



**COUNCIL OF THE
THE EUROPEAN UNION**

Brussels, 8 May 2012

**Interinstitutional File:
2010/0380 (COD)**

**9276/12
ADD 1 REV 1**

**CODEC 1112
SOC 315
OC 209**

REVISED ADDENDUM TO THE "I/A" ITEM NOTE

from : Secrétariat général du Conseil

to : COREPER /COUNCIL

No. Cion prop.: 5063/11 SOC 7 CODEC 8

Subject : Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (**first reading**)
- Adoption of the legislative act (**LA + S**)

=Statements

COMMON GUIDELINES

Consultation deadline: 8.5.2012

Statement by Ireland

Ireland wishes to underline our commitment to social security coordination as provided for in Regulation 883/2004 and the Implementing Regulation, and emphasises its importance in ensuring that the right to free movement of persons can be exercised effectively, in accordance with the provisions of the Treaty on European Union and the Treaty on the Functioning of the European Union.

Ireland continues to have concerns in relation to Article 14(5) (a) of the proposal which will impact both the social insurance position of citizens as well as institutions and employers.

However Ireland will fulfil our obligations in relation to the implementation of the Regulation while continuing to have fundamental difficulties of principle with the above provision.

Joint statement by the Irish, French, Italian, Maltese, Netherlands and Portuguese delegations

We regret the retained wording of Article 65a which represents another breach to the lex loci laboris principle and deviates from the framework of Regulation 883/2004 on social security coordination. In that regard, the lack of correspondence between contributions and/or taxation and unemployment benefits could harm, not only from a financial point of view, the complex balance of national social security systems.

We will be particularly vigilant when reviewing and assessing the implementation of Article 65a and the current provisions in the unemployment field, as well as when considering any proposal submitted by the Commission in this context, that these will respect the lex loci laboris principle and the framework of Regulation 883/2004 on social security coordination.

Statement from the United Kingdom, the Netherlands and Malta

Following a thorough analysis of this particular proposal, the United Kingdom, the Netherlands and Malta are now able to accept that Article 48 is an appropriate legal base. However, we do not believe that Article 48 of the Treaty on the Functioning of the European Union will always automatically constitute the correct legal base for proposals amending Regulation (EC) 883/2004. Therefore, we will carefully scrutinise all future proposals amending Regulation (EC) 883/2004 on a case by case basis in order to ensure the most appropriate legal base is used.

Statement by Malta

Malta welcomes the agreement reached on this text and in particular the introduction of the principle of home base in order to determine the applicable legislation for aircrew members.

However, Malta would like to emphasise that its agreement to this text should not be understood as its agreement to breaching the lex loci laboris principle or its agreement toward the extension of the interpretation on what can be covered by coordination rules. Malta reiterates that the principles outlined in Recital 4 of Regulation 883/2004 should continue to guide future work on this Regulation, that is, that 'it is necessary to respect the special characteristics of national social security legislation and to draw up only a system of coordination'.
