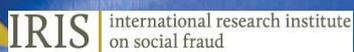




Fraud and error in the field of EU social security coordination

Reference year 2021



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1. Introduction and executive summary

Restrictions to the free movement of persons can and do appear in many different respects, not in the least in the field of social security, where both fraudulent and erroneous situations can put a strain on the free movement of persons. With respect to social security coordination, fraud is defined as *'any act or omission to act, in order to obtain or receive social security benefits or to avoid obligations to pay social security contributions, contrary to the law of a Member State'* while error is defined as *'an unintentional mistake or omission by officials or citizens'*.¹ Although both fraud and error often end up having the same effects, the main difference between them is the fact that fraud cases require proof of intent, whereas error is unintentional.

Strong cooperation between Member States is crucial in order to prevent and combat fraudulent and erroneous situations in the realm of social security coordination. In order to boost and strengthen this cooperation, Regulation (EC) No 883/2004 on the coordination of social security systems² has provided for the establishment of several mechanisms (e.g. Decision A1; Decision H5). Nevertheless, it has to be noted that only a few specific references to fraud and error are made in Regulation (EC) No 883/2004.³ At the 307th meeting of the Administrative Commission, the Member States decided to create an Ad Hoc Group in order to assist them in their efforts to strengthen the cooperation between competent institutions, particularly concerning the fight against social security fraud and error. This Ad Hoc Group has produced two reports on this type of fraud and error issues and has identified some major problem areas. The conclusions and recommendations led to Decision H5 in March 2010. As stated in that Decision, the Administrative Commission discusses cooperation on fraud and error issues once a year, based on the voluntary reporting by the Member States of experiences and progress in the field.

This report, covers the following matters: 1) the steps taken throughout the year to prevent and combat fraud and error in cases determined under the coordination rules; 2) specific problems in implementing the coordination rules which may lead at least to risks of fraud and error; 3) agreements and bilateral cooperation agreements with other Member States entered into for the purposes of combating fraud and error; 4) the steps taken, in the field of benefits in kind, to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens; 5) some quantitative data (collected by the thematic questionnaires launched by HIVA – KU Leuven within the framework of the Administrative Commission) on examples of fraud and error; 6) best practices, lessons learned, issues or concerns (including with regard to privacy and data protection) when dealing with cross-border cooperation and information exchange ; and finally 7) examples of or proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of social security coordination which National Contact Points (NCPs) can operationalise without the need for changes to national or EU law.

The report contains three annexes: Annex I on national legislation; Annex II on bilateral or multilateral agreements between Member States and Annex III which includes further details on the replies received from the Member States about the measures taken to prevent or combat fraud and error as well as about specific problems in implementing the EU

¹ See the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Free movement of EU citizens and their families: Five actions to make a difference (COM (2013) 837 final).

² Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 314, 7.6.2004, p. 1).

³ The coordinating Regulations do not contain a general prohibition of fraud or abuse of rights. The Regulations mention fraud and abuse only once, in Recital 19 of Regulation (EC) No 987/2009 dealing with recovery of social security claims.

coordination rules which may lead to (at least risks of) fraud and error. This information reported by Member States is more concisely included in the main text of this report.

This report summarises the information received for 2021, and where appropriate also for earlier years, through the voluntary reporting by 27 Member States, three Member States of the European Economic Area, i.e. Iceland, Liechtenstein and Norway, and Switzerland (hereinafter: the Member States) as well as the UK. . 19. of those countries have sent in a report. The authors of this report took a horizontal approach and used their own judgment to identify interesting or innovative actions emerging from all replies to the questionnaire. Cross-cutting issues were identified and some conclusions and recommendations were drawn.

Like previous years, a growing interest in the subject of fraud and error is confirmed by the data. The introduction and prioritisation of national policies focussing on the fight against fraud and increase of national legislation concerning fraud and error is additional proof. Unfortunately, in general, it is often hard to tell whether the steps taken, reported in the country replies, refer to fraud and error in a cross-border context or in a strictly national context (so is it not always clear if the detection of cross-border fraud was successful or not). Often, strictly internal measures, which are not targeted specifically at fraud and error within the framework of the coordination Regulations were reported. Member States who provided data for this report need to be reminded to restrict their reporting to fraud and error in the field of EU social security coordination.

Information dissemination among institutions, healthcare providers and citizens in order to promote compliance with the coordination rules, is vital in the prevention of and fight against fraud and error, as demonstrated by the focus thereupon by the Member States. In addition, information exchange and cooperation between internal competent authorities as well as the competent authorities in other Member States is equally as important. Various bilateral agreements on data exchange were concluded and working groups concerning fraud and error in the field of social security were set up. However, problems remain including delayed or lack of cooperation between the competent authorities in the respective Member States, difficulties in determination of residence and the applicable legislation and obtaining personal data on people living in or receiving benefits in other Member States, as well as issues concerning (data protection in the context of) the exchange of data.

Overall, the report reveals three broad conclusions. Firstly, all reporting Member States have undertaken efforts to fight fraud and error, albeit on different levels or with varying intensity. However we see a growing tendency to initiate special initiatives focussing on fraud and error. These efforts repeatedly concentrate on strengthening the information exchange and cooperation between internal competent authorities as well as the competent authorities in other Member States, with a growing interest for the use of databases, e-tools, and further ways of data sharing. But more cross-border cooperation is needed. The establishment of the European Labour Authority can contribute to this and is seen as offering new possibilities for cooperation. Secondly, one of the predominant concerns amongst all Member States relates to the delay in or absence of cooperation or exchange of data between the competent institutions of the respective Member States. In turn this results in scenarios where – amongst others – illegitimate double affiliation and/or undue payments occur. Improvement thus remains possible and necessary – both with regard to the prevention and early detection of fraud and error in cross-border situations as well as concerning cross-border administrative cooperation and information exchange between Member States. Electronic tools are predominant in this respect. Thirdly there is more interest in exchanging data with authorities out of the framework of social security coordination (labour inspectorates, tax departments, judicial authorities, etc.). A multidisciplinary approach is needed.

