

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

**Main conclusions of
the 351st meeting of the Administrative Commission
Brussels, 27-28 June 2017**

A. AGENDA

The agenda was approved without changes.

B. APPROVAL OF MINUTES

The Administrative Commission approved the minutes of the 4th meeting of the Forum on the International Dimension of Social Security Coordination of 6 October 2016, of the 348th Meeting of the Administrative Commission of 19-20 October 2016 and of the Reflection Forum on Assimilation of Facts of 13 December 2016.

C. COMMUNICATIONS AND QUESTIONS

The Presidency provided information on the proposal for the revision of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 and on the proposal for the revision of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services.

The Secretariat would arrange for the adoption of corrigenda as a result of the differences in linguistic versions of Article 75 of Regulation (EC) No 987/2009.

As a follow up to the proposal on the collection of data based on gender for all existing questionnaires for 2018 onwards, the Secretariat invited delegations to provide information about the gender-specific information they would be able to collect.

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, the notifications on the maximum amount under Article 70 of Regulation (EC) No 987/2009 and the average costs of benefits in kind for 2014.

The Administrative Commission took note without discussion of the state of play of the outstanding uncontested claims. Debtor Member States were invited to pay the uncontested sums as soon as possible.

The Administrative Commission also took note and the National Contact Points nominated pursuant to Decision No H5 to promote cooperation between Member States to combat fraud and error within the field of social security coordination.

II. ACCEPTANCE OF EESSI IN LINE WITH PARAGRAPH 4 OF DECISION E4 FOLLOWING THE EUROPEAN COMMISSION DECISION ON EESSI BEING FIT FOR PURPOSE

The Administrative Commission completed the approval of all Business Use Cases (BUCs) relevant for the EESSI Production Ready Release, and the relevant criterion in the Acceptance Checklist was considered fulfilled. Any new changes proposed after the meeting in relation to the process described in the BUCs would be decided by the Administrative Commission following the completion of the relevant change management process.

The Administrative Commission approved the first batch of Guidelines for BUCs and completed the approval of all Structured Electronic Documents (SEDs) relevant for the EESSI Production Ready Release in English version. The linguistic review process of the SEDs would be finalised after the delivery of the Production Ready Release. The Administrative Commission also approved the EESSI Terms of Collaboration as a working document, subject to specific updates being further discussed, and the EESSI Deployment Plan for the Production Ready Release.

The Administrative Commission unanimously endorsed the decision of the Commission on EESSI being fit for purpose and declared the central EESSI system fit for purpose to start EESSI exchanges through national implementation activities as of 3 July 2017 under the conditions agreed in the Technical Commission for the fit for purpose decision and the 2 following conditions:

- An evaluation of the status of the implementation period and any applicable conditions for the fit for purpose decision will be presented to the Technical Commission and the Administrative Commission as soon as possible after the Post Production Ready Release is delivered (estimated deadline March 2018).
- The transition period for national implementation is prescribed by decision of the Administrative Commission to be two years. In exceptional circumstances, if a significant issue is identified at EU level, the Administrative Commission can review this timeline in accordance with Article 95 of Regulation (EC) No 987/2009.

III. OTHER EESSI ITEMS

A revised draft Decision on determining when a message is considered legally delivered in EESSI system would be submitted for approval at the next meeting, based on the comments provided by delegations.

The Administrative Commission welcomed the update on the use of character sets in EESSI and the subject would be discussed in the next meeting.

Delegations were invited to coordinate with the Technical Commission delegations as regards EESSI Institution Repository Codes and provide written feedback to be discussed at the next meeting of the Administrative Commission.

The Administrative Commission took note that the new Detailed Medical Report was finalised and ready to use and approved the Basic Medical Report.

IV. FOLLOW UP TO THE WORKING PARTY OF THE ADMINISTRATIVE COMMISSION OF 14 MARCH 2017 ON POSTING ISSUES

The Administrative Commission did not approve the proposed new Decisions Nos A4 and A5 revising and replacing Decisions Nos A1 and A2, respectively.

The Administrative Commission did not approve the proposal for a new Recommendation A1 concerning the issue of Portable Documents A1 and the amendments to this portable document, but agreed to submit these proposals to a vote in the next meeting.

V. NEW MANDATE AND NOMINATION OF MEMBERS TO THE CONCILIATION BOARD

The Administrative Commission approved the nomination of the new members of the Conciliation Board and the revision of its mandate in order to facilitate the work of the Board.

