

AC 008/17
Main conclusions of the 350 th meeting of the Administrative Commission and the Working Party on Posting Issues
SECRETARIAT – 12.07.2017

Orig. EN

**ADMINISTRATIVE COMMISSION
FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS**

**Main conclusions of
the Working Party of the Administrative Commission on Posting Issues
&
the 350th meeting of the Administrative Commission
Brussels, 14-16 March 2017**

**MAIN CONCLUSIONS OF THE WORKING PARTY ON POSTING ISSUES ON
14 MARCH 2017**

Delegations actively participated in a discussion on the following topics identified by the Ad-hoc group on posting issues:

- Proposed amendments to Decision A1
- Proposed amendments to Decision A2
- New Recommendation A1
- Proposed amendments to Portable Document A1

**MAIN CONCLUSIONS OF THE 350TH MEETING OF THE ADMINISTRATIVE COMMISSION
ON 15-16 MARCH 2017**

A. AGENDA

The agenda was approved without changes.

B. APPROVAL OF MINUTES

The Administrative Commission did not approve the minutes of the 348th meeting on 19-20 October 2016 due to issues with translations. Concerned delegations were invited to send comments in writing.

C. COMMUNICATIONS AND QUESTIONS

Delegations took note that the Commission adopted a Communication on building a data economy (COM (2017) 9 final) and the accompanying Staff Working Document (SWD (2017) 2 final). The deadline for contributions to the public consultation is 26 April 2017 and it can be found under the link:

<https://ec.europa.eu/eusurvey/runner/European-Data-Economy-Consultation#>

Delegations took note on the intention to publish the 2015 and 2016 statistical reports on DG EMPL website.

Delegations also took note of the budgetary constraints for translations. Notes from delegations should therefore be as concise as possible.

I. ITEMS FOR APPROVAL/NOTICE WITHOUT DISCUSSION

The Administrative Commission approved without discussion new nominations to the Ad-Hoc Groups established for the definition of data to be exchanged electronically and the 2017 Work Programme of the Steering Committee of the Fraud and Error Platform.

The Administrative Commission took note without discussion of the authentication features used by the institutions of the Member States when issuing a Portable Document A1.

II. REPORT OF THE OUTCOME OF THE WORKING PARTY ON POSTING ISSUES

Delegations took note of the results of the discussions of the Working Party on Posting Issues of 14 March 2017.

III. DRAFT MANDATE FOR THE CONCILIATION BOARD

The Administrative Commission had a first discussion on the revision of the mandate of the Conciliation Board. The proposal to revise the mandate and the new nominees of the Board would be listed for approval at the next meeting of the Administrative Commission in June.

IV. DETERMINATION OF APPLICABLE LEGISLATION WHEN NO PD A1 HAS BEEN ISSUED

Delegations agreed that the issue would be discussed again in the next meeting of the Administrative Commission based on additional notes to be submitted by interested delegations.

V. DECLARATIONS PURSUANT TO ARTICLE 9 OF REGULATION (EC) NO 883/2004

Delegations were reminded of the importance to submit their declarations pursuant to Article 9 of Regulation (EC) No 883/2004. Member States, in light of their obligation of loyal cooperation, are therefore required to do a proper assessment of their social security legislation and to make sure that declarations are complete and accurate. In order to improve the consistency and clarity of the Article 9 declarations, the Secretariat proposed a new template for providing a declaration. Delegations were alerted to an independent report prepared by the FreSsco experts analysing the Declarations supplied by Member States in 2016 and were encouraged to consider this report when preparing this year's procedure.

VI. REIMBURSEMENT OF UNEMPLOYMENT BENEFITS PURSUANT TO ARTICLE 65 (6) AND (7) OF REGULATION (EC) NO 883/2004 AND ARTICLE 70 OF REGULATION (EC) NO 987/2009

a) Determination of periods to be taken into account for reimbursing unemployment benefits paid to frontier workers

Delegations sought clarity on the correct interpretation of Article 65(7) of Regulation (EC) No 883/2004, and in particular on whether only periods of employment and self-employment may qualify as periods of employment under this provision and whether other periods of insurance should be disregarded. The Maltese Presidency and the Secretariat would prepare a joint note for the discussion and approval during the next meeting of the Administrative Commission, briefly presenting the two possible interpretations. If no consensus among Member States in favour of one of the possible interpretations is reached, then the issue will be brought to a vote at that meeting.

b) Calculation of the reimbursement of unemployment benefits pursuant to Article 65 (6) and (7) of Regulation (EC) No 883/2004 and Article 70 of Regulation (EC) No 987/2009

Delegations sought clarity on whether Article 65(7) of Regulation (EC) No 883/2004 should be interpreted in the sense that the reimbursement should be provided for five months irrespective of the maximum period of granting of unemployment benefit under the national legislation of the Debtor State. Delegations agreed that the issue needs to be clarified in light of the discussions on the revision of the Regulation and were advised to take a pragmatic approach in the spirit of good cooperation.

VII. EESSI

The Administrative Commission took note of the progress of the EESSI project and the work and recommendations of the EESSI Executive Board and Technical Commission.

Exceptionally, the Administrative Commission approved to mandate the Technical Commission to approve the Institution Repository, the scope of the Central Service Node and Access Point in their next meeting on 20 – 21 March 2017.

The Administrative Commission asked the Technical Commission to confirm that the changes introduced after the February Technical Commission meeting in the acceptance checklist are acceptable, subject to any comments in writing from delegations, the Administrative Commission will be asked to approve the Acceptance Checklist via written procedure.