Figures on fraud and error in the field of EU social security coordination demonstrate that most of the reporting Member States did not detect cases of fraud and error with regard to

the EU provisions on planned cross-border healthcare, healthcare provided to persons residing in a Member State other than the competent Member State, the export of unemployment benefits; the aggregation of periods for unemployment benefits and recovery procedures. This is in contrast to the coordination rules on applicable legislation, old-age, survivors' and invalidity pensions, family benefits, and maternity and equivalent paternity benefits. It is best to consider unplanned necessary healthcare also as a branch that is sensitive to fraud and error.

In addition, we would like to mention that it is sometimes very difficult to find out to what extent tendencies identified in 2020 were continued in 2021. While some national reports clearly state that no modifications took place in 2020, most of the national reports only mention some new issues without indicating whether or not the issues mentioned in 2020 are still valid. The present report refers at a recurrent basis also to findings already included in the report for reference year 2020 when these findings still seem informative. Where new findings are included for reference year 2021, it is specifically flagged in the text that these findings were made in the most recent reporting period.

With respect to the exchange of data on fraud and error, special attention has to be paid to the General Data Protection Regulation, that applies from 25 May 2018⁴. In addition, in its proposal to modify Regulations (EC) No 883/2004 and (EC) No 987/2009⁵, published on 13 December 2016, the European Commission suggested to insert a legal base for data exchange, which shall be in line with this Regulation.

Finally Covid has had an impact on some initiatives in the field of fraud and error. Covid-related priorities led to curtailing some information and media campaigns (**BG, HU**) or a drop in inspections abroad (**CZ, NL**).

2. Steps taken throughout the reference year (2021) to prevent and combat fraud and error in cases determined under the Regulations

To reduce the risk of fraud or error, both pre-emptive and reactive steps must be taken as a response to concrete cases of fraud and error. Moreover, fraud and error cannot be mixed up. However, this distinction is often not made, as various Member States' national legislations do not make a distinction between these concepts. It is clear that Member States keep introducing new national legislation concerning social fraud and error, although rarely targeted specifically at cross-border cases.⁶ The only exception being Article 21(3) of the Law on State Social Insurance of **Latvia**, according to which the State Social Insurance Agency can transfer a person's social insurance contributions made in another Member State to Latvia.

⁴ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1 4.5.2016.
<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>.

⁵ 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, 13 December 2016, COM (2016)815 final – 2016/0397 (COD),
<http://ec.europa.eu/social/main.jsp?langId=en&catId=849&newsId=2699&furtherNews=yes>. See in particular Articles 2.6 and 2.11.

⁶ The 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 (COM(2016) 815 final) intends to include a new definition of 'fraud'. Its Article 2.4 states that "In Article 1(2), the following point is inserted after paragraph (e): 'fraud' means any intentional act or omission to act, in order to obtain or receive social security benefits or to avoid to pay social security contributions, contrary to the law of a Member State". It should be noted that this definition includes a link with the (different) national legislative frameworks of the Member States.

2.1. Steps taken to prevent fraud and error and the effect of those steps

Concerning measures taken to **prevent fraud and error**, various Member States (**BG, CH, CZ, DK, ES, FI, HU, LT, LUX, NL, PL**) took some general steps to promote compliance through *information dissemination* measures. The more people are informed, the fewer mistakes will occur. (**LT**). Most often instructions are produced for administrators, who are informed about new additions and updates on the intranet site through an online messaging service (**ES**); by a structured, in-depth, very innovative online training course (**IT**); information/campaign days and workshops to present best practices (for the representatives, clerks of county government offices) (**HU**) or workshops on insurance fraud and specific anti-fraud workshops (**CH, LUX**). To increase awareness, training of the employers and employees, the lawyers and accountants as well as the clerks handling the cases (**BG, CH, CZ, CY, FI, HU, IT, NL, PL** or for newcomers (**FI**) is set up. Some administrations (**PL**) participated in the 'Counselling Days', which are regular meetings with the Polish community living in the EU/EFTA Member States and in countries with which Poland concluded an international agreement on social security. Due to the coronavirus, several of these meetings and trainings could not take place. Apart from the administrators, the citizens are also informed by websites of competent institutions (**CZ, FI, LT, PL**), in brochures (**FI, PL**), in articles in local press (**PL**), by mass media campaigns (**DK, LT, LV; PL**) or when applying for a social security benefit (**LT, NL**). Finland published a completely new online service channel for foreign employers coming to Finland with information about statutory social insurance payments in Finland. In one country, in the event of a breach of obligations by the client, the client is then notified and is required to fulfil their obligations (e.g. informing about changes in the personal situation) (sanctions may be imposed for failure to fulfil obligations) (**CZ**). In **Hungary** in the course of the granting procedure of social and invalidity benefits, all claimants are informed of the consequences set forth by law, if any information relevant to the award of the benefit – which the claimant is aware of – is not reported to the competent institution.

