

**Provisions in proposal related to: Applicable legislation**

- Plain text: text of the original Regulations (EC) No. 883/2004 and No. 987/2009;
- **Bold**: proposals of the **Commission** (2016/0397 (COD)) compared to the original Regulations;
- **Bold underlined italic**: amendments proposed by the **European Parliament** (PE612058v03-00EN);
- **Bold underlined**: amendments proposed by the **Council** (ST 10295/18);
- Some rows where none of the institutions have made amendments have been inserted for information purposes only.

Rows	Commission proposal	EP Amendments	Council Position	Comments
1.	<b>Regulation 883/2004</b>			
2.	<b>Recital 18b</b>			
3.	(18b) In Annex III, <b>Subpart FTL to <del>Council</del> Commission Regulation (EECEU) No <del>3922/91</del> 965/2012 of 16 December 1991 on the harmonization of 5 October 2012 laying down technical requirements and administrative procedures in the field related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council, as amended by Commission Regulation (EU) No 83/2014/EU of civil aviation<sup>(+)</sup>, 29 January 2014 amending Regulation (EU) No 965/2012 laying down technical requirements and</b>	(18b) In Annex III, <b>Subpart FTL to <del>Council</del> Commission Regulation (EECEU) No <del>3922/91</del> 965/2012 of 16 December 1991 on the harmonization of 5 October 2012 laying down technical requirements and administrative procedures in the field related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council, as amended by Commission Regulation (EU) No 83/2014/EU of civil aviation<sup>(+)</sup>, 29 January 2014 amending Regulation (EU) No 965/2012 laying down technical requirements and</b>	(18b) In Annex III, <b>Subpart FTL to <del>Council</del> Commission Regulation (EECEU) No <del>3922/91</del> 965/2012 of 16 December 1991 on the harmonization of 5 October 2012 laying down technical requirements and administrative procedures in the field related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council, as amended by Commission Regulation (EU) No 83/2014/EU of civil aviation<sup>(+)</sup>, 29 January 2014 amending Regulation (EU) No 965/2012 laying down technical requirements and administrative procedures related to air operations</b>	<i>All three institutions have the same position</i>

<p>administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council<sup>1</sup>, the concept of ‘home base’ for flight crew and cabin crew members is defined as the location <del>nominated, assigned</del> by the operator to the crew member, from where the crew member normally starts and ends a duty period; or a series of duty periods; and where, under normal <del>conditions</del> <b>conditions circumstances</b>, the operator is not responsible for the accommodation of the crew member concerned. <del>In order to facilitate the application of Title II of this Regulation for flight crew and cabin crew members, it is justified to use the concept of ‘home base’ as the criterion for determining the applicable legislation for flight crew and cabin crew members. However, the applicable legislation for flight crew and cabin crew members should remain stable and the home base</del></p>	<p>administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council<sup>1</sup>, the concept of ‘home base’ for flight crew and cabin crew members is defined as the location <del>nominated, assigned</del> by the operator to the crew member, from where the crew member normally starts and ends a duty period; or a series of duty periods; and where, under normal <del>conditions</del> <b>conditions circumstances</b>, the operator is not responsible for the accommodation of the crew member concerned. <del>In order to facilitate the application of Title II of this Regulation for flight crew and cabin crew members, it is justified to use the concept of ‘home base’ as the criterion for determining the applicable legislation for flight crew and cabin crew members. However, the applicable legislation for flight crew and cabin crew members should remain stable and the home base</del></p>	<p>pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council<sup>1</sup>, the concept of ‘home base’ for flight crew and cabin crew members is defined as the location <del>nominated, assigned</del> by the operator to the crew member, from where the crew member normally starts and ends a duty period; or a series of duty periods; and where, under normal <del>conditions</del> <b>conditions circumstances</b>, the operator is not responsible for the accommodation of the crew member concerned. <del>In order to facilitate the application of Title II of this Regulation for flight crew and cabin crew members, it is justified to use the concept of ‘home base’ as the criterion for determining the applicable legislation for flight crew and cabin crew members. However, the applicable legislation for flight crew and cabin crew members should remain stable and the home base principle should not result in frequent changes of applicable legislation due to the industry’s work patterns or seasonal demands.</del></p>	
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<sup>1</sup> OJ L 28, 31.01.2014, p. 17

	<del>principle should not result in frequent changes of applicable legislation due to the industry's work patterns or seasonal demands.</del>	<del>principle should not result in frequent changes of applicable legislation due to the industry's work patterns or seasonal demands.</del>		
4.	<b>Article 11</b> General rules			
5.	3.(c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of the Member State of residence shall be subject to the legislation of that Member State;	3.(c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of the Member State of residence <u>or of the Member State of his or her most recent activity as an employed or self-employed person</u> shall be subject to the legislation of that Member State;  <b>AM 70</b>	3.(c) a person receiving unemployment benefits in accordance with Article 65 under the legislation of the Member State of residence shall be subject to the legislation of that Member State;	<i>No COM or CL proposal, contains EP amendment</i>
6.	4. For the purposes of this Title, an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of a Member State shall be deemed to be an activity pursued in the said Member State. However, a person employed on board a vessel flying the flag of a Member State and remunerated for such activity by an undertaking or a person whose registered office	4. For the purposes of this Title, an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of a Member State shall be deemed to be an activity pursued in the said Member State. However, a person employed on board a vessel flying the flag of a Member State and remunerated for such activity by an <u>employer</u> whose registered office [...] is in	4. For the purposes of this Title, an activity as an employed or self-employed person normally pursued on board a vessel at sea flying the flag of a Member State shall be deemed to be an activity pursued in the said Member State. However, a person employed on board a vessel flying the flag of a Member State and remunerated for such activity by an undertaking or a person whose registered office or place of business is in another Member	<i>No COM or CL proposal, contains EP amendment</i>

	<p>or place of business is in another Member State shall be subject to the legislation of the latter Member State if he resides in that State. The undertaking or person paying the remuneration shall be considered as the employer for the purposes of the said legislation.</p>	<p>another Member State shall be subject to the legislation of the latter Member State if he resides in that State. <u>[...]</u></p> <p><b>AM 71</b></p>	<p>State shall be subject to the legislation of the latter Member State if he resides in that State. The undertaking or person paying the remuneration shall be considered as the employer for the purposes of the said legislation.</p>	
7.	<p>5. An activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be an activity pursued <b>exclusively</b> in the Member State where the home base, as defined in Annex III, <b>Subpart FTL to Commission Regulation (EU<del>EEC</del>) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council as amended by Commission Regulation (EU) No 83/2014/EU of 29 January 2014<sup>2</sup>3922/91</b>, is located.</p>	<p>5. An activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be an activity pursued <u>[...]</u> in the Member State where the home base, as defined in Annex III <u>[...]</u> to Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council as amended by Commission Regulation (EU) No 83/2014/EU of 29 January 2014<sup>2</sup>, is located.</p>	<p>5. An activity as a flight crew or cabin crew member performing air passenger or freight services shall be deemed to be an activity pursued <b>exclusively</b> in the Member State where the home base, as defined in Annex III, <b>Subpart FTL to Commission Regulation (EU) No 965/2012 of 5 October 2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation (EC) No 216/2008 of the European Parliament and the Council as amended by Commission Regulation (EU) No 83/2014/EU of 29 January 2014<sup>2</sup></b>, is located.</p>	

<sup>2</sup> OJ L 28, 31.01.2014, p. 17

		AM 72		
8.	<b>Article 12</b> Special rules			
9.	<p>1. 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 posted <b>within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>3</sup> or sent</b> by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that <b>the person he/she</b> is not <b>posted or sent to replace another employed or self-employed person previously posted or sent within the meaning of this Article posted person.</b></p>	<p>1. 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 [...] <b>sent</b> by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that:</p> <p><i>(a) the anticipated <b>or actual</b> duration of such work does not exceed <b>18</b> months [...];</i></p> <p><i>(b) <b>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;</b></i></p> <p><i>(c) <b>the competent institution of the Member State where the employer is established has been notified about the sending and received at</b></i></p>	<p>1. 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 <b>posted within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>3</sup> or sent</b> by that employer to another Member State to perform work on that employer's behalf, shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that <b>the person he/she</b> is not <b>posted or sent to replace replacing</b> another <b>previously sent employed or self-employed posted</b> person <b>previously posted or sent within the meaning of this Article covered by this paragraph or a self-employed person covered by paragraph 2.</b></p>	

<sup>3</sup> OJ L 018 , 21.01.1997 p. 1.

