

AC 084/18

Main conclusions of the 355th
meeting of the Administrative
Commission

SECRETARIAT – 22.01.2019

Orig. EN

**ADMINISTRATIVE COMMISSION
FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS****Main conclusions of the
355th meeting of the Administrative Commission****27-28 June 2018 at 10:00h*****A. Agenda**

The agenda was approved.

B. Approval of Minutes

The minutes of the 351st meeting of the Administrative Commission of the Administrative Commission on 27-28 June 2017 and the Reflection Forum of 12 December 2017 were approved.

C. Communications and Questions**a) Presidency**

The Presidency provided information on state of play of the proposal for the revision of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009, the proposal for the revision of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services, the proposal concerning the European Labour Authority, the proposal for a Council Recommendation on access to social protection for workers and the self-employed.

b) Secretariat/Commission

The delegations were informed of recent staff changes affecting EMPL/D2.

The delegations were informed that a request for publication of Recommendation No A1 had been requested and that the publication is expected shortly.

The concerned delegations were reminded to send their replies to the linguistic check in view of publication of Decision No E6.

* The meeting will start at 10.00am on Wednesday 21 March 2018. It is anticipated that the meeting on Thursday 22 March 2018 will start at 9.30am. Precise timings may vary depending on progress on the agenda.

The delegations were informed that the new Portable Document A1 (PD A1) forms (in both pdf and fillable format) as well as the new PD A1 Guidelines were uploaded on CircaBC this week.

The delegations were kindly requested to carry out one final linguistic check of the PD A1 and guidelines and to inform the Secretariat at the latest by 16 July 2018 if they note any linguistic inconsistencies.

As regards changes to Portable Document U1, the delegations were informed that as there was no sufficient support from Member States for the amendments to amend sections 2.3.1 and 2.3.2. and section 3.7 of Portable Document U1, that no action will be taken at this point.

The interested delegations were invited to submit any further written comments to Secretariat note AC 050/18 regarding the interpretation of Decision No H3.

I. Approval/notice without discussion

The Administrative Commission approved without discussion the following items: Average costs for 2015 and 2016, Notifications on the maximum amount under Article 70 of Regulation (EC) No 987/2009, Nominations for membership to the Ad-Hoc Groups established for the definition of data to be exchanged electronically, Nomination for membership of Steering Committee of the Fraud and Error Platform.

The Administrative Commission took note without discussion of the following items: National Contact Points nominated pursuant to Decision No H5 of the Administrative Commission to promote cooperation between Member States to combat fraud and error within the field of social security coordination and Conciliation Panel opinions.

II. Statistical reporting on the coordination of social security schemes

a) Statistical report on export of family benefits

The Administrative Commission took note of the report on export of family benefits. Delegations were invited to send written comments by a deadline that will be specified in the Aide Memoire. The revised version of the report will be listed for approval without discussion at the October meeting of the Administrative Commission.

b) Statistical report on cross-border old-age, survivors' and invalidity pensions

The Administrative Commission took note of the report on cross-border old-age, survivors' and invalidity pensions.

c) Future collection of statistical data

The Secretariat addressed the questions on the modalities of the IT space, presented the state of play of data collection possible under EESSI and took note of the further views expressed by delegations.

The Administrative Commission took note of the draft report on enhancing the data collection in the field of social security coordination.

III. Prevention of fraud and abuse in the use of Portable Documents

The delegations expressed their views and expectations on the content of the horizontal Recommendation No H2 as regards a verification possibility of the serial number in case of electronically issued documents, an inclusion of the serial number on both paper and

electronic version of the documents, a need for transition period for phasing in and taking into account the nature of the specific Portable Document, an addition of similar provision as included in the Recommendation A1 regarding the information to the Administrative Commission about the issuing process, a clear reference to Portable Documents in the text and more specific to points 1 and 2, a requirement of a stamp and signature on the documents, an introduction of the definition of a manually and electronically issued Portable Document. Further digitalisation and the role of EESSI role for authentication were also mentioned.

The Administrative Commission did not approve the new Recommendation on prevention of fraud and abuse in the use of Portable Documents.

The delegations were invited to send their written comments to the Secretariat by the deadline in the Aide Memoire.

The Secretariat will present the revised version for approval to be addressed in agreement with the future Austrian Presidency.

IV. Interpretation of Article 72 (1) of Regulation (EC) No 987/2009

After exchange of views by delegations on presented options, the Secretariat considered that Article 72(1) does not prevent parallel offsetting, which allows to regularise the situation as soon as possible. However, it is important to ensure that there is no excessive off-setting and that the rights of the person concerned are protected.

Most delegations prefer option b).

V. Submissions to and decisions of the Conciliation Board

Follow up to the 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 Administrative Commission took note of the follow up to the Decision of the Conciliation Board on a dispute over applicable legislation concerning employees working on board of sea vessels submitted by the French and Spanish delegations (case CB – 1/17).