VI. SUBMISSIONS TO AND DECISIONS OF THE CONCILIATION BOARD

The Administrative Commission approved the submission to the Conciliation Board of:

- a request from the French and Spanish Delegations on a dispute over applicable legislation to employees working on board of a vessel at sea (interpretation of Article 11(4) of Regulation (EC) No 883/2004).
- a request of the Belgian and Romanian delegations on the issue of “substantial activities” of an employer in the sending Member State in case of posting (Article 14(2) of Regulation (EC) No 987/2009).

The opinions of the Board are to be presented in the December meeting of the Administrative Commission.

The Administrative Commission approved the opinion of the Conciliation Board in a Belgian/Polish case concluding that: *the term “substantial activities” under Article 14(3) of Regulation (EC) 987/2009 should be interpreted by taking into account the wording of Article 14(2) of that Regulation, namely that substantial activities are other than purely internal management activities in the territory of the Member State in which the self-employed is established, taking account of all criteria characterising the activities carried out by the self-employed in question.*

VII. STATISTICAL REPORTING ON THE COORDINATION OF SOCIAL SECURITY SCHEMES

The Administrative Commission approved the statistical reports on Portable Document U1 and U2 (subject to some technical comments), as well as the report on the export of family benefits (subject to some technical comments).

The statistical report on cross-border old-age, survivors' and invalidity pensions would be presented for discussion and approval in the next meeting of the Administrative Commission,

together with the report on cross-border healthcare and the report on maternity and equivalent paternity benefits.

VIII. 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. DETERMINATION OF PERIODS TO BE TAKEN INTO ACCOUNT FOR REIMBURSING UNEMPLOYMENT BENEFITS PAID TO FRONTIER WORKERS

The Administrative Commission could not agree on the interpretation of Article 65(7) of Regulation (EC) No 883/2004 (concerning the periods to be taken into consideration for granting entitlement to unemployment benefits). Delegations were invited to work together in the spirit of good collaboration.

IX. AD HOC GROUP ON FAMILY BENEFITS

The Administrative Commission approved changes in members of the Ad-hoc Group.

The Administrative Commission approved that the Ad-hoc Group fulfilled its mandate as concerns the point on common EU standards for the calculation of the differential supplement by reference to the judgment of the CJEU in Case C 347/12, *Wiering*, EU:C:2014:300.

The Administrative Commission took note of the interim report on the other points of the mandate concerning a common method of calculation of the differential supplement by reference either to a per child or per family model, the interpretation of the terms "family member" and "mainly dependent" in particular in relation to cases of separated parents and step-parents, special rules for calculation of several specific family benefits and determination of competence under Articles 11 and 68 of Regulation (EC) No 883/2004 in particular in relation to periods of unpaid parental leave or cases where the place of residence of the child cannot easily be determined.

X. THE FEASIBILITY STUDY ON A EUROPEAN MOBILITY PORTAL ON SOCIAL SECURITY

The Administrative Commission took note of the findings of the Feasibility Study on a "European Mobility Portal on Social Security". The Secretariat will reflect on further discussing this topic at a future Administrative Commission meeting.

XI. FOLLOW UP TO THE CHANGES IN MEMBER STATE'S LEGISLATION PRESENTED IN THE 350TH MEETING OF THE ADMINISTRATIVE COMMISSION ON 15-16 MARCH 2017

Some delegations expressed concerns as regards the changes in the French and Austrian legislations concerning Portable Documents A1. The matter would be further examined and addressed by the European Commission bilaterally with the concerned Member States.

XII. PENSIONERS' HEALTHCARE COVERAGE WHEN TWO OR MORE MEMBER STATES AND A THIRD COUNTRY ARE INVOLVED

Questions were raised by some delegations on the determination of the competent Member State for healthcare cover of a retired pensioner who receives a pension from two Member States and a third country. Discussions would continue in the International Forum on 6 October.

XIII. CHANGES IN MEMBER STATE LEGISLATION

The Austrian, German and Greek delegations presented the recent developments in national social security legislation.

XIV. DRAFT AGENDAS OF THE MEETINGS OF THE ADMINISTRATIVE COMMISSION IN THE SECOND HALF OF 2017

The Secretariat presented the draft agenda for the 352nd meeting of the Administrative Commission.

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

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