		<p><u>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.</u></p> <p><b>AM 73</b></p>		
<b>10.</b>	<p>2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed 24 months <b>and that the person is not replacing another posted employed or self-employed person.</b></p>	<p>2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that:</p> <p><u>(a) the anticipated <i>or actual</i> duration of such activity does not exceed 18 months [...],</u></p> <p><u>(b) the person concerned has been subject to the legislation of the Member State in which he or she normally pursues the activity for a period of at least three months immediately preceding the start of the activity;</u></p> <p><u>(c) the competent institution in the Member State where the person concerned normally pursues the activity has been</u></p>	<p>2. A person who normally pursues an activity as a self-employed person in a Member State who goes to pursue a similar activity in another Member State shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such activity does not exceed 24 months <b>and that the person is not replacing another posted previously sent employed <del>or self-employed</del> person covered by paragraph 1 or a self-employed person covered by this paragraph.</b></p>	

		<p><u>notified about the pursuit of the activity in the other Member State and received a request, prior to the start of the activity for the continued application of its legislation. No such formal request need be made where the activity pursued concerns a business trip.</u></p> <p>AM 73</p>		
11.			<p><u>2a. Where an employed person covered by paragraph 1 or a self-employed person covered by paragraph 2 does not complete the work or activity and is replaced by another person, the other person shall continue to be subject to the legislation of the Member State from which he/she is sent or in which he/she normally pursues an activity as a self-employed person provided that the total duration of work or activity by all persons concerned in the second Member State does not exceed 24 months and the other conditions laid down in paragraph 1 or 2 are fulfilled.</u></p>	
12.		<p><u>2a. For the purpose of paragraphs 1 and 2, in the case of a replacement of sent</u></p>		

		<u>workers performing the same or similar task at the same place, the cumulative duration of the sending periods shall be taken into account.</u>		
		AM 73		
13.		<u>When a worker has reached the maximum period of sending provided for, no further sending of that worker or self-employed person by the same undertakings to the same Member State shall be authorised under the legislation of the first Member state until three months after the end of the most recent sending period. A derogation from the second subparagraph may be granted in specific circumstances.</u>		
		AM 73		
14.	<b>Article 13</b> Pursuit of activities in two or more Member States			
15.	1. A person who normally pursues an activity as an employed person in two or more Member States shall be subject:	1. A person who normally pursues an activity as an employed person in two or more Member States shall be subject <u>to</u> :	1. A person who normally pursues an activity as an employed person in two or more Member States shall be subject:	<i>No COM or CL proposal, contains EP amendment</i>
		AM 74		

16.	(a) the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State, or	(a) the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State, [...]  AM 74	(a) the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity in that Member State, or	<i>No COM or CL proposal, contains EP amendment</i>
17.	(b) if he/she does not pursue a substantial part of his/her activity in the Member State of residence:	(b) <u>the legislation of the Member State in which he/she performs the largest share of his/her work activities, if he/she does not reside in one of the Member States in which he/she pursues a substantial part of his/her activity as an employed person; or</u>  AM 74	(b) if he/she does not pursue a substantial part of his/her activity in the Member State of residence:	
18.		<u>(ba) the legislation of the Member State of residence if the share of activities is identical.</u>  AM 74		
19.	(i) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated if he/she is employed by one undertaking or employer; or	[...]  AM 74	(i) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated if he/she is employed by one undertaking or employer; or	<i>No COM or CL proposal, contains EP amendment</i>
20.	(ii) to the legislation of the Member State in which the registered office or place of	[...]  AM 74	(ii) to the legislation of the Member State in which the registered office or place of	<i>No COM or CL proposal, contains EP amendment</i>

	business of the undertakings or employers is situated if he/she is employed by two or more undertakings or employers which have their registered office or place of business in only one Member State; or		business of the undertakings or employers is situated if he/she is employed by two or more undertakings or employers which have their registered office or place of business in only one Member State; or	
21.	(iii) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated other than the Member State of residence if he/she is employed by two or more undertakings or employers, which have their registered office or place of business in two Member States, one of which is the Member State of residence.	<u>[...]</u> <b>AM 74</b>	(iii) to the legislation of the Member State in which the registered office or place of business of the undertaking or employer is situated other than the Member State of residence if he/she is employed by two or more undertakings or employers, which have their registered office or place of business in two Member States, one of which is the Member State of residence.	<i>No COM or CL proposal, contains EP amendment</i>
22.	(iv) to the legislation of the Member State of residence if he/she is employed by two or more undertakings or employers, at least two of which have their registered office or place of business in different Member States other than the Member State of residence.	<u>[...]</u> <b>AM 74</b>	(iv) to the legislation of the Member State of residence if he/she is employed by two or more undertakings or employers, at least two of which have their registered office or place of business in different Member States other than the Member State of residence.	<i>No COM or CL proposal, contains EP amendment</i>
23.	<b>4a. A person who is receiving unemployment benefits in cash from one Member State and who is simultaneously</b>	<u>[...]</u> <b>AM 75</b>	<b><u>4a. A person who is receiving pursuing an employed or self-employed activity in one Member State and is</u></b>	

	pursuing an activity as an employed or self-employed person in another Member State shall be subject to the legislation of the Member State paying the unemployment benefits.		<u>simultaneously receiving unemployment benefits in cash from one another Member State and who is simultaneously pursuing an activity as an employed or self-employed person in another Member State</u> shall be subject to the legislation of the Member State paying the unemployment benefits.	
24.		<i><u>Article 15a (new)</u></i> <i><u>Reporters of European media organisations posted to another Member State</u></i>  AM 76		
25.		<i><u>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.</u></i>  AM 76		
26.	<b>Article 76a (new)</b> Power to adopt implementing acts			
27.	<b>1. The Commission shall be empowered to adopt</b>	<b>1. [...] In order to ensure uniform conditions for the</b>	<b>1. The Commission shall <u>be empowered to</u> adopt</b>	

	implementing acts specifying the procedure to be followed in order to ensure uniform conditions for the application of Articles 12 and 13 of this Regulation. Those acts shall establish a standard procedure including time limits for	application of Articles 12 and 13 of this Regulation <i>and of Articles 14, 15 and 16 of the implementing Regulation, the Commission shall adopt implementing acts specifying the procedure to be followed.</i> Those acts shall establish a standard procedure including time limits for  AM 103	implementing acts to specifying the procedure, including where appropriate, time limits, to be followed in order to ensure the implementation under uniform conditions <del>for the application</del> of Articles 12 and 13 of this Regulation. Those implementing acts shall establish <del>a</del> standard procedures including time limits for:	
28.	– the issuance, the format and the contents of a portable document certifying the social security legislation which applies to the holder,	– the issuance, the <i>forgery-proof electronic format and the contents, including mandatory information</i> , of a portable document certifying the social security legislation which applies to the holder <i>and including, when available, the single European social security number</i> ,  AM 103	– the issuance, the format and the contents of a portable document certifying the social security legislation which applies to the holder,	<i>No CL amendments to the COM proposal.</i>
29.	–the determination of situations in which the document shall be issued,	<i>[...]</i>  AM 103	<del>–the determination of situations in which the document shall be issued,</del>	<i>EP and CL - same position</i>
30.	–the elements to verified before the document can be issued,	– the elements to <i>be</i> verified before the document can be issued, <i>rectified or withdrawn</i> ,  AM 103	- the elements to <i>be</i> verified before the document can be issued, <i>withdrawn or rectified</i> ,	<i>EP and CL - same position</i>

