

AC 669/17

Main conclusions of the 353nd
meeting of the Administrative
Commission

SECRETARIAT – 05.12.2018

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

**Main conclusions of the
353nd meeting of the Administrative Commission**

13-14 December 2017

A. Agenda

The agenda was approved.

B. Approval of Minutes

The Administrative Commission approved the minutes of the 350th meeting on 15-16 March 2017.

C. Communications and Questions

The Presidency informed delegations about the state of play of the proposal for the revision of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 and of the proposal for the revision of the Posting of Workers Directive.

The Secretariat informed of its intention to follow up to previous discussions on lump sums payment of pensions, reimbursement of contributions and waiver of pensions, which would include addressing the questions raised by the Swiss delegation.

The Secretariat informed about the replies received so far about changing the format of the EHIC by adding a date of issue and the replies to the survey on the modernisation of the EHIC app/website.

On the amendments to Portable Document U1, the Secretariat, informed about the replies received so far and informed if no additional information would be provided to support the need to introduce a number on each page of the PDU1 or the need to add new reasons in box 3, these changes will not be proposed.

The Secretariat informed that Italy was added to the list of Member States wishing to be notified of all posting situations on their territory based on Article 15(1) of Regulation 987/2009 and were invited to check the information on the DG EMPL website and inform the Secretariat if any changes are needed.

c) Other Communications and Questions

I. Approval/notice without discussion

The Administrative Commission approved without discussion the following items: Nominations for membership to the Ad-Hoc Groups established for the definition of data to be exchanged electronically; Statistical report on cross border healthcare; Statistical report on maternity and equivalent paternity benefits; Statistical report on cross-border old-age, survivors' and invalidity pensions; Average costs of benefits in kind 2014, 2015 and 2016; Claims situation as at 31 December 2016 between Social Security institutions in the Member States.

The Administrative Commission took note without discussion of Audit Board issues.

The debtor Member States were urged to settle the remaining old uncontested claims by the end of the 2017, so that the settlement can be reflected already in the statement of Annual account for the year 2017.

II. New initiatives in the Work Programme of the European Commission for 2018

a) The European Labour Authority

The European Commission presented the initiative on the European Labour Authority (ELA), intended to bring a new dimension with an operational nature, supporting the implementation and enforcement of the legal framework. After discussion, the delegations took note of the new initiative of the European Commission and were reminded to submit written comments by 20 December 2017.

b) The European Social Security Number

The European Commission presented the key plans on the European Social Security Number (ESSN). After discussion, the delegations took note of the new initiative of the European Commission and were reminded to submit written comments by 20 December 2017.

III. Statistical reporting on the coordination of social security schemes

The Administrative Commission approved the Report on Portable document A1; Report on Recovery; Statistical report 2017; Improved statistical questionnaire on cross-border old-age, survivors' and invalidity pensions.

Delegations took note of the provisional calendar for the collection of statistical data in 2018 concerning the application of the social security coordination Regulations.

IV. The interpretation of Decision No H3

The Secretariat explained that it had received a request of a German court about the interpretation by the Administrative Commission of points 2 and 3(b) of Decision No H3

concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) No 987/2009. The Secretariat clarified the above mentioned provisions and proposed to inform the German Court accordingly.

After discussion, the delegations did not approve the position of the Secretariat and the Secretariat would reflect on the further follow-up.

V. Provisional entitlement to benefits in kind under Article 36 paragraph 2 of Regulation (EC) No 883/2004 and Article 33 paragraph 2 and Article 35 of Regulation (EC) No 987/2009

The Secretariat presented its note and explained that there are two possible interpretations of Article 36 of Regulation (EC) No 883/2004 and Articles 33 and 35 of Regulation (EC) No 987/2009. It favours the second interpretation according to which the Member State of residence will provide special benefits in kind for accidents at work and occupational diseases for the period before receiving the confirmation of the occupational character of an accident or disease.

Delegations did not approve presented option 2 and agreed to decide by vote on the options in the next meeting of the Administrative Commission.

VI. Follow up to the Ad hoc Group on Posting Issues – Draft Decision No A4

The Chair presented the Presidency note and explained that all proposals submitted after the June meeting of the Administrative Commission were taken on board and that there were no major changes to the text comparing to the Maltese Presidency proposal.

After discussion, the delegations did not approve the new draft Decision A4 proposed by the Estonian Presidency. The Bulgarian Presidency is to decide on the future work on this proposal.

VII. Submissions to and decisions of the Conciliation Board

a) Follow up to the Decision of the Conciliation Board on the issue of “substantial activities” submitted upon request of the Belgian and Polish delegations (case CB – 1/16)

The Belgian and Polish delegations presented their note. The Belgian delegation proposed the conclusion of an Article 16 Agreement, however the Polish delegation was not in favour of this approach.

