member States” means in particular a person
 - a) who, while maintaining an activity in one Member State, exercises simultaneously another separate activity in the territory of one or more other Member States irrespective of the duration and the nature of this second activity;
 - b) who exercises continuously alternating activities, with the exception of activities of a marginal extent, in two or more Member States irrespective of the frequency or the regularity or irregularity of the alternation.
6. For the purposes of the application of Article 13(2) of the basic Regulation a person who “normally pursues an activity as a self-employed person in two or more Member States” means in particular a person who simultaneously or alternatively exercises one or more separate self-employed activities, irrespective of the nature of these self-employed activities, in the territories of two or more Member States.
 - 6a. For the purpose of distinguishing the activities under paragraphs 5 and 6 from the situations under Article 12 (1) and (2) of the basic Regulation, it shall be decisive whether it can be assumed that the activity in one or more other Member States is of a permanent nature or whether it is of a more singular and temporary nature taking into account an overall assessment of all the relevant facts including, in respect of an employed person, in particular the place of work as defined in the work contract.

7. For the purposes of the application of Article 13(1) and (2) of the basic Regulation, a “substantial part of employed or self-employed activity” pursued in a Member State means that a quantitatively substantial part of all the activities of the employed or self-employed worker is pursued there, without this necessarily being the major part of these activities.

For the determination as to whether a substantial part of the activity is pursued in a Member State, the following indicative list of criteria shall be taken into account:

- a) in case of an employed activity the working time and/or the remuneration;
- b) in case of a self-employed activity, the turnover, the working time, the number of services rendered and/or the income.

In the framework of an overall assessment, less than 25% of the criteria mentioned above shall be an indicator that a substantial part of all the activities is not pursued in the relevant Member State.

8. For the purposes of the application of Article 13(2)(b) of the basic Regulation, the “centre of interest” of the activities of a self-employed person shall be determined by taking account of all the aspects of that person’s occupational activities, notably the place where the person’s fixed and permanent place of business is located, the habitual nature or the duration of the activities pursued, the number of services rendered, and the intention of the person concerned as revealed by all the circumstances.
9. For the determination of the applicable legislation under paragraphs 7 and 8, the assumed future situation in the following 12 calendar months shall be taken into account by the institutions concerned.

10. If a person pursues his/her activity as an employed person in two or more Member States on behalf of an employer established in the territory of a third country, and if this person resides in a Member State without pursuing substantial activity there, he/she shall be subject to the legislation of the Member State of residence.⁶

Article 15

Provision of information to the institutions concerned

Procedures for the application of Articles 11(3)(b), 11(3)(d), 11(4) and 12 of the basic Regulation

1. Unless otherwise provided for by Article 17 of the implementing Regulation, if a person pursues his/her activity in a Member State other than the competent State under Title II of the basic Regulation, the employer or, in case of a person who does not exercise an activity as an employed person, the person concerned, shall inform the competent institution of the Member State whose legislation is applicable thereof, whenever possible in advance. This institution shall without delay make information concerning the legislation applicable to the person concerned pursuant to Articles 11(3)(b) or 12 of the basic Regulation available to the institution designated by the competent authority of the Member State in which the activity is pursued.⁷
2. The provisions of paragraph 1 shall apply accordingly to persons covered by Article 11(3)(d) of the basic Regulation.
3. An employer considered to be such pursuant to Article 11(4) of the basic Regulation for whom a worker performs an activity as an employed person on board a vessel flying the flag of another Member State shall inform the competent institution of the Member State whose legislation is applicable thereof whenever possible in advance. This institution shall without

⁶ See explanatory note.

⁷ See explanatory note regarding the interpretation to be given to the terms "information has to be made available" under Title II.

delay make information concerning the legislation applicable to the person concerned, pursuant to Article 11(4) of the basic Regulation, available to the institution designated by the competent authority of the Member State whose flag the vessel on which the worker is to perform his activity is flying.