31.	– the withdrawal of the document when its accuracy and validity is contested by the competent institution of the Member State of employment.	[...] AM 103	- the withdrawal or <u>rectification</u> of the document <u>by the issuing institution in accordance with Articles 5 and 19a of the implementing Regulation when its accuracy and validity is contested by the competent institution of the Member State of employment.</u>	
32.	2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 <sup>47</sup> .	2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 <sup>47</sup> .	2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article <u>5 76 b(2)</u> of <u>this Regulation (EU) No 182/20114.</u>	<i>No EP amendments to the COM proposal.</i>
33.	3. The Commission shall be assisted by the Administrative Commission, which shall be a committee within the meaning of Regulation (EU) No 182/2011.	3. The Commission shall be assisted by the Administrative Commission, which shall be a committee within the meaning of Regulation (EU) No 182/2011.	3. <u>The Commission shall be assisted by the Administrative Commission, which shall be a committee within the meaning of Regulation (EU) No 182/2011.</u>	<i>No EP amendments to the COM proposal.</i>
34.			<i>Article 76b Examination procedure</i>	
35.			<u>1. The Commission shall be assisted by a committee. The Committee is a committee within the</u>	

<sup>47</sup> OJ L 55, 28.2.2011, p. 13–18

			<b><u>meaning of Regulation (EU) No 182/2011.</u></b>	
36.			<b><u>2. Where reference is made to this Article, Article 5 of Regulation (EU) No 182/2011 shall apply.</u></b>	
37.			<b><u>3. Where the committee delivers no opinion, the European Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.</u></b>	
38.	<b>Regulation 987/2009</b>			
39.	<b>Article 1</b> Definitions			
40.	<b>2. (ea) 'fraud' means any intentional act or omission to act, in order to obtain or receive social security benefits or to avoid to pay social security contributions, contrary to the law of a Member State;</b>	<b>(ea) 'fraud' means any intentional act or omission to act, in order to obtain or receive social security benefits <i>or</i> to avoid to pay social security contributions, contrary to the law of a Member State <i>in accordance with the basic Regulation and the implementing Regulation;</i></b>  <b>AM 110</b>	<b>2. (ea) fraud' means any intentional act or <u>intentional</u> omission to act, in order to obtain or receive social security benefits or to avoid <u>paying</u> social security contributions, contrary to the law of <u>the</u> Member State(s) <u>concerned, the basic Regulation, or this Regulation;</u></b>	
41.	<b>Article 5</b> Legal value of documents and supporting evidence issued in another Member State			
42.	<b>1. Documents issued by the institution of a Member State</b>	<b>1. Documents issued by the institution of a Member State</b>	<b>1. Documents issued by the institution of a Member State and</b>	

	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 basis of which the documents have been issued, shall be accepted by the institutions of the other Member States for as long as they have not been withdrawn or declared to be invalid by the Member State in which they were issued. <b>Such documents shall only be valid if all sections indicated as compulsory are filled in.</b>	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 basis of which the documents have been issued, shall be accepted by the institutions of the other Member States <b><i>provided that</i></b> they have not been withdrawn or declared to be invalid by the Member State in which they were issued. <b>Such documents shall only be valid if all sections indicated as compulsory are filled in.</b>	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 basis of which the documents have been issued, shall be accepted by the institutions of the other Member States for as long as they have not been withdrawn or declared to be invalid by the Member State in which they were issued. <b><u>Such documents shall only be valid if all sections indicated as compulsory are filled in.</u></b>	
43.		AM 113	<b><u>1a. Where not all sections indicated as compulsory are filled in, the institution of the Member State that receives the document shall without delay notify the issuing institution of the defect in the document. The issuing institution shall either rectify the document as soon possible or confirm that the conditions of issuing the document are not fulfilled. If the mandatory information missing is not provided within 30 working days the requesting</u></b>	

			<b><u>institution may proceed as if the document had never been issued and shall in that case inform the issuing institution thereof.</u></b>	
44.	2. Where there is doubt about the validity of a document or the accuracy of the facts on which <del>the particulars contained therein</del> they are based, the institution of the Member State that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal of that document. <del>The issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it.</del>	2. Where there is doubt about the validity of a document or the accuracy of the facts on which <del>the particulars contained therein</del> they are based, the institution of the Member State that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal of that document. <del>The issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it.</del>	2. <b><u>Without prejudice to Article 19a, w</u></b> <del>Where there is doubt about the validity of a document or the accuracy of the facts on which <u>they the document is the particulars contained therein</u> are based, the institution of the Member State that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal <u>or rectification</u> of that document. <del>The issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it.</del> <b><u>The issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw or rectify it.</u></b></del>	<i>No EP amendments to the COM proposal.</i>
45.	a) When receiving such a request, the issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it or rectify it, within 25 working days from the receipt of the request.	a) When receiving such a request, the issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it or rectify it, within 25 working days from the receipt of the request.	<del>a) <u>When receiving such a request, the issuing institution shall reconsider the grounds for issuing the document and, if necessary, withdraw it or rectify it, within 25 working days from the receipt of the request. Upon detection of an irrefutable case</u></del>	<i>No EP amendments to the COM proposal.</i>

	Upon detection of an irrefutable case of fraud committed by the applicant of the document, the issuing institution shall withdraw or rectify the document immediately and with retroactive effect.	Upon detection of an irrefutable case of fraud committed by the applicant of the document, the issuing institution shall withdraw or rectify the document immediately and with retroactive effect.	<del>of fraud committed by the applicant of the document, the issuing institution shall withdraw or rectify the document immediately and with retroactive effect.</del>	
46.	b) If the issuing institution, having reconsidered the grounds for issuing the document is unable to detect any error it shall forward to the requesting institution all supporting evidence within 25 working days from the receipt of the request. In urgent cases, where the reasons for urgency have been clearly indicated in the request, this shall be done within two working days from the receipt of the request, notwithstanding that the issuing institution may not have completed its deliberations pursuant to subparagraph (a) above.	b) If the issuing institution, having reconsidered the grounds for issuing the document is unable to detect any error it shall forward to the requesting institution all supporting evidence within 25 working days from the receipt of the request. In cases <i>which are urgent for the purpose of protecting the rights of the person concerned</i> , this shall be done within two working days from the receipt of the request, notwithstanding that the issuing institution may not have completed its deliberations pursuant to subparagraph (a) above.  AM 114	<del>b) If the issuing institution, having reconsidered the grounds for issuing the document is unable to detect any error it shall forward to the requesting institution all supporting evidence within 25 working days from the receipt of the request. In urgent cases, where the reasons for urgency have been clearly indicated in the request, this shall be done within two working days from the receipt of the request, notwithstanding that the issuing institution may not have completed its deliberations pursuant to subparagraph (a) above.</del>	
47.	c) Where the requesting institution having received the supporting evidence	c) Where the requesting institution having received the supporting evidence	<del>e) Where the requesting institution having received the supporting evidence continues</del>	

	<p>continues to have doubts about the validity of a document or the accuracy of the facts on which the particulars contained therein are based that the information upon which the document was issued is not correct, it may submit evidence to that effect and make a further request for clarification and where appropriate the withdrawal of that document by the issuing institution in accordance within the procedure and timeframes set out above.</p>	<p>continues to have doubts about the validity of a document or the accuracy of the facts on which the particulars contained therein are based that the information upon which the document was issued is not correct, it <i>shall</i> submit evidence to that effect and make a further request for clarification and where appropriate the withdrawal of that document by the issuing institution in accordance within the procedure and timeframes set out above.</p> <p>AM 114</p>	<p><del>to have doubts about the validity of a document or the accuracy of the facts on which the particulars contained therein are based that the information upon which the document was issued is not correct, it may submit evidence to that effect and make a further request for clarification and where appropriate the withdrawal of that document by the issuing institution in accordance within the procedure and timeframes set out above.</del></p>	
<p>48.</p>		<p><i><u>ca) Where the issuing institution fails to reply within the applicable time-limit referred to in point (b) and where there is doubt about the validity of a portable document certifying the social security legislation applicable to the holder or the accuracy of the facts on which they are based, the requesting institution shall inform the issuing institution of this situation and may request that</u></i></p>		