Specific targeted steps in the area of healthcare and sickness benefits in kind are taken, as training (e-learning and stationary ones) of the staff of health insurance institutions and other parties involved (**CH, DE**) or of the customers (**PL**) is used as a method. In **Luxembourg** in case of inconsistent billing practices of health care providers, a letter explaining the correct billing rules is sent to them allowing them to make the necessary corrections. Recently a significant increase was discovered of unduly asked charges for travel expenses. In **Portugal**, the procedures manual for cases of reimbursement of expenses has been updated and strengthened. For citizens seeking treatment in the country, information sheets are available on the internet in the most widely used languages (**DE**); or information about the sanctions related to the inappropriate use of the EHIC (**LT**). In **Spain**, as they have observed an increase in the number of insured persons who, after a change to their personal or employment situation, are seeking information on the continued validity of the EHIC obtained before their circumstances changed, information measures are introduced to avoid any potential economic liability for undue use of the EHIC. Also, discussions have been initiated with a number of Member States with the aim of introducing variations or distinguishing elements in the receipts of applications for entitlement to the EHIC or the Provisional Replacement Certificate of the Card in order to reduce the confusions and difficulties that may arise during the processing by the competent institutions, given the similarity between the said receipts of application and the entitlement certificates.

More and more Member States enhance measures to appropriately inform persons concerned about their reporting duties of the facts and circumstances that are relevant for the payment of family allowances (**HU, SK**), the consequences of possible fraud attempts to jobseekers when introducing their application (**LUX**) or when a PD A1 is issued (**CZ**).

In addition, an extensive number of *controlling and monitoring* actions are taken. (**AT, IE, IT, LUX, NL, PL,)**. The initial step is to check if documents are properly filled in and signed and that the application is supported by official documents (**LT, MT**). While the use of authentic data and registers is easy to apply in national circumstances, this is far more complicated in case of foreign nationals (**MT, NL**). Regular checks and monitoring activities can lead in individual cases to an investigation. As such, exercising fraud control is part of delivering good customer service (**IE**). The way these checks and monitoring activities are performed differ from Member State to Member State in terms of intensity, amount of checks undertaken and use of sources/which data and systems. Periodically, requests are also sent to entitlement holders residing abroad to fill in self-certifications that their entitlement conditions are unchanged (**IT**), or home visits of clients are performed - impossible this year due to COVID-19 - (**NL**). Experiments have shown that a reminder helps to stimulate clients to report changes in their living situation (**NL**). Moreover, the Member States use electronic tools like data matching and data mining and algorithms (**DK, IT, NL**) or statistical means of risk profiling, risk management and risk targeting in combination with checklists for front-office officials (**NL, SE**). Intra-national cooperation between institutions for social security and other national institutions, like tax authorities and police authorities (**BE, IT, FI**) are useful. In **Sweden** the Swedish Public Employment Service has centralized, and to some extent automatized/automated the control procedures to both prevent and to combat fraudulent behaviour among jobseekers who receive either unemployment benefit, or activity support for participation in labour market programmes.

Especially in the domain of old-age and survivor's benefits, a lot of Member States continued and improved the practice of requiring an annual life certificate -now more and more electronic certificates- from recipients of old-age or survivor's benefits living in another (Member) State in order to verify whether these persons are still alive and thus avoid undue benefit (**AT, BE, CH, CY, CZ, DE, DK, IT, LT, LUX, MT, NL, NO, PL, RO, SK**). If the certificate is not received, the payment is suspended until it is received in order to prevent overpayments (**AT, NL**). A life certificate has to be sent once a year (**BE, CZ, IT, LUX, NL, PL**). Several mechanisms are taken to improve the control: a standard letter with a barcode and reply envelope (**CH**); the creation of a specific database of seals of authorities accepted in the process of the validation of life and civil status certificates (**CH**); a declaration of honour has to be filled in on top of such a life certificate (**RO**); an automated cross-checking of registered deaths (**DE**); functional inspections and one-off controls on pre-determined 'risk groups' (**CH, PL**); the organisation of training sessions (**PL**); the collection of death notices regarding pensioners registered by consulates abroad (**IT**) and the improvement of real-time access to information in the national population registers (**IT**). In order to make the examination of forms received from foreign States or other actors more traceable, **Italy** has developed a procedure known as MOFE (Monitoring of Forms from Abroad), via the computerised registration and scanning of documents. All these control methods are important as they can avoid later difficulties relating to the recovery of overpayments.⁷

An electronic exchange can also be used for other purposes such as verification of marital status and amounts allocated (**B**). In **Denmark**, random checks are carried out of old-age pensioners and early retirement pensioners living in two Member States. They were asked to document residence, marital status, and income by providing their annual tax return from their respective tax authority. A significant step was achieved by an automatic monthly check-up on the basis of the Danish National Income Registry. The cases of recovery are not always to be understood as evidence of fraud, but rather illustrate errors made by the claimants who may not have been aware of their obligations to inform about changes in circumstances on a continuous basis. **Belgium** reported on the growing use of data exchange as e.g. the family benefits register, which is a database that allows family benefit funds to systematically receive qualified data from authentic sources. Through permanent cross-checking of granting data against new qualified data, potential social security fraud can be prevented. Risks of fraud and error occur when family benefits are paid on the basis

⁷ See e.g. Annex 1 to AC note 267/20 of the Administrative Commission for the Coordination of Social Security Systems.

of work and the customer or the other Member State does not announce the termination of employment (or commencement in another country), or omits other benefit-related matters (e.g. changes in circumstances of family members) (**FI**).

Further procedures and administrative changes were developed to improve the claims application process: a double decision-making procedure (on separate clerk and revision levels) which is complemented – when necessary – with additional (supervisor and leader) levels (**HU**); the set-up of a Decisions Advisory Office, which provides advice and guidance to decision-makers in complex cases (**IR**); the secureness of the pension agenda by two civil servants (**SK**), and an internal quality control and risk system (**CH**). Payments take place by specific banking systems (**DK, SK**).