Article 16

(deleted)

Article 17⁸

Procedure for the application of Article 13 of the basic Regulation

1. A person who pursues activities in two or more Member States shall inform the institution designated by the competent authority of the Member State in which he/she resides thereof.
2. That institution shall without delay determine the legislation applicable to the person concerned, having regard to the provisions of Article 13 of the basic Regulation and of Article 14 of the implementing Regulation. This determination shall initially be provisional. That institution shall inform the institutions designated by the competent authorities of each Member State in which an activity is pursued thereof.
3. The provisional determination of the applicable legislation, as provided for in paragraph 2, shall become definitive within two months of the institution designated by the competent authority of the Member States concerned being informed of the provisional determination, in accordance with paragraph 2, unless the legislation has already been definitively determined on the basis of paragraph 4, or at least one of the institutions concerned informs the institution designated by the competent authority of the State of residence by the end of this period of two months that it cannot yet accept the determination or that it takes a different view on this.
4. Where uncertainty about the identification of the applicable legislation requires contacts between the institutions or authorities of two or more Member States, at the request of one

⁸ See explanatory note.

or more of the institutions designated by the competent authorities of the Member States concerned or of the competent authorities themselves, the legislation applicable to the person concerned shall be determined by common accord, having regard to the provisions of Article 13 of the basic Regulation and the relevant provisions of Article 14 of the implementing Regulation.

Where there is a difference of views between the institutions or competent authorities concerned, these bodies shall seek agreement in accordance with the conditions set out above and the provisions of Article 6 of the implementing Regulation shall apply.

5. The competent institution of the Member State whose legislation is declared applicable either provisionally or definitively shall without delay inform the person concerned.
6. If the person concerned neglects to provide the information mentioned in paragraph 1, the provisions of this Article shall be applied at the initiative of the institution designated by the competent authority of that person's State of residence as soon as it is appraised of that person's situation, possibly via another institution concerned.

Article 18⁹

Procedure for the application of Article 15 of the basic Regulation

Auxiliary staff shall exercise the right of option foreseen in Article 15 of the basic Regulation at the time of signing the contract of employment. The authority authorised to conclude this contract shall inform the institution designated by the competent authority of the Member State for whose legislation the member of auxiliary staff has opted.

⁹ See explanatory note.

Article 18a

Procedure for the application of Article 16(1) of the basic Regulation

Requests of the employer or the person concerned for exceptions to Articles 11 to 15 of the basic Regulation shall be submitted, whenever possible in advance, to the competent authority or the body designated by this authority of the Member State, whose legislation the person concerned requests to apply.

Article 19

Provision of information to persons concerned and employers

1. The competent institution of the Member State whose legislation becomes applicable by virtue of Title II of the basic Regulation shall inform the person concerned and, where appropriate, his/her employer(s) of the obligations stemming from this legislation. It shall provide them with the necessary assistance to complete the formalities imposed by this legislation.
2. At the request of the person concerned or of the employer, the competent institution of the Member State whose legislation is applicable by virtue of a provision of Title II of the basic Regulation shall provide an attestation that this legislation is applicable and shall indicate, where appropriate, until what date and under what conditions.

Article 20¹⁰

Cooperation between institutions

1. The relevant institutions shall as far as possible communicate to the competent institution of the Member State, whose legislation is applicable to a person by virtue of Title II of the

¹⁰ See explanatory note.

basic Regulation, the necessary information required to establish the date on which this legislation becomes applicable and the contributions which he/she and his/her employer(s) are liable to pay under this legislation.

2. The competent institution of the Member State whose legislation becomes applicable to a person by virtue of Title II of the basic Regulation shall make the information indicating the date on which the application of this legislation takes effect available to the institution designated by the competent authority of the Member State to whose legislation that person was last subject.