		<p><u><i>a deposit equal to the contributions that the Member State in which the activity is pursued would receive, in accordance with Article 73(3), if the legislation of the latter were applicable. This deposit shall be transferred back to the first Member State if it is determined that a person concerned is subject to the legislation of that Member State. If- it is determined that a person concerned is subject to the legislation of the Member State in which the activity is pursued, the deposit transferred to that Member State shall be taken into account for the purposes of the settlement of contributions in accordance with Article 73(3).</i></u></p> <p><b>AM 114</b></p>		
49.	3. Pursuant to paragraph 2, where there is doubt about the information provided by the persons concerned, the validity of a document or supporting evidence or the accuracy of the facts on which the particulars contained therein are based, the institution of the place of stay	3. Pursuant to paragraph 2, where there is doubt about the information provided by the persons concerned, the validity of a document or supporting evidence or the accuracy of the facts on which the particulars contained therein are based, the institution of the place of stay	3. <del>Pursuant to paragraph 2,</del> <del>Where there is doubt about the information provided by the person/s concerned, the validity of a document or supporting evidence or the accuracy of the facts on which the <b>particulars contained therein are document is based, the institution of the</b></del>	<i>No COM or EP proposal, contains CL amendment</i>

	or residence shall, insofar as this is possible, at the request of the competent institution, proceed to the necessary verification of this information or document.	or residence shall, insofar as this is possible, at the request of the competent institution, proceed to the necessary verification of this information or document.	<del>place of stay or residence any institution concerned</del> shall, insofar as this is possible, at the request of the competent institution, proceed to the necessary verification of this information or document.	
50.	4. Where no agreement is reached between the institutions concerned, the matter may be brought before the Administrative Commission by 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 endeavour to reconcile the points of view within six months of the date on which the matter was brought before it.	4. Where no agreement is reached between the institutions concerned, the matter may be brought before the Administrative Commission by the competent authorities. The Administrative Commission shall reconcile the points of view within <i>three</i> months of the date on which the matter was brought before it. <b><u>The competent authorities and institutions concerned shall take the necessary measures to apply the decision of the Administrative Commission, without prejudice to the right of the authorities, institutions and persons concerned to have recourse to the procedures and tribunals provided for by the legislation of the Member States, by this Regulation or by the Treaties.</u></b>  AM 115	4. Where no agreement is reached between the institutions concerned, the matter may be brought before the Administrative Commission by 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 endeavour to reconcile the points of view <b><u>within six months of the date on which the matter was brought before it. In doing so and in accordance with Article 72(a) of the basic Regulation, the Administrative Commission may adopt a decision on the interpretation of the relevant provisions of the basic Regulation and this Regulation. The competent authorities and institutions concerned shall take the necessary measures to apply such decision of the Administrative Commission,</u></b>	<i>No COM proposal, contains EP and CL amendments</i>

			<b><u>without prejudice to the right of the authorities, institutions and persons concerned to have recourse to the procedures and tribunals provided for by the legislation of the Member States, by this Regulation or by the Treaty.</u></b>	
51.		<b><u>4a. Notwithstanding paragraphs 1 to 4, where a requesting institution has acquired evidence, collected in the course of a judicial investigation that constitutes evidence that a document certifying the social security legislation which applies to the holder or the accuracy of the facts on which they are based was obtained as a result of a fraud, it shall request the issuing institution to withdraw or rectify that document within 25 working days from receipt of the request. The issuing institution shall withdraw or rectify the document with retroactive effect. If the issuing institution fails to withdraw or rectify the document concerned within in accordance with the first subparagraph, the requesting</u></b>		

		<u><i>institution may apply to a national court to decide whether the document concerned may be disregarded on the basis of fraud.</i></u>		
		AM 116		
52.	<b>Article 6</b> Provisional application of legislation and provisional granting of benefits			
53.	3. Where no agreement is reached between the institutions or authorities concerned, the matter may be brought before the Administrative Commission by the competent authorities no earlier than one month after the date on which the difference of views, as referred to in paragraph 1 or 2 arose. The Administrative Commission shall seek to reconcile the points of view within six months of the date on which the matter was brought before it.	3. Where no agreement is reached between the institutions or authorities concerned <u><i>within three months of the date on which the difference of views arises</i></u> , the matter <u><i>shall</i></u> be brought before the Administrative Commission by the competent authorities no earlier than one month after the date on which the difference of views, as referred to in paragraph 1 or 2 arose. The Administrative Commission shall seek to reconcile the points of view within six months of the date on which the matter was brought before it.	3. Where no agreement is reached between the institutions or authorities concerned, the matter may be brought before the Administrative Commission by the competent authorities no earlier than one month after the date on which the difference of views, as referred to in paragraph 1 or 2 arose. The Administrative Commission shall seek to reconcile the points of view within six months of the date on which the matter was brought before it.	<i>No COM or CL proposal, contains EP amendment</i>
		AM 117		
54.	<b>Article 7</b> Provisional calculation of benefits and contributions			
55.		<u><i>1a. The provisional calculation of a benefit or</i></u>		

		<u><i>contribution referred to in paragraph 1 shall be made no later than one month after the submission of the request by the person concerned.</i></u>		
		AM 118		
<b>56.</b>	<b>Article 11</b> Elements for determining residence			
<b>57.</b>	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 agreement the centre of interests of the person concerned, based on an overall assessment of all available information relating to relevant facts, which may include, as appropriate:	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, <u><i>no later than three months after the difference of views arises,</i></u> establish by common agreement the centre of interests of the person concerned, based on an overall assessment of all available information relating to relevant facts, which may include, as appropriate:  AM 119	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 agreement the centre of interests of the person concerned, based on an overall assessment of all available information relating to relevant facts, which may include, as appropriate:	<i>No COM or CL proposal, contains EP amendment</i>
<b>58.</b>	<b>Article 14</b> Details relating to Articles 12 and 13 of the basic Regulation			
<b>59.</b>	1. For the purposes of the application of Article 12(1) of the basic Regulation, a ‘person	1. For the purposes of the application of Article 12(1) of the basic Regulation, a ‘person	1. For the purposes of the application of Article 12(1) of the basic Regulation, a ‘person who	

	<p>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 posted <b>within the meaning of the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>5</sup> or sent</b> by that employer to another Member State' shall include a person who is recruited with a view to being posted <b>or sent</b> to another Member State, provided that, immediately before the start of his employment, the person concerned is already subject to the legislation of the <b>sending Member State in accordance with Title II of the basic Regulation which his employer is established.</b></p>	<p>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 <u>[...]</u> sent by that employer to another Member State shall include a person who is recruited with a view to being sent to another Member State, provided that immediately before the start of his employment, the person concerned is already subject to the legislation of the sending Member State in <b>accordance with Title II of the basic Regulation.</b></p> <p><b>AM 120</b></p>	<p>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 <u>posted</u> <b><u>within the meaning of the Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>5</sup> or sent</u></b> by that employer to another Member State' shall include a person who is recruited with a view to being <b><u>posted sent or</u></b> to another Member State, provided that, <b><u>for a period of at least three months</u></b> immediately before the start of his employment, the person concerned <b><u>is has</u></b> already <b><u>been</u></b> subject to the legislation of the <b><u>sending</u></b> Member State in <b><u>which his employer is established</u></b> <b><u>accordance with Title II of the basic Regulation which his employer is established.</u></b></p>	
60.			<p><b><u>1a. Once a person has been sent in accordance with Article 12(1) of the basic Regulation or pursued an activity as self-employed in another Member</u></b></p>	

<sup>5</sup> OJ L 018 , 21.01.1997 p. 1

			<p><b><u>State in accordance with Article 12(2) of the basic Regulation for 24 months in total, either continuously or with interruptions not longer than two months, no new period under Article 12 (1) or Article 12(2) for the same employed or self-employed person and the same Member State may start until at least two months have elapsed from the end of the previous period.</u></b></p>	
61.	<p>2. For the purposes of the application of Article 12(1) of the basic Regulation, the words ‘which normally carries out its activities there’ shall refer to an employer that ordinarily performs substantial activities, other than purely internal management activities, in the territory of the Member State in which it is established, 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 employer and the real nature of the activities carried out.</p>	<p>2. For the purposes of the application of Article 12(1) of the basic Regulation, the words ‘which normally carries out its activities there’ shall refer to an employer that ordinarily performs substantial activities. <b><u>In order to determine whether an undertaking genuinely performs substantial activities,</u></b> other than purely internal management <b><u>and/or administrative activities, the competent authorities shall make an overall assessment of all factual elements characterising those activities,</u></b> taking account of <b><u>a wider timeframe,</u></b> carried out by <b><u>an undertaking in the Member State of establishment. Such</u></b></p>	<p>2. For the purposes of the application of Article 12(1) of the basic Regulation, the words ‘which normally carries out its activities there’ shall refer to an employer that ordinarily performs substantial activities, other than purely internal management activities, in the territory of the Member State in which it is established, 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 employer and the real nature of the activities carried out.</p>	<p><i>No COM or CL proposal, contains EP amendment</i></p>