In the field of healthcare and sickness benefits in kind, the data of electronically transmitted invoices from the healthcare providers are automatically and electronically checked (**CH, EE**). **Estonia** thereby emphasised that there are certain restrictions to accessing and processing a person's personal data. Only specialists who are engaged in dealing with e-forms have access to the information and not even all of them have the same data available, only the part they need for their work. **Malta** increased its payments verification process sample to 100% and in **Belgium** the sickness funds send out annual questionnaires on the changes in the situation of persons that can have an impact on social benefits. Improved cooperation with institutions and other parties involved of other Member States contributed to the prevention of fraud and/or error (**DE, MT, SK**). Specific electronic tools could also help prevent fraud and error. **Switzerland** stated that about 90% of their invoices are directly paid to medical institutions, physicians, etc. and only 10% to the patient. In addition, payments are made only via bank or post accounts. In **Greece**, there is real time auditing and controls on the spot, supporting documentation controls using high tech and statistics methodologies, the doctor's e-prescribing behaviour is monitored, and a patients' chronic and rare diseases platform registry has been installed. In order to prevent error, the EHIF of **Estonia** sends its clients a notification by post when their health insurance has ended in case they have applied for the EHIC. They can also request an e-mail notification when their EHIC has expired. **Luxembourg** clearly states that the publication of statistics on the website about fraud actions (pending court proceedings, number of criminal complaints filed in by the inspections services) can play a preventive role as they may intimidate other actors tempted to fraudulent conduct.

It is also proposed that in order to prevent fraud and error in the area of cash sickness and maternity benefits, it would be appropriate to create a unified form to certify working incapacity available for all Member States in all national languages (**SK**). The latter country emphasizes that to prevent untrue or forged medical reports from being sent from abroad, priority is given to receiving the medical information directly from the contact institution before getting it from the insured person. In every single case about the benefits paid by other Member States, relevant information was double-checked (**HU**).

In the field of unemployment benefits, IT solutions are further implemented (in particular on the registration in the employment register) which has allowed for the further development of control and reporting systems (**CY, DK, PT**). **Portugal** also detected that PDs U1 were issued by employers rather than by competent institutions of other Member States. They reported such cases to the liaison bodies and competent institutions of the Member States concerned and alerted all Portuguese competent institutions to reinforce attention to this aspect which has led to a significant decrease in registered cases of PDs U1 issued by non-competent entities.

As the prevention and detection of fraud and error is and will remain resource intensive in terms of available manpower and data, *intranational and international cooperation and data exchange* can resolve this resource problem. The use of an electronic system prevents human failure and external interference. It also reduces the administrative burden on clients (**IE, NL**). At intranational level, cooperation is set up with municipalities, e.g. to check the

(**DK, IT**), other social security institutions through an electronic data flow (**BE, HR, LUX**) governmental agencies and ministries (**DK**), between the central offices and the district offices (**CY**), labour inspectors (**LT, RO**) or with Tax administrations and agencies (**DK, NL, RO**). In some Member States the institutions participated in joint, multidisciplinary intervention teams, together with Tax and Customs Administration, municipalities, Social Insurance Bank, National Police and other institutions (**NL**) or in the Governmental Cross-sectoral Commission for the combat against undeclared work (**CZ**). At international level the necessary information is requested from the institutions of other Member States before approving the payment (**RO, PL**), meetings are organised between (neighbouring) countries (**FI, BG**) or bilateral and partnership agreements to prevent possible fraud and error (certainly in the field of pensions (**AT, IT, PL**) are concluded (**BE, LV, PL**). The European Platform to combat cross-border social security fraud and error could also lead to positive experiences (**PL, IE**). To improve this exchange, electronic databases, or electronic tools as Portable Documents (PDs), Structured Electronic Documents (SEDs) or other documents are important. **Austria** reported that in some cases, when inter-State forms are issued, they have a serial reference number and/or the official signature of the institution concerned. When information is provided, it is always checked to verify that the documents are drawn up properly and contain the necessary information. In case of any doubt, the source is contacted to double check the content (**EE, LT**). Electronic databases help decrease the number of errors and issue the certificates more efficiently (**FI, LT**). **Italy** has set up an electronic application for social benefits through which several data have to be included such as the civil status, income abroad, the residence entry in the population register, and the requirement to be in paid employment or self-employment in Italy and to have sufficient financial means for themselves and their family in order not to become a burden on the social security system of the host Member State during their stay. A regular review and evaluation of these practices is important (**NL**). The further development of electronic systems, methodical data analysis and automation to control information certainly help to structure and update risk indicators to take account of developments in certain fraud phenomena (**IT, FI**): a robot registers all A1 certificates issued by **Estonia** and checks if there are overlapping periods with Finnish pension insurance or that every worker working on a site is either insured in **Finland** or has a valid A1 certificate according to the official register); and creates tasks for the handlers when errors or overlapping periods occur (**FI**). Mechanisms for automated processing of applications (**PL**) allow a first verification of the formal and material requirements prior to the decision. Increased digitalisation will reduce the administrative burden and red tape (**DK**). This allows for a digital, register-based and automatic control of information. Furthermore, the digitalisation -including the monitoring of IP addresses used (**SE**)- allows for developing further control and reporting systems (e.g. information about jobseeking in an electronic solution). Several Member States would welcome that more information should be exchanged indicating if someone has already the right to benefits in another Member State (**IT, LUX**).

Poland has direct meetings with the representatives of liaison institutions from other EU/EFTA Member States to exchange information concerning changes in national legislation or institutional structure, contact details of persons indicated in each institution for the purpose of direct contact in questionable cases, as well as to resolve legal or procedural (bilateral) issues.