Article 21

Obligations of the employer

1. The employer of a worker who has his registered office or place of business outside the competent Member State shall be obliged to fulfil all the obligations laid down by the legislation applicable to that worker, notably the obligation to pay the contributions provided for by this legislation, as if he had his registered office or place of business in the competent Member State.
2. An employer that does not have a place of business in the Member State whose legislation is applicable and the employee may agree that the latter may fulfil the employer's obligations on its behalf as regards the payment of contributions without prejudice to the employer's underlying obligations. The employer shall be obliged to send such an arrangement to the competent institution of this Member State.

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Article 83
Notifications

1. The Member States shall notify the European Commission of the details of the bodies defined in Article 1(m), (q) and (r) of the basic Regulation and Article 12)(a) and (b) of the implementing Regulation, and the institutions designated in accordance with the implementing Regulation.
2. The bodies specified in paragraph 1 shall be provided with an electronic identity in the form of an identification code and electronic address.
3. The Administrative Commission shall establish the structure, content and modalities, including the common format and model, for notification of the details specified in paragraph 1.
4. Annex 4 to the implementing Regulation gives details of the public data base containing the information specified in paragraph 1. The database shall be established and managed by the European Commission. The Member States shall, however, be responsible for the input of their own national contact information into this database. Moreover, the Member States shall ensure the accuracy of the input of the national contact information required under paragraph 1.¹¹

¹¹ New recital (4a) to be inserted in the Preamble: "*Whereas to achieve the goal of maximising the smooth operation of the complex procedures that implement the rules on coordination of social security means that the efficient management of the procedures requires a system for immediate updating of Annex 4 of this Regulation; the preparation and application of these provisions requires close cooperation between the Member States and the Commission; the implementation of these provisions must be carried out rapidly in view of the consequences that delays have for citizens and administrations alike; it is therefore necessary that the Commission should be empowered to establish and manage a database to ensure that the database must be operational as soon as possible prior to the date of application of this Regulation and the Commission shall, in particular, take the necessary steps to integrate all measures contained in Article 83 of this Regulation and shown in Annex 4 into this database.*"

5. The Member States shall be responsible for keeping the information specified in paragraph 1 up to date in accordance with the notification procedure specified in this paragraph.

Article 84

Documents

1. (deleted)

2. (deleted)



ANNEX 4

Competent authorities and institutions, institutions of the place of residence and stay, access points, institutions and bodies designated by the competent authorities.

(Article 83(4))

EXPLANATORY NOTE

The text which should be submitted to the Council constitutes only the first part of the Commission proposal; the examination of subsequent Chapters will continue over the next few months.

Since a legislative text can be given final approval only as a whole, partial agreement on Titles I and II is by definition subject to subsequent review, depending on how the rest of the Act develops. This applies, in particular, to:

- Article 1 where the definitions are likely to be amended once the text of the following Titles of the draft implementing Regulation has been finalised and the work on the exchange of data within the Administrative Commission has been completed;
- Article 4(2) where further work by the Administrative Commission will be needed and where, depending on the outcome of this work, transitional periods for the Member States concerned may be necessary under Title V of the draft implementing Regulation;
- Article 6(4) which might have to be reviewed in the light of the discussions on Title IV of the draft implementing Regulation;

- Article 12(7) which will depend on the outcome of the discussion on Title III Chapter IV of the draft implementing Regulation and for which further examination by the Administrative Commission will be needed;
- Article 14 (10) for which further examination by the Administrative Commission will be needed;
- Article 18 for which further examination will be needed in the light of changes in the Staff Regulations.

In addition, where, under Title II of the draft implementing Regulation, information has to be made available, it is to be understood that this information will be provided without delay at the request of the institution of the Member State concerned and not automatically.

In relation to Article 17, it was agreed that this provision does not apply in cases where an activity exercised in another Member State has to be considered as being of a marginal extent as provided for in Article 14(5)(b).

Moreover, delegations' acceptance of this text is subject to final approval of the draft Regulation amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of Annex XI.