		<i><u>elements may include in particular:</u></i>		
		AM 121		
62.		<i><u>(a) the place where the undertaking has its registered office and administration, uses office space, pays taxes and social security contributions and, where applicable, in accordance with national law has a professional licence or is registered with the chambers of commerce or professional bodies;</u></i>		
		AM 121		
63.		<i><u>(b) the place where workers are recruited and from which they are sent;</u></i>		
		AM 121		
64.		<i><u>(c) the law applicable to the contracts concluded by the undertaking with its workers, on the one hand, and with its clients, on the other;</u></i>		
		AM 121		
65.		<i><u>(d) the place where the undertaking performs its substantial business activity</u></i>		

		<u>and where it employs administrative staff;</u>		
		AM 121		
66.		<u>(e) the number of contracts performed and/or the size of the turnover realised in the Member State of establishment, taking into account the specific situation of, inter alia, newly established undertakings and SMEs.</u>		
		AM 121		
67.	3. For the purposes of the application of Article 12(2) of the basic Regulation, the words ‘who normally pursues an activity as a self-employed person’ shall refer to a person who habitually carries out substantial activities in the territory of the Member State in which he is established. In particular, that person must have already pursued his activity for some time before the date when he wishes to take advantage of the provisions of that Article and, during any period of temporary activity in another Member State, must continue to fulfil,	3. For the purposes of the application of Article 12(2) of the basic Regulation, the words ‘who normally pursues an activity as a self-employed person’ shall refer to a person who habitually carries out substantial activities in the territory of the Member State in which he is established. In particular, that person must have already pursued <u>a sufficient</u> activity for some time before the date when he wishes to take advantage of the provisions of that Article and, during any period of temporary activity in another Member State, must continue to fulfil,	3. For the purposes of the application of Article 12(2) of the basic Regulation, the words ‘who normally pursues an activity as a self-employed person’ shall refer to a person who habitually carries out substantial activities in the territory of the Member State in which he is established. In particular, that person must have already pursued his activity for some time before the date when he wishes to take advantage of the provisions of that Article and, during any period of temporary activity in another Member State, must continue to fulfil, in the Member State where he is established, the requirements for	<i>No COM or CL proposal, contains EP amendment</i>

	in the Member State where he is established, the requirements for the pursuit of his activity in order to be able to pursue it on his return.	in the Member State where he is established, the requirements for the pursuit of his activity in order to be able to pursue it on his return.  <b>AM 122</b>	the pursuit of his activity in order to be able to pursue it on his return.	
<b>68.</b>	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.	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.	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.	<i>No proposals, for information purposes only.</i>
<b>69.</b>		<b><u>4a. For the purpose of the application of point (c) of Article 12(1) and point (c) of Article 12(2) of the basic Regulation, "business trip" means a temporary activity related to the business interests of the employer, not including the provision of services or the delivery of goods, such as attending</u></b>		

		<p><u><i>internal and external business meetings, attending conferences and seminars, negotiating business deals, undertaking sales or marketing activities, performing internal or client audits, exploring business opportunities, or attending and receiving training.</i></u></p> <p><b>AM 123</b></p>		
<b>70.</b>	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’ shall refer to a person who simultaneously, or in alternation, for the same undertaking or employer or for various undertakings or employers, exercises one or more separate activities in two or more Member States.	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’ shall refer to a person who simultaneously, or in alternation, for the same undertaking or employer or for various undertakings or employers, exercises one or more separate activities in two or more Member States.	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’ shall refer to a person who simultaneously, or in alternation, for the same undertaking or employer or for various undertakings or employers, exercises one or more separate activities in two or more Member States.	<i>No proposals, for information purposes only.</i>
<b>71.</b>	5a. For the purposes of the application of Title II of the basic Regulation, ‘registered office or place of business’ shall refer to the registered office or place of business where the essential decisions of the undertaking are adopted	5a. For the purposes of the application of Title II of the basic Regulation, ‘registered office or place of business’ shall refer to the registered office or place of business where the essential decisions of the undertaking are adopted	5a. For the purposes of the application of Title II of the basic Regulation, ‘registered office or place of business’ shall refer to the registered office or place of business where the essential decisions of the undertaking are adopted and where the functions	

	and where the functions of its central administration are carried out, <b>provided the undertaking performs a substantial activity in that Member State. Otherwise, it shall be deemed to be situated in the Member State where the centre of interest of activities of the undertaking determined in accordance with the criteria laid down in paragraphs 9 and 10 is located.</b>	and where the functions of its central administration are carried out, <b>provided the undertaking performs a substantial activity in that Member State. Otherwise, it shall be deemed to be situated in the Member State where the centre of interest of activities of the undertaking determined in accordance with the criteria laid down in paragraphs 9 and 10 is located.</b>	of its central administration are carried out <b><u>provided the undertaking performs a substantial activity in that Member State. Otherwise, it shall be deemed to be situated in the Member State where the centre of interest of activities of the undertaking determined in accordance with the criteria laid down in paragraphs 9 and 10 is located. In determining the location of the registered office or place of business, a series of factors shall be taken into account, including:</u></b>	
72.			<b><u>(i) the place of residence of the main directors,</u></b>	
73.			<b><u>(ii) the places where general meetings are held,</u></b>	
74.			<b><u>(iii) the place where administrative and accounting documents are kept,</u></b>	
75.			<b><u>(iv) the place where financial and particularly banking transactions mainly take place,</u></b>	
76.			<b><u>(v) the turnover, working time, number of services rendered and/or income,</u></b>	
77.			<b><u>(vi) the habitual nature of the activity pursued.</u></b>	
78.			<b><u>The determination shall be carried out in the framework of an overall assessment, giving</u></b>	

			<u>due weight to each of the criteria mentioned above. The Administrative Commission shall lay down the detailed arrangements for the determination.</u>	
79.	<del>For the purposes of Article 13(1) of the basic Regulation, an employed flight crew or cabin crew member normally pursuing air passenger or freight services in two or more Member States shall be subject to the legislation of the Member State where the home base, as defined in Annex III to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation <sup>(1)</sup>, is located.</del>	<del>For the purposes of Article 13(1) of the basic Regulation, an employed flight crew or cabin crew member normally pursuing air passenger or freight services in two or more Member States shall be subject to the legislation of the Member State where the home base, as defined in Annex III to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation <sup>(1)</sup>, is located.</del>	<del>For the purposes of Article 13(1) of the basic Regulation, an employed flight crew or cabin crew member normally pursuing air passenger or freight services in two or more Member States shall be subject to the legislation of the Member State where the home base, as defined in Annex III to Council Regulation (EEC) No 3922/91 of 16 December 1991 on the harmonization of technical requirements and administrative procedures in the field of civil aviation, is located.</del>	<i>All three institutions have the same position</i>
80.		<u>8a. For the purposes of the application of point (b) of Article 13(1) of the basic Regulation, the largest share of his/her work activities shall be determined by comparing the average weekly hours worked in each Member State where the person pursues an activity.</u>		