A growing number of Member States developed a particular anti-fraud strategy. **Lithuania** has approved the Sectoral Programme for Prevention of Corruption in the Health System just as the **Luxembourg** General Inspectorate of Social Security announced at the beginning of 2020 the launch of an anti-fraud program. In **Sweden**, 'Resilience of Authorities Responsible for Payments and Enforcement' was introduced to promote collaboration between authorities and create general and long-term conditions to combat welfare fraud.

Steps taken to prevent fraud and error	Member States
In general	
Information dissemination	
-Towards administrators/institutions	BG, CH, CZ, CY, DE, ES, FI, HU, IT, LUX, NL, PL
-Citizens	CZ, DK, FI, LT, NL, PL
Controlling and monitoring actions	AT, IE, IT, NL, PL,
-Annual life certificate	AT, BE, CH, CY, CZ, DE, DK, IT, LT, LUX, MT, NO, PL, RO, SK
Cooperation and data exchange	AT, BE, BG, CY, CZ, DK, EE, FI, IE, IT, LT, LUX, LV, NL, PL, PT, RO,
Anti-fraud strategy	LI, LUX,

2.2. Steps taken to combat fraud and error and the effect of those steps

Member States took several measures with the aim of combating fraud and error, such as regular checks and monitoring actions (**AT, DK**), as well as investigations of individual cases (**AT, PL, RO**). **Switzerland** implemented an administrative procedure for handling suspicious cases detected by or reported to them, created the job profile 'anti-fraud appointee' and refined their reporting tools for fraud and error (as also **BG**). In **Luxembourg**, the General Inspectorate of Social Security announced at the beginning of 2020 to launch an 'Anti-Fraud' program and a specific department was set up by the Pension Insurance. Also in the domain of accidents at work and occupational diseases insurances, similar procedures were set up.

Several states started to conduct a review and assessment of fraud risks across several benefits and improved their fraud reporting system. Together with the use of statistics and analytics, this should provide guidance and recommendations not only for the prevention but also the detection of fraud and the way to respond to it. (**DK, LUX, NL, SE, UK**).

The use of technical tools and data exchange is of great help (**BE, DK, SE**). In **Italy**, a series of random inspections were carried out in the area of applicable legislation. It is believed that these will increase as the IT platform is launched, providing for the automation of these models, after which it will be possible to carry out preventive intelligence activities, with adequate optimisation and strategic planning of the interventions. In the field of healthcare and sickness benefits in kind, cooperation and data exchange initiatives were pursued (**BE, EE, ES, LUX, NL**), although the **Estonian** Health Insurance Fund noted that there are currently no bilateral agreements with other Member States and therefore the majority of the problems are being resolved by e-mail. **Belgium** mentioned the cooperation of *INAMI* (National Institute for Health and Disability Insurance) within the Benelux project group on social benefit fraud in order to detect illicit accumulation of social benefits and revenue from unauthorised work. In **Malta**, applications for social security numbers and benefits have to be supported by an official document for identification. Such documents are vetted against the Public Registry database in order to verify authenticity. The system has an inbuilt mechanism whereby upon the creation of a new person in the database, the user is alerted when another person with the same surname and date of birth already exists on the system. In **Luxembourg**, the sickness insurance started to prepare a strategy paper and organized a meeting with a private health insurer to learn more about its strategy, organization and toolkit in the combat against fraud.

In **Belgium** and **Denmark**, data mining and data matching techniques are stepped up - including mergers of databases- and seen as very promising, also in international situations (**FI**).

With a view to a smoother use of the existing European conciliation procedure (better management) concerning disputes about PDs A1, **Belgium** has developed Osiris, a monitoring and reporting application used to monitor all files processed by inspection bodies/institutions and to report to the Social Research and Information Service (*Service d'Information et de Recherche Sociale* — SIRS), in the form of an electronic platform, and to political bodies. In **Spain** there is a cross-referencing between the databases of unemployment benefit beneficiaries and the information available in the Treasury's database to combat the existence of fictitious companies and fraudulent registrations of workers who have accessed the unemployment benefit. An Airport Authority was established in **Denmark** that carries out random inspections at airports in Denmark with international passenger flights in order to prevent payments of social security benefits to citizens who are not entitled to the unemployment benefits because they have stayed abroad during a period and therefore have not been available to the labour market.

In some countries (**BE, DK, ES, FI, IT, LUX, MT, RO, SE, UK**) cooperation is expanded to institutions, also outside the social security domain, that handle different benefits/allowances or information that could be of interest in control investigations (e.g. presence on the territory of the country concerned), e.g. Tax Agencies, Employment agencies, the Migration Agency, Transport Authorities, the Prosecution Authority or the Police. Sometimes this requires legislative changes to allow an exchange of data (**MT**).

At international level, Member States reported on contacts with foreign liaison bodies or the National Contact Point (NCP) of another Member State with the aim of detecting cases of fraud or finding solutions in the case of errors (**AT, BE, BG, CZ, ES, FI, IE, LUX, LV**) or to carry out joint checks and improve structural cooperation between the inspectorates of certain countries (**BE, CZ**). Experiences are also shared with the European Platform to combat cross-border social security fraud and error (**IE**). **Finland** stated that numerous cases were solved by negotiating with the other Member States' institutions and the cases were closed with an Article 16 agreement.

Some Member States (**AT, BE, DK, ES, LUX, NL, PL, SK**) reported on specific forms of cooperation and concrete data exchange in the area of old-age and survivor's benefits. The request to submit life certificates towards beneficiaries is seen as a specific controlling measure. *For instance, Udbetaling Danmark (DK)* regularly exchanges data on deaths of pensioners living abroad with specific Member States and makes ongoing efforts to expand the number of countries with whom data on deceased are exchanged. Several countries (**CH, ES, SK**) also reported on bilateral data sharing agreements with other Member States to detect cases of fraud involving pensions. This cooperation concerns notifications of pension amounts, deaths of beneficiaries or changes of residence. The Agricultural Social Insurance Fund (*KRUS*) of **Poland** used the European Online Information System of the German Old-Age and Disability Insurance, which makes it possible to verify the correctness of the payment of allowances. In **Italy**, the pensions institute uses the services of a private bank and on the basis of the contract governing the service, the bank, in compliance with the obligation to ensure the regularity of payments, is required to carry out a verification of the existence of the pensioner at the time when the first pension payment takes place and, annually, a generalised check of all holders of existing services.