The French and Spanish delegations were invited to report on the progress in the next meeting.

VI. The format of the European Health Insurance Card (EHIC) - the date of issue

The delegations were informed that the Commission' services are currently working on a proposal for a European Social Security Number aiming at replacing the EHIC and the portable documents. The set-up of an ad-hoc Group on a eEHIC is therefore not opportune.

There was no qualified majority in favour of adding a date of issue on the EHIC.

VII. Audit Board issues - Late replies regarding E126 / S067 / S068

The European Commission reminded that under Art. 25(5) Regulation (EC) No 987/2009, Member States have an obligation to provide reimbursement rates or amounts without delay.

The Administrative Commission took note of the note on late replies to requests for reimbursement rates (E126/S067) and invited the concerned Member States to provide a progress update at the next meeting.

The Austrian Presidency was invited to follow-up on this issue.

VIII. Follow up to the report of the Ad hoc Group on Family Benefits

The Secretariat briefly presented its note on roadmap for follow-up to the Report of the Ad Hoc Group on family benefits and the issues dealt with by the Ad hoc Group which need proper follow-up, the actions proposed and a timetable.

The delegations were thanked for their comments and asked to submit their views in written in view of the presentation of the first draft proposals at the next meeting.

The report of the Ad hoc Group on family benefits will be followed-up in accordance with the roadmap and the delegations were to submit notes.

IX. Follow up to discussion on fines imposed by Member States when a PD A1 is not presented in case of an inspection

A representative of the European Commission presented a note on the imposition of fines in case of a lack of PD A1.

After exchange of views by delegations, the Secretariat stated that on the language regime, the requirement that all evidence is submitted in a particular language goes contrary to Article 76(7) of Regulation (EC) No. 883/2004.

The Administrative Commission took note of the Commission's note and the ensuing discussions.

X. Pensioners' healthcare coverage when two or more Member States and a third country are involved

The Spanish and Portuguese delegations presented their note on health care coverage during a temporary stay in a Member State of pensioners of a Member state who reside in a third country.

The Secretariat took the view that the first issue - application of the Social Security EU Regulations when the pensioner of a member state or his family members reside in a third country - fall outside the scope of Regulation (EC) No 883/2004. Member States should seek in this kind of situation an agreement with the third country concerned. As regards the second issue - coverage during a temporary stay in the territory of the Member state paying the pension - Article 27 (1) of Regulation (EC) No 883/2004 should be interpreted in the spirit of the Treaties (CJEU stated already that if secondary legislation is not clear, it should be interpreted in the spirit of the Treaties). In order to clarify this issue, the Administrative Commission could adopt a Recommendation.

The discussion was closed as no other delegations wanted to take the floor.

XI. EESSI

a) EESSI governance and progress update

The Administrative Commission took note of the updates on the progress of the EESSI project and the work of the Technical Commission (TC) and Executive Board (EB); including the appointment of Sari Alanko as the new Vice-chair of the EB.

b) EESSI Fit for Purpose

The Administrative Commission approved that the EESSI fit for purpose conditions have been met. The Netherlands and German delegations did not support the approval and this would be mentioned in the Aide Memoire.

The Administrative Commission underlined the high importance of the EESSI Roadmap as a joint commitment from the European Commission and the participating countries to work on priority areas and to further improve the technical solution towards the production and operation of EESSI.

c) Change management

The Administrative Commission approved the set up and composition of the Change Advisory Board. The delegations were encouraged to propose further members for the Change Advisory Board to allow the filling in of the 4 remaining vacant positions.

The Administrative Commission approved the change requests escalated by the Change Management Board to the Administrative Commission and the 11th Change Management Board meeting outcomes.

d) Institution Repository

The Administrative Commission approved the proposed procedure for the definition of additional specific identification parameters (note AC 115/18) as recommended by the Technical Commission. The Administrative Commission took note of the clarifications provided in note on Data Vocabularies.

XII. Miscellaneous amendments – Commission Regulation and Council and European Parliament Regulation

The Danish delegation presented its note on updating to Annex II in the Regulation (EC) No 883/2004 and other impact adjustments – provisions of conventions which remain in force and which, where applicable, are restricted to the persons covered thereby.

The Secretariat stated that it was currently clarifying with the delegations concerned the implications of this request and will contact bilaterally the delegations concerned in order to clarify the request.

XIII. Changes in Member States legislation

The Administrative Commission took note of the changes in the German legislation.

XIV. Draft agendas of the meetings of the Administrative Commission in the second half of 2018

The Austrian Presidency presented the priorities during their Presidency.

The Secretariat presented the draft agendas for the second half of 2018.

XV. Other Business

There was no other business to discuss.