Delegations took note of the follow up presented by the Belgian and Polish delegations.

b) Opinion of the Conciliation Board on the issue of applicable legislation to employees working on board a vessel at sea submitted upon request of the French and Spanish delegations (case CB – 1/17)

The opinion of the Conciliation Board was unanimously approved by all delegations which were not party to the dispute. The French and Spanish delegations were invited to report on the follow-up in the next meeting of the Administrative Commission.

c) Opinion of the Conciliation Board on the issue of “substantial activities” submitted upon request of the Belgian and Romanian delegations (case CB – 2/17)

The Belgian delegation expressed its disappointment that no concrete solution was proposed in this case and that the Conciliation Board did not make use of its prerogative under point 13 of its mandate. The Romanian delegation welcomed the opinion and proposed to continue the bilateral discussion for the clarification of the facts.

The part of the opinion of the Conciliation Board concerning the determination of substantial activities in the concerned case was unanimously approved by all delegations which were not party to the dispute. The part of the opinion concerning the interpretation of Article 89(3) of Regulation (EC) No 987/2009 was not approved. The Belgian and Romanian delegations were invited to report on the follow-up in the next meeting.

VIII. EESSI

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

The Administrative Commission approved the Terms of Collaboration document and its annexes including the Message Expiration and Retry Policy subject to updating it to include a reference to the sincere cooperation obligations, Decision No E6, obligation to use the latest version of the SEDs when starting a new case as part of the business related agreements and reflect the clarifications provided in the Technical Commission report.

The Administrative Commission approved the Business Use Case Guidelines.

The Administrative Commission took note of the proposed updated Change Management Process and future set up of the Change Advisory Board of EESSI. The updated change management procedure would be further elaborated based on comments received and presented for approval in the next meeting of the Administrative Commission.

The Administrative Commission approved five Change Requests related to BUCs/SEDs and a Change Request related to the Standard Business Document Header Specification for Post-PRR implementation. The Austrian and Belgian delegations abstained.

The Administrative Commission took note of the outcomes of 9th and 10th CMB meetings.

The Administrative Commission has approved the EESSI Institution Repository Codes.

The Administrative Commission took note of the principle regarding EESSI Business Domains.

The Administrative Commission took note of the discussions and updates related to EESSI Character Set and discussions in the 77th meeting of the Technical Commission. It underlined that Bulgaria, Cyprus and Greece should explicitly confirm their intention as regards the possible use of Latin characters in all fields of the SEDs, on the basis that several delegations underlined that a requirement to process Greek or Cyrillic characters in their national applications will have an extremely high impact on their national implementation efforts.

The Administrative Commission has approved the process for monitoring the progress of participating countries during the national implementation period and the coordination of EESSI live exchanges, subject to increasing the frequency of the Business Readiness Gates to

allow more flexibility. A proposal to this extent will be discussed in the February 2018 meeting of the Technical Commission.

The Administrative Commission took note of the progress in EESSI Transition activities, in particular the Training Strategy for 2018.

The Administrative Commission approved the updated mandate of the EESSI Executive Board for the transition period.

IX. Draft Guidelines on aspects related to retroactivity and proposals for administrative practices

The Chair reminded that in December 2016 the Administrative Commission approved partially the Guidelines on Decision No S6, aspects related to retroactivity and introduction of inventories. From December 2016 on, these guidelines must be applied to all open and disputed cases under the new Regulations.

The Administrative Commission agreed to submit the item for adoption by written procedure.

X. Annual discussion on Fraud and Error

The Administrative Commission approved without comments the Report on Fraud and Error and the revised mandate of the Steering Committee on Fraud and Error.

Delegations took note without comments of the Report of the Steering Committee on Fraud and Error presented by Marc MORSA, member of the Steering Committee and the Survey carried out by the Steering Committee on Fraud and Error.

XI. FreSsco Analytical Report 2017 on mutual assistance and sincere cooperation

Delegations took note of the FreSsco Analytical Report 2017 on mutual assistance and sincere cooperation presented by Carlos Garcia de Cortazar.

XII. Changes in Member States' legislation

Delegations took note of the changes in national legislations in the Czech Republic, Cyprus, Germany, Poland, Ireland and Sweden.

XIII. Draft agendas of the meetings of the Administrative Commission in the first half of 2018

Delegations took note of the priorities of the Bulgarian Presidency, the draft agendas of the meetings of the Administrative Commission and its Working Parties in the first half of 2018, as well as the calendar of the meetings for 2018.

XIV. Other Business