Special attention is paid to the recovery of unduly paid benefits (**AT, BG, CZ, ES, HU, IT, LUX, LV, NL, PL, RO, SK**) and/or other sanctions taken in cases of fraud and/or error. In the **Czech Republic**, several pension cases were detected where the receiving of the pension was unjustified. Most of the overpayments arose after the death of an authorised pensioner or in cases when bereaved persons unduly continued to receive the pension, claiming that they are still dependent, students, single, or caring for a dependent child.

Sometimes errors also arose due to incorrect processing by the clerks, which could however lead to the liability of the clerks (**CZ**). The availability of more channels for gathering information and the systematic checks to establish whether a person is alive have considerably reduced the cases of missing confirmation and, therefore, the number of recovery requests, the number of instalments required for each position and the amounts involved (**IT**). In addition to the recovery of unduly paid benefits (**ES, LV, NL, PL, RO**) and/or the application of fines or correction or withdrawal of the benefit (**NL**), prosecution authorities are notified about the possibility of the commitment of a crime in which case the persons concerned can be subject to criminal prosecution (**AT, CH, CZ, FI, NL, PL, RO**). As sometimes recovery is no longer the competence of a social security institution, the follow-up of such cases leads to additional complications (**CH**). **Austria** mentioned that the practice of recovery of costs arising from inappropriate use of the EHIC is continued. Service providers are therefore required to verify the identity of insured persons. The institutions providing benefits are also encouraged to better check whether the treatment in question was necessary in view of the duration of the temporary stay and if it was not planned.

In **Hungary**, the Employment Authority recovers/reclaims the unduly paid benefit from the person when the latter did not fulfil his or her reporting obligation when starting to work abroad during the period of the unemployment benefit being provided under Hungarian legislation. In cases where forms (e.g. PD U1) were filled in with some misspellings by other Member States' competent institutions, the Hungarian Employment Authority requested a reviewed/modified certificate from the foreign authorities concerned. In **Spain**, to combat fraud with portable documents, the CSV is implemented in the internal national application on all pages of the document to ensure that the form has been issued by the competent institution. **Poland** reported that they continuously perform a review of practices, monitoring the effectiveness of the steps taken and evaluating outcomes.

A frequently occurring type of control relating to applicable legislation is the initiating of regular checks of PDs A1, whereby the authenticity of the presented document is verified and posting conditions are being double-checked (**BE, BG, CZ, FI, HU, PT, RO**). Strengthening this cooperation leads to a reduction of the inappropriate use of PD A1s as the statistics in chapter 5 demonstrate. Sometimes these checks are performed at the express request of competent institutions of other Member States. Some of these checks are targeted. In **Bulgaria**, in cases where notifications under Article 16 of Regulation 987/2009 (operating in the territory of two or more States) are submitted, it is verified whether income with a source from another Member State has been declared and, consequently, whether social security contributions due have been paid. The **Belgian** government has prioritised, using a data-mining system, the fight against fictitious self-employed workers with the clear intention of obtaining the right to permanent residence in Belgium. In terms of applicable legislation, the **Czech Republic**, reported on investigation of mostly Ukrainian employees of Polish companies who pursue activity on the territory of the Czech Republic. The Social Security Administration (CSSA) obtains information from the State Labour Inspectorate Office, including lists of employees who often submit incomplete or otherwise suspicious PD A1 forms. The CSSA then contacts ZUS, in order to verify whether the Ukrainian employees are registered in the Polish social security system and ZUS has determined the applicable legislation and if a PD A1 form was issued. **Cyprus** too reported a close collaboration with competent institutions of other Member States in order to combat fraud and error relating to applicable legislation. In **Lithuania** in case of multiple applications from the same company to issue a PD A1, they are processed by different employees. It is also interesting to note that in **Slovenia** the several number of PDs A1 decreased considerably since 2018. According to the Slovenian authorities, the main reason is the adoption of a new national act that set stricter conditions, in addition to the conditions laid down in the Regulation. Moreover, the way these conditions are verified is also more accurate.

Steps taken to combat fraud and error	Member States
In general	
Controlling and monitoring actions	AT, BE, BG, CH, DK, LUX, PL, RO, SE,
Cooperation and data exchange	AT, BE, BG, CH, ES, FI, IE, LV, MT, NL, PL, SK
Cooperation outside the social security domain	BE, DK, ES, FI, IT, LUX, MT, RO, SE
Recovery of unduly paid benefits and other sanctions	AT, BG, CZ, ES, HU, IT, LV, LUX, NL, PL, RO, SK
Regular checks of PDs A1	BE, BG, CZ, FI, HU, PT, RO

3. Specific problems in implementing the EU coordination rules which may lead to (at least risks of) fraud and error

The Member States have reported various problems in implementing the coordination rules which may lead to fraud and error.