		<b>AM 124</b>		
<b>81.</b>	10. For the determination of the applicable legislation under paragraphs 8 and 9, the institutions concerned shall take into account the situation projected for the following 12 calendar months.	10. <u>The</u> determination of the applicable legislation <u>within the meaning of Article 13 of the basic Regulation shall apply for a maximum period of 24 months. Once that period has elapsed, the applicable legislation shall be reassessed in the light of the employee's situation.</u>	10. For the determination of the applicable legislation under paragraphs 8 and 9, the institutions concerned shall take into account the situation projected for the following 12 calendar months.	<i>No COM or CL proposal, contains EP amendment</i>
		<b>AM 125</b>		
<b>82.</b>	11. If a person pursues his activity as an employed person in two or more Member States on behalf of an employer established outside the territory of the Union, and if this person resides in a Member State without pursuing substantial activity there, he shall be subject to the legislation of the Member State of residence.	11. If a person pursues his activity as an employed person in two or more Member States on behalf of an employer established outside the territory of the Union, and if this person resides in a Member State without pursuing substantial activity there, he shall be subject to the legislation of the Member State of residence.	11. If a person pursues his activity as an employed person in two or more Member States on behalf of an employer established outside the territory of the Union, and if this person resides in a Member State without pursuing substantial activity there, he shall be subject to the legislation of the Member State of residence.	<i>No proposals, for information purposes only.</i>
<b>83.</b>	<b>12. If a person who resides outside the territory of the Union pursues his activities as an employed or self-employed person in two or more Member States and if this person, by virtue of the national legislation of one of those Member States, is</b>	<b>12. If a person who resides outside the territory of the Union pursues his activities as an employed or self-employed person in two or more Member States and if this person, by virtue of the national legislation of one of those Member States, is</b>	<b>12. <u>For the purposes of applying Article 13 of the basic Regulation, in relation to</u> If a person who resides outside the territory of the Union pursues his/her activities as an employed or self-employed person in two or more Member States <u>and if this person, by virtue of the</u></b>	<i>No EP amendments to the COM proposal.</i>

	subject to the legislation of that State, the provisions of the basic Regulation and the implementing Regulation on the determination of the applicable legislation shall apply <i>mutatis mutandis</i> subject to the proviso that his or her residence shall be deemed to be in the Member State where the registered office or place of business of the undertaking or his or her employer or the centre of interest of his or her activities is located.	subject to the legislation of that State, the provisions of the basic Regulation and the implementing Regulation on the determination of the applicable legislation shall apply <i>mutatis mutandis</i> subject to the proviso that his or her residence shall be deemed to be in the Member State where the registered office or place of business of the undertaking or his or her employer or the centre of interest of his or her activities is located.	<del>national legislation of one of those Member States, is subject to the legislation of that State,</del> the provisions of the basic Regulation and the implementing Regulation on the determination of the applicable legislation shall apply <i>mutatis mutandis</i> subject to the <u>provision</u> that his or her residence shall be deemed to be in the Member State where the <u>person pursues the major part of his/her activities in terms of working time within the territory of the Union</u> <del>registered office or place of business of the undertaking or his or her employer or the centre of interest of his or her activities is located.</del>	
84.	<b>Article 15</b> Procedures for the application of Article 11(3)(b) and (d), Article 11(4) and Article 12 of the basic Regulation (on the provision of information to the institutions concerned)	<b>Article 15</b> Procedures for the application of Article 11(3)(b) and (d), Article 11(4) and Article 12 of the basic Regulation (on the provision of information to the institutions concerned)	<b>Article 15</b> Procedures for the application of Article 11(3)(b) and (d), Article 11(4), <b>Article 11(5)</b> and Article 12 of the basic Regulation (on the provision of information to the institutions concerned)	<i>No COM or EP proposal, contains CL amendment</i>
85.	1. Unless otherwise provided for by Article 16 of the implementing Regulation, where a person pursues his activity in a Member State other than the Member State	1. Unless otherwise provided for by Article 16 of the implementing Regulation, where a person pursues his <u>or her</u> activity in a Member State <u>or more than one Member</u>	1. Unless otherwise provided for by Article 16 of the implementing Regulation, where a person pursues his activity in a Member State other than the Member State competent under Title II of the	<i>No COM or CL proposal, contains EP amendment</i>

	<p>competent under Title II of the basic Regulation, the employer or, in the case of a person who does not pursue 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. That institution shall issue the attestation referred to in Article 19(2) of the implementing Regulation to the person concerned and shall without delay make information concerning the legislation applicable to that person, pursuant to Article 11(3)(b) or Article 12 of the basic Regulation, available to the institution designated by the competent authority of the Member State in which the activity is pursued.</p>	<p><u>State</u> other than the Member State competent under Title II of the basic Regulation, the employer or, in the case of a person who does not pursue an activity as an employed person, the person concerned shall inform the competent institution of the Member State whose legislation is applicable thereof in advance. That institution shall without delay make information concerning the legislation applicable to <u>the person concerned</u>, pursuant to Article 11(3)(b), Article 12 <u>or Article 13</u> of the basic Regulation, available <u>to the person concerned and</u> to the institution designated by the competent authority of the Member State in which the activity is pursued.</p> <p><b>AM 126</b></p>	<p>basic Regulation, the employer or, in the case of a person who does not pursue 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. That institution shall issue the attestation referred to in Article 19(2) of the implementing Regulation to the person concerned and shall without delay make information concerning the legislation applicable to that person, pursuant to Article 11(3)(b) or Article 12 of the basic Regulation, available to the institution designated by the competent authority of the Member State in which the activity is pursued.</p>	
86.		<p><u><i>1a. For the purposes of the application of Article 12, the employer or, in the case of a person who does not pursue an activity as an employed person, the person concerned shall notify the competent institution of the Member</i></u></p>		

		<u>State whose legislation is applicable thereof, in advance.</u>		
		AM 126		
87.		<u>Unless the activity pursued concerns a business trip, that competent institution shall, within 20 working days of that notification, do all of the following:</u>		
		AM 126		
88.		<u>(a) assess whether the conditions for continued application of the legislation of the relevant Member State are met;</u>		
		AM 126		
89.		<u>(b) issue the attestation referred to in Article 19(2) of the implementing Regulation to the person concerned;</u>		
		AM 126		
90.		<u>(c) make information concerning the legislation applicable to the worker or self-employed person, pursuant to Article 12 of the basic Regulation, available to the institution designated by the competent authority of the</u>		

		<u>Member State in which the activity is pursued.</u>		
		AM 126		
91.		<u>Upon request of the competent institution of the Member State where the activity is pursued, the notified competent institution shall communicate not only the results, but the full details of the assessment referred to in point (a) of the second subparagraph.</u>		
		AM 126		
92.		<u>Where the notified competent institution fails to make that assessment available to the institution of the Member State where the activity is pursued, it shall pay a daily fee equal to the contributions that the latter would receive if the legislation of the notified competent institution were applicable.</u>		
		AM 126		
93.		<u>During the assessment referred to in point (a) of the second subparagraph, the worker or self-employed person concerned shall stay</u>		

		<u>subject to to the legislation of the Member State in the notified competent institution.</u>		
		AM 126		
94.		<u>Where, following the assessment referred to in point (a) of the second subparagraph, the worker or self-employed person is considered to be subject to the legislation of the Member State in which the activity is pursued, the legislation of that Member State shall be applicable retroactively and contributions shall be reimbursed and paid accordingly.</u>		
		AM 126		
95.	2. Paragraph 1 shall apply <i>mutatis mutandis</i> to persons covered by Article 11(3)(d) <b>and Article 11(5)</b> of the basic Regulation.	2. Paragraph 1 shall apply <i>mutatis mutandis</i> to persons covered by Article 11(3)(d) <b>and Article 11(5)</b> of the basic Regulation.	2. Paragraph 1 shall apply <i>mutatis mutandis</i> to persons covered by Article 11(3)(d) <b>and Article 11(5)</b> of the basic Regulation.	<i>All three institutions have the same position</i>
96.		<u>Article 15a (new)</u> <u>Delivery of the attestation</u>		
		AM 127		
97.		<u>1. In order to ensure the timely delivery of the attestations referred to in Article 19(2), administrative</u>		

		<u>cooperation and mutual assistance shall, for the purposes of Article 15(1) be implemented through the Internal Market Information System (IMI) established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council<sup>6</sup>.</u>		
		AM 127		
98.		<u>2. Member States shall ensure that the attestations referred to in Article 19(2) is issued to the persons concerned and to the employers electronically.</u>		
		AM 127		
99.	<b>Article 16</b> Procedure for the application of Article 13 of the basic Regulation			
100.	1. A person who pursues activities in two or more Member States <b>or his/her employer</b> shall inform the institution designated by the competent authority of the Member State of residence thereof.	1. A person who pursues activities in two or more Member States <b>or his/her employer</b> shall inform the institution designated by the competent authority of the Member State of residence thereof.	1. A person who pursues activities in two or more Member States <del>or his/her employer</del> shall inform the institution designated by the competent authority of the Member State of residence thereof. <b><u>This information may also be provided by the employer on the person's behalf.</u></b>	<i>No EP amendments to the COM proposal.</i>

<sup>6</sup> Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p.1).