The Administrative Commission approved 4 Business Use Cases (BUC) and conditionally approved other 8 BUCs subject to the outcome of the dry-run activity. It also conditionally approved the Structured Electronic Documents (SEDs) – version 4.0 subject to the SEDs groups checking that all agreed changes are included and quality issues fixed.

The Administrative Commission approved the updated version of the proposed revision of Decision No E1 (the new Decision No E5), allowing EESSI to go live BUC by BUC instead of sector by sector.

VIII. STATISTICAL REPORTING ON THE COORDINATION OF SOCIAL SECURITY COORDINATION

The Administrative Commission approved the 2016 Statistical report subject to corrections relating to data requested by some delegations.

It also approved improvements to the statistical questionnaire concerning Portable Document U2, subject to comments in writing after the meeting, and did not approve proposed improvements to statistical questionnaires concerning Portable Document A1 for 2017 onwards and Portable Document U1, EHIC, S1 and S2 for 2018 onwards.

To avoid undue delay to the launch of the statistical questionnaire concerning Portable Document A1 for 2017, the Secretariat proposed to defer implementing the changes proposed until 2018 onwards.

Delegations discussed a proposal to allow Member States to collect data based on gender for all existing questionnaires for 2018 onwards. The Secretariat took note of the views brought forward by the Member States and will reflect on the further follow up of this issue.

IX. APPLICATION OF RECOVERY RULES TO BENEFITS IN CASH AND IN KIND

Based on Article 71 of Regulation (EC) No 987/2009, the recovery of claims is done by way of offsetting or otherwise by way of recovery. The question arose if the rules on recovery in Articles 75-85 only relate to benefits in cash or also to benefits in kind. Delegations took note of the position of the Secretariat that both benefits in kind and in cash are concerned and were asked to verify the linguistic versions of Article 75 of Regulation (EC) No 987/2009 and provide written comments for the next meeting.

X. THE FORMAT OF THE EUROPEAN HEALTH INSURANCE CARD (EHIC)

Delegations agreed on the need to implement appropriate measures already now to ensure the standards for the allocation of EHIC serial numbers as set out in Decision No S2 is respected. The data validation rule for the EHIC serial number will not be enforced as of the start of EESSI, but it will be reassessed after practical experience is gathered with data exchange under EESSI.

On the implementation of an electronic EHIC, delegations agreed that an approach at EU level is necessary in order to avoid difficulties for citizens, healthcare providers and institutions handling reimbursement requests. Further discussion would take place in a future meeting of the Administrative Commission.

On the proposal to add the date of issue on the EHIC, the discussion would continue in the next meeting of the Administrative Commission.

XI. CERTIFICATE OF ENTITLEMENT TO SICKNESS AND MATERNITY BENEFITS FOR PRIVATELY INSURED PERSONS

The German delegation informed other delegations on their practice regarding the situation of persons privately insured for sickness in Germany. As the private insurance is not covered by Regulation (EC) No 883/2004, insurers have drafted a document to evidence that the holder is entitled to comprehensive sickness insurance by virtue of a contract with his/her private health insurance fund and, for this reason, is in no need to get coverage from the sickness insurance in another Member State.

XII. FRESSCO REPORT - ACCESS TO HEALTHCARE IN CROSS BORDER SITUATIONS

Delegations took note of the FreSsco report on access to healthcare in cross border situations available at the following link:

XIII. THE IMPLICATIONS OF THE SERVICES PACKAGE AND SERVICES CARD FOR EU SOCIAL SECURITY COORDINATION

Delegations took note of the discussion on the potential implications of the Services Package and Services Card (COM (2016)823 final and COM (2016)824 final) for EU Social Security Coordination rules, and were invited to raise any further clarification request within the framework of the ongoing discussions of the decision making procedure in the Council.

XIV. AD HOC GROUP ON FAMILY BENEFITS

The Administrative Commission approved the changes in membership of the group and took note of the interim report covering one point of its mandate on the application of judgment of the CJEU in Case C 347/12, *Wiering*.

XV. AUDIT BOARD ISSUES – OUTSTANDING UNCONTESTED CLAIMS

Delegations were provided with an update on progress in relation to the settlement of historic uncontested claims predating the coming into force of Regulations (EC) Nos 883/2004 and 987/2009. Delegations were reminded of the deadline of 15 February 2017, agreed in the 349th Meeting of the Administrative Commission in December 2016, and were again urged to promptly settle uncontested debts. In the event of non-compliance, the European Commission would consider appropriate action.

XVI. MISCELLANEOUS AMENDMENTS

No request for changes to annexes to Regulations (EC) Nos 883/2004 and 987/2009 were discussed.

XVII. CHANGES TO MEMBER STATE LEGISLATION

Delegations took note of legislative changes regarding portable document A1 in Austria and France.

XVIII. DRAFT AGENDAS OF THE MEETINGS OF THE ADMINISTRATIVE COMMISSION IN THE SECOND HALF OF 2016 AND PROVISIONAL PLANNING OF MEETINGS IN 2017

Delegations took note of the topics identified for discussion for the Joint meeting of the Administrative Commission and Technical Commission and the 351st meeting of the Administrative Commission.

The meeting was chaired by Mr Malcolm Scicluna, representative of Malta, the Member State which holds the Presidency at the Council of the European Union from 1 January to 30 June 2017.