Firstly, many Member States (**AT, BE, CH, EE, ES, HR, IE, IT, LT, NL, PL, SE** and **SK**) expressed their displeasure regarding (the lack of) (structured) exchange of data on deaths or other facts influencing the entitlement to a benefit. It was reported that there is rarely a formalised, structured exchange of data with other countries (**NL**), and that ad hoc exchanges often come with a (significant) delay (**BE**) or even do not take place at all. While in some cases the significant delay in notifications of a termination of entitlement to benefits in kind is due to information coordination problems between the different national institutions (**ES**), many other countries refer to anomalies as the result of failure by the insured parties themselves to provide timely information about any change in their personal and/or family circumstances and the reliance of false or unreliable statements and concealment of information and lack of honesty (**CZ, ES, HU, PL**). As this inappropriate conduct by those concerned has no financial implications, they have no interest in changing their conduct, even though it has economic repercussions for both the competent institutions and the institutions of the place of residence. It is however difficult to make a distinction between fraud and error in this respect (**SE**). Important in this regard is good cooperation between the Member States, which is however lacking due to case handling times (**CH, PL, SE**); the lack of access to institutions' registers, which results in a need to continue to send life certificates in paper form (**PL**); the lack of a European database that registers migration outflows and inflows makes it difficult to monitor the permanent, habitual residence of workers and recipients of social welfare and social security benefits (**IT**) or the lack of a generalised automatic data exchange on deaths (entire EU) (**CH**). **Switzerland** furthermore mentions delays in the transmission of requests and insufficient comparison of insurance careers in different countries in the context of 'co-assurance' (automatic insurance status on behalf of the spouse's contributions in Switzerland). It would also be interesting to obtain information from tax administrations from various Member States, in particular to verify whether or not the conditions for the posting of a self-employed person are met (**BE**). The creation of a unique European identification number could be helpful to increase cooperation (**BE**). In general one can state that postal exchange prevents a prompt action against fraud (**IT**) and leads to additional efforts (**CH**).

These problems often occur because legal provisions that would make an international exchange of data possible are non-existent/unknown/inconsistent. While one is depending on the willingness of the institutions involved, it does not seem possible to obtain satisfactory results. Therefore, there is a need for more elaborated European rules. The exchange of data is sometimes also made difficult by national rules on data protection (**AT, BE, CH, DE, IT, NL, PT, SE**). **Sweden** e.g. indicated that an ever-increasing problem is the issue of false, duplicate and stolen identities and that due to the rules on confidentiality, it is difficult to know in which way information can be shared. **Portugal** gives as an example that in the field of accidents at work and occupational diseases (provision of benefits in kind), competent institutions sometimes issue or request PDs A1, omitting or not identifying injuries resulting from an accident at work or occupational disease. This not only results in long processing times but it also becomes impossible to enforce measures and sanctions. (**DE**). In particular, bulk data requests are very difficult to establish (**NL**). Interestingly, **Malta** noted that following the commencement of exchanges through EESSI, an abnormal influx of notifications of persons working in two or more Member States, particularly in the international transport sector, occurred. This is mainly due to erroneous information being provided by employers to the competent institution. An improved method of collection of information would reduce the number of unnecessary notifications being generated.

Secondly, various Member States (**AT, BE, CH, CZ, DK, HU, IE, IT, LT, NL, PL, RO**) reported difficulties regarding cooperation between the Member States. This leads to a lack of information, evidence, and action (**AT**). If there is any cooperation at all, requests for information are frequently not fulfilled or if fulfilled it is delayed. Language barriers also add to lengthy processing times. But sometimes, also Member States' authorities contribute to certain elements of malfunctioning of the implementation of the Regulations, because they fail to request all necessary information from the competent institutions of another Member State before providing family benefit (**HU**) or do not send the SEDs (**LT**). Also, the lack of updated contact information of Member States' social insurance institutions makes cross-border cooperation difficult (**LT, NL, PL, RO**). Similarly, the competent institutions do not automatically dispose of foreign personal identification numbers, which are required to exchange data (**NL**). It is also unclear where to address specific questions (**NL**). This causes delay in investigations and therefore the effect of efforts to reduce the violation of rules decreases.

Thirdly, the lack of procedures for investigating cases of suspected fraud and error across borders under the coordination Regulations is seen as a problem (**DK**). None of the SEDs seem appropriate for this task and some of the competent institutions in the Member States do not seem to be familiar with cooperating across borders on fraud and error. In order to solve the foregoing problem, national Single Points of Contact (SPOCs) would be highly relevant, as a SPOC function should be able to facilitate requests to the correct recipients. In this regard, the NCP group could be a starting point. In particular the PD A1 is inadequately protected against forgery (**AT, GR**). As a countermeasure it was proposed to add the PIN (Personal Identification Number) of the person concerned on all pages of the PD A1, along with the signature and seal of the competent institution. This would make it more difficult to falsify these documents (**FI**). Within the same issue, the absence of binding effect and consequences of decisions taken under the dialogue procedure are also seen as a problem (**AT**). Establishing a publicly available register including identification codes of PDs A1 issued in the particular country might add another security layer (**PL**).

Fourthly, the differences between legal systems (e.g. as regards occupational and non-occupational accidents, duration of the provision of benefits (**CH**) or the concept of a family or who is in charge of family allowances (**FI, LUX**) can be seen as pressure points regarding cross-border investigation and cooperation.