101.	2. The designated institution of the place of residence shall without delay determine the legislation applicable to the person concerned, having regard to Article 13 of the basic Regulation and Article 14 of the implementing Regulation. <del>That initial determination shall be provisional.</del> The institution shall inform the designated institutions of each Member State in which an activity is pursued <del>of its provisional determination or in which the employer is situated.</del>	2. The designated institution of the place of residence shall without delay determine the legislation applicable to the person concerned, having regard to Article 13 of the basic Regulation and Article 14 of the implementing Regulation. <del>That initial determination shall be provisional.</del> The institution shall inform the designated institutions of each Member State in which an activity is pursued <del>of its provisional determination or in which the employer is situated.</del>	2. The designated institution of the place of residence shall without delay determine the legislation applicable to the person concerned, having regard to Article 13 of the basic Regulation and Article 14 of the implementing Regulation. <del>That initial determination shall be provisional.</del> <u>If this institution determines that the legislation of the Member State where this institution is situated applies,</u> <del>The institution it</del> shall inform the designated institutions of each Member State in which an activity is pursued <u>and/or in which the employer is situated of its determination of the applicable legislation of its provisional determination.</u>	<i>No EP amendments to the COM proposal.</i>
102.	3. <del>The provisional determination of the applicable</del> If that institution determines that the legislation, <del>as provided for in paragraph 2,</del> of another Member State applies, it shall do so provisionally and shall without delay inform the institution of the Member State which it considers to be competent of this provisional decision. The decision shall	3. <del>The provisional determination of the applicable</del> If that institution determines that the legislation, <del>as provided for in paragraph 2,</del> of another Member State applies, it shall do so provisionally and shall without delay inform the institution of the Member State which it considers to be competent of this provisional decision. The decision shall	3. <del>If that the designated institution of the place of residence</del> determines that the legislation of another Member State applies, <u>that determination shall be provisional, and this institution it shall do so provisionally and shall</u> without delay inform the <del>designated</del> institutions of <del>the</del> each Member State <u>in which an activity is pursued and/or in which the employer is situated</u>	

	<p>become definitive within two months <del>of the institutions designated by the competent authorities of the Member States concerned being informed of it, 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</del> after the institution designated by the competent <del>authority</del> <b>authorities</b> of the Member State concerned has been informed of residence by it, unless the <del>end of this two-month period</del> latter institution informs the first institution and the persons concerned that it cannot yet accept the provisional determination or that it takes a different view on this.</p>	<p>become definitive within two months <del>of the institutions designated by the competent authorities of the Member States concerned being informed of it, 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</del> after the institution designated by the competent <del>authority</del> <b>authorities</b> of the Member State concerned has been informed of residence by it, unless the <del>end of this two-month period</del> latter institution informs the first institution and the persons <del>and the employer</del> concerned that it cannot yet accept the provisional determination or that it takes a different view on this.</p> <p>AM 128</p>	<p><del>which it considers to be competent</del> of this provisional <del>decision</del> <u>determination of the applicable legislation</u>. The <u>provisional determination decision</u> <del>The provisional determination of the applicable legislation, as provided for in paragraph 2,</del> shall become definitive <u>within</u> two months <del>after</del> of the institutions designated by the competent authorities of the Member States concerned <del>has been being</del> informed of it, <del>in accordance with paragraph 2,</del> unless <del>the legislation has already been definitively determined on the basis of paragraph 4, or at least one of the latter at least one of these</del> institutions <del>concerned</del> informs the <u>first designated</u> institution <u>of the place of residence by the end of this two month period</u> <del>designated by the competent authority of the Member State of residence by the end of this two-month period and the persons concerned</del> that it cannot yet accept the provisional determination or that it takes a different view on this.</p>	
103.	5. The competent institution of the Member State whose	5. The competent institution of the Member State whose	5. The competent institution of the Member State whose legislation is	

	legislation is determined to be applicable either provisionally or definitively shall without delay inform the person concerned <b>and/or his or her employer.</b>	legislation is determined to be applicable either provisionally or definitively shall without delay inform the person concerned <b>and his or her employer.</b>	determined to be applicable either provisionally or definitively shall without delay inform the person concerned <b>and/or his/her employer of the determination.</b>	
		AM 129		
104.	<b>Article 19</b> <i>Provision of information to persons concerned and employers</i>			
105.	<b>3. Whenever an institution is asked to issue the attestation referred to above, it shall carry out a proper assessment of the relevant facts and guarantee that the information on the basis of which the attestation is provided is correct.</b>	<b>3. Whenever an institution is asked to issue the attestation referred to above, it shall carry out a proper assessment of the relevant facts and guarantee that the information on the basis of which the attestation is provided is correct.</b>	<b>3. Whenever an institution is asked to issue the attestation referred to <u>above in paragraph 2</u>, it shall carry out a proper assessment of the <u>relevant</u> facts <u>relevant for the application of the rules set out in Title II of the basic Regulation and guarantee confirm that the information <del>on the basis of which</del> contained in the attestation <u>is provided</u> is correct.</u></b>	<i>No EP amendments to the COM proposal.</i>
106.			<b><u>Article 19a (new)</u></b> <b><u>Cooperation in case of doubts about the validity of issued documents concerning the applicable legislation</u></b>	
107.			<b><u>1. Where there is doubt about the validity of a document showing the position of the person for the purposes of the applicable legislation or the accuracy of the facts on which the document is based, the</u></b>	

			<p><u>institution of the Member State that receives the document shall ask the issuing institution for the necessary clarification and, where appropriate, the withdrawal or rectification of that document. The requesting institution shall substantiate its request and provide relevant supporting documentation that gave rise to the request.</u></p>	
108.			<p><u>2. When receiving such a request, the issuing institution shall reconsider the grounds for issuing the document and, where an error is detected, withdraw it or rectify it within 30 working days from the receipt of the request. The withdrawal or rectification shall have retroactive effect. However, in cases where there is a risk of disproportionate outcome, and in particular, of the loss of status as an insured person for the whole or part of the relevant period in all Member States concerned, the Member States shall consider to apply Article 16 of the basic Regulation. Where the issuing institution considers that, on the basis of the available evidence, there is no doubt that the</u></p>	

			<u>applicant of the document has committed fraud, it shall withdraw or rectify the document without delay and with retroactive effect.</u>	
109.			<u>3. If the issuing institution, having reconsidered the grounds for issuing the document is unable to detect any error it shall forward to the requesting institution all available evidence within 30 working days from the receipt of the request. In urgent cases, where the reasons for urgency have been clearly indicated and substantiated in the request, this shall be done within ten working days from the receipt of the request, notwithstanding that the issuing institution may not have completed its deliberations pursuant to paragraph 2 above.</u>	
110.			<u>4. Where the requesting institution having received the available evidence continues to have doubts about the validity of a document or the accuracy of the facts on which the particulars contained therein are based or that the information upon which the document was issued is not</u>	

			<u>correct, it may submit evidence to that effect and make a further request for clarification and where appropriate the withdrawal or rectification of that document by the issuing institution in accordance with the procedure and timeframes set out above.</u>	
111.			<u>5. Where the requesting institution having received the available evidence continues to have doubts about the validity of a document or the accuracy of the facts on which the particulars contained therein are based or that the information upon which the document was issued is not correct, it may submit evidence to that effect and make a further request for clarification and where appropriate the withdrawal or rectification of that document by the issuing institution in accordance with the procedure and timeframes set out above.</u>	
112.	<b>Article 20</b> Cooperation between institutions			
113.	1. The relevant institutions shall communicate to the competent institution of the Member State whose	1. The relevant institutions shall communicate to the competent institution of the Member State whose	1. The relevant institutions shall communicate to the competent institution of the Member State whose legislation is applicable to	<i>No COM or CL proposal, contains EP amendment</i>

	legislation is applicable to a person pursuant to Title II of the basic Regulation the necessary information required to establish the date on which that legislation becomes applicable and the contributions which that person and his employer(s) are liable to pay under that legislation.	legislation is applicable to a person pursuant to Title II of the basic Regulation the necessary information required to establish the date on which that legislation becomes applicable and the contributions which that person and his employer(s) are liable to pay under that legislation <u>and Directive 96/71/EC for calculating the contributions on the basis of the remuneration paid.</u>	a person pursuant to Title II of the basic Regulation the necessary information required to establish the date on which that legislation becomes applicable and the contributions which that person and his employer(s) are liable to pay under that legislation.	
114.	<b>Article 20a (new) Power to adopt implementing acts</b>	[...] AM 132	[...]	<i>EP and CL - same position</i>
115.	<b>1. The Commission shall be empowered to adopt implementing acts specifying the procedure to be followed in order to ensure uniform conditions for the application of Articles 12 and 13 of the basic Regulation. Those acts shall establish a standard procedure including time limits for:</b>	[...] AM 132	[...]	<i>EP and CL - same position</i>
116.	<b>– the issuance, the format and the contents of a portable document certifying</b>	[...] AM 132	[...]	<i>EP and CL - same position</i>

	<b>the social security legislation which applies to the holder,</b>			
117.	–the determination of situations in which the document shall be issued,	<u>[...]</u> AM 132	<u>[...]</u>	<i>EP and CL - same position</i>
118.	–the elements to verified before the document can be issued,	<u>[...]</u> AM 132	<u>[...]</u>	<i>EP and CL - same position</i>
119.	– the withdrawal of the document when its accuracy and validity is contested by the competent institution of the Member State of employment.	<u>[...]</u> AM 132	<u>[...]</u>	<i>EP and CL - same position</i>
120.	2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 5 of Regulation (EU) No 182/2011 <sup>7</sup>	<u>[...]</u> AM 132	<u>[...]</u>	<i>EP and CL - same position</i>
121.	3. The Commission shall be assisted by the Administrative Commission, which shall be a committee within the meaning of Regulation (EU) No 182/2011.	<u>[...]</u> AM 132	<u>[...]</u>	<i>EP and CL - same position</i>
122.	<b>Amending Regulation</b>			
123.	<b>Recital 7</b>			
124.	<b>(7) In order to ensure clarity regarding the terminology in</b>	<b>(7) In order to ensure clarity regarding the terminology in</b>	<b><del>(7) In order to ensure clarity regarding the</del></b>	

<sup>7</sup> OJ L 55, 28.2.2011, p. 13–18

	<p>EU law, the term “posting” should only be used for the posting of workers within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.<sup>8</sup> In addition, to achieve consistency in treatment between employed and self-employed persons it is necessary that the special rules for the determination of applicable legislation in the cases of workers who are temporarily posted or sent to another Member State should apply consistently to both employed and self-employed persons.</p>	<p>EU law, the term “posting” should only be used for the posting of workers within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services<sup>30</sup>. <i>Regulations (EC) No 883/2004 and (EC) No 987/2009 should refer to workers in a posting situation, including those falling within the scope of Directive 96/71/EC, as “sent” rather than “posted”.</i> In addition, to achieve consistency in treatment between employed and self-employed persons it is necessary that the special rules for the determination of applicable legislation in the cases of workers who are temporarily sent to another Member State should apply consistently to both employed and self-employed persons.</p> <p>AM 24</p>	<p><del>terminology in EU law, the term “posting” should only be used for the posting of workers within the meaning of Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.<sup>30</sup> In addition, to achieve consistency in treatment between employed and self-employed persons it is necessary that the special rules for the determination of applicable legislation in the cases of workers who are temporarily posted or sent to another Member State should apply consistently to both employed and self-employed persons.</del></p>	
125.		Recital 10b(new)		

<sup>8</sup> OJ L 018 , 21.01.1997 p. 1.

126.		<p><u>(10b) While coordination rules cannot prevent mobile citizens from having a lower level of protection than non-mobile citizens, Member States are encouraged to find bilateral solutions in accordance with Article 16 of Regulation (EC) No 883/2004 as amended by this Regulation.</u></p>		
127.	<b>Recital 15</b>			
128.	<p><b>(15) With a view to expediting the procedure for the verification and withdrawal of documents (in particular concerning the social security legislation which applies to the holder) in case of fraud and error, it is necessary to strengthen the collaboration and the exchange of information between the issuing institution and the institution requesting a withdrawal. Where there is doubt about the validity of a document or about the correctness of supporting evidence or where there is a difference of views between Member States</b></p>	<p><b>(15) With a view to expediting the procedure for the verification and withdrawal of documents (in particular concerning the social security legislation which applies to the holder) in case of fraud and error, it is necessary to strengthen the collaboration and the exchange of information between the issuing institution and the institution requesting a withdrawal. Where there is doubt about the validity of a document or about the correctness of supporting evidence or where there is a difference of views between Member States</b></p>	<p><b>(15) With a view to expediting the procedure for the verification and withdrawal of documents [...] in cases of fraud and error, it is necessary to strengthen the collaboration and the exchange of information between the issuing institution and the institution requesting a withdrawal. Where there is doubt about the validity of a document or about the correctness of supporting evidence [...], it is in the interest of the Member States and the persons concerned that the institutions concerned reach</b></p>	<p><i>No EP amendments to the COM proposal.</i></p>

	concerning the determination of the applicable legislation, it is in the interest of the Member States and the persons concerned that the institutions concerned reach an agreement within a reasonable period of time.	concerning the determination of the applicable legislation, it is in the interest of the Member States and the persons concerned that the institutions concerned reach an agreement within a reasonable period of time.	an agreement within a reasonable period of time.	
129.			<b><u>Recital 15a (new)</u></b>	
130.			<b><u>(15a) As regards documents concerning the social security legislation which applies to the holder, there should be a detailed procedure for the cooperation in case of doubts on their validity. It is also necessary to lay down further rules on retroactivity in case a document is withdrawn or rectified. This includes the situations in which the Member States involved should consider to conclude an agreement based on Article 16 of Regulation (EC) No 883/2004 for part or all of the periods covered by the document.</u></b>	
131.	<b>Recital 16</b>			
132.	<b>(16) To ensure the effective and efficient operation of the coordination rules it is</b>	<b>(16) To ensure the effective and efficient operation of the coordination rules it is</b>	<b>(16) To ensure the effective and efficient operation of the coordination rules it is</b>	

	necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in order to provide a greater parity with the conditions that apply to persons who are posted or sent to pursue economic activity in a single Member State. Moreover, the posting rules providing for the continuation of the applicable legislation should only apply to persons who had a prior link to the social security system of the Member State of origin.	necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in order to provide a greater parity with the conditions that apply to persons who are [...] sent to pursue economic activity in a single Member State. Moreover, the [...] rules providing for the continuation of the applicable legislation should only apply to persons who had a prior link to the social security system of the Member State of origin.	necessary to clarify the rules for determining applicable legislation for employees who pursue their economic activity in two or more Member States in order to provide a greater parity with the conditions that apply to persons who are [...] sent to pursue economic activity in a single Member State. [...]	
133.		AM 36	<b><u>Recital 16a (new)</u></b>	
134.			<b><u>(16a) Moreover, the link with the social security system of the Member State of origin of employed persons sent to another Member State should be reinforced by providing for a minimum period of prior affiliation.</u></b>	
135.		<b><u>Recital 16a (new)</u></b>		
136.		<b><u>(16a) In order to strengthen the link between the</u></b>		

substantial activity of the undertaking and the legislation applicable to the person seconded by that undertaking to another Member State on a temporary basis, it is important to stress that the substantial activity must be characterised, inter alia, by a share of more than 25 % of the annual turnover in the Member State from which the person is seconded.

AM 37