Fifthly, errors often arise from a lack of familiarity with the coordination rules. The rules on applicable legislation, in particular the rules on activity in more than one Member State, are paramount in this respect (**AT, BE, CH, DK, FI, HU, MT, LV, PL**). Lack of familiarity enables

misuse of these rules by some of the employers and the rise of the probability of erroneous decisions by the clerks. It also means that workers moving around Europe are not aware of their rights and cannot easily predict how their social security will be arranged (**FI, HU**). The situation of the wholly unemployed person who, according to the Regulation, shall make himself available to the employment services in the Member State of residence, is an example of this. Another example (**BE**) is that persons involved often do not know their status, e.g. when they have a mandate to perform work abroad and believe they are a self-employed person in that country. The high risk of fraud and error in situations with activities in more than one State is also related to the fact that the institutions rely mainly on the information provided by the applicants (employer and employee) which, in some cases, is not easily verifiable (**MT**). A practical example is the condition of one-month prior affiliation required in order to apply the posting rule. **Latvia** refers to problems with the transfer of social insurance contributions where a person has paid social contributions in two or more Member States at the same time, as not every Member State has legislation which allows transfer of social insurance contributions. Recovery of contributions from employers abroad (**CH**) is also seen as problematic. For example, national regulations or practice prevents the return of benefits transferred to the bank account of a joint account holder after death of a beneficiary (**PL**). If not all Member States implement the Coordination Regulations in the same way, it can make it possible to apply (and receive) twice benefits in kind (accidents at work and occupational diseases (**FI**). Various Member States also reported difficulties concerning the determination of the place of residence (**AT, BG, CZ, DK, ES, HU, LT**). Member States find the criteria ambiguous. Determination is difficult since there is no central registration system in some Member States regarding health insurance and residence (**AT**) or because there is a lack of specific criteria to assess residence and of a united approach towards this matter across the Member States (**CZ**). Often it is also very difficult to verify (**ES**). Also the criteria to determine whether an undertaking is carrying out a significant part of its activity in the sending or posting State (**CZ, DK, LT, PL**) and the marginal work criteria (**CZ, DK, LT, PL**) are found ambiguous.

Lastly, various Member States (**AT, DE, EE, ES, IE, LUX, MT, NL, PL, UK**) reported on risks of fraud and error related to the use of the EHIC. The fact that EHICs are not electronically readable is found problematic. The more so because the start of the period of validity is not shown on the EHIC (**PL**). An end date can, however, be found on the EHIC but the health insurance can end before this date. Some countries refer to malpractice, such as accepting the EHIC retrospectively (**ES**) or invalid EHICs not being withdrawn by some Member States (**AT, LUX**). Problems further exist in the application due to the delay with which the institutions of other States communicate the notifications of withdrawal of entitlement to health care (**SP**) or because there are still too few contracted healthcare providers (in states that apply the benefits-in-kind principle) to meet the demand for treatment based on the EHIC (**DE**). The fact that the E125 form does not specify the cost and nature of the care provided, makes the use of the EHIC card also sensitive to error and fraud (**LUX, NL**). The EHIC card is easy to falsify, as it lacks security measures (**MT**).

Specific problems in implementing the EU coordination rules	Member States
The lack of/difficult exchange of data or facts that influence the entitlement to a benefit	AT, BE, CH, EE, ES, HR, IE, IT, LT, PL, SE and SK
The lack of information, evidence or action	AT, BE, CH, CZ, DK, HU, IE, IT, LT, NL, PL, RO
The lack of procedures for investigating cases of suspected fraud and error	DK, AT, GR
Differences between legal systems	CH, FI
Unfamiliarity with the coordination rules The lack of/difficulties regarding cooperation	AT, BE, BG, CH, CZ, DK, ES, FI, HU, MT, LT, LV, PL
Risks of fraud and error related to the use of the EHIC.	AT, DE, EE, ES, IE, LUX, MT , NL, PL

4. Agreements and bilateral cooperation arrangements

Annex II, contains the bilateral or multilateral agreements dealing with fraud and error. Most of the agreements concluded during the reference year 2020 concerned bilateral agreements regarding the electronic exchange of data on deceased pensioners. Several Member States also reported ongoing negotiations with the aim of concluding such agreements. No multilateral agreements were concluded in 2020. It is interesting to notice that **Switzerland** promotes the introduction of a fraud prevention clause in some of the new social security conventions it concludes with third states.

5. Statistics on fraud and error in the field of EU social security coordination

5.1. Introduction

In the different thematic questionnaires regarding EU social security coordination, targeted questions on fraud and error are included. These questions are standardised in the thematic statistical questionnaires and ask Member States to quantify the number of cases identified as well as the amount of money involved in inappropriate use. Furthermore, Member States are invited to describe in more detail any patterns of behaviour or types of inappropriate use of the EU provisions and types of error they encounter with reference to both citizen and institutional error. Data provided regarding these topics in the different thematic questionnaires are provided in this chapter. Although the other chapters in this report sometimes also contain figures on fraud and error, these were not provided via the thematic questionnaires.

Before analysing and describing the data, it is very important to point out the problem of the response rate. Although overall, the average response rate of the different thematic statistical questionnaires is high, the questions about fraud and error are much less frequently answered. As a result, some caution is required when drawing general conclusions or when focusing on the replies of one reporting Member State.⁸ Nonetheless, these fragmented data give an indication of the importance of fraud and error in the field of EU social security coordination.⁹

5.2. Applicable legislation

In total, (partial) data on fraud and error related to the ‘applicable legislation’ were provided by 16 Member States (**Belgium, Bulgaria, Czech Republic, Germany, Ireland, France, Italy, Latvia, Lithuania, Hungary, Malta, the Netherlands, Poland, Slovenia, Slovakia, and Iceland**). Four of these Member States (Ireland, Malta, Romania, and Iceland) reported that no cases of inappropriate use were found. Several infractions of the conditions determined by Article 12 of Regulation (EC) No 883/2004 and Article 13 of Regulation (EC) No 883/2004 were reported by the other 12 Member States:

- no direct relationship between the posted worker and the employer;
- no substantial activities in the sending Member State, the employer only makes use of posting, inappropriate statements of the domestic activity, letterbox companies etc.;
- falsification of documents (e.g. false PDs A1 or false social security data);
- incorrect information provided by the applicant;
- bogus self-employment: wrong status of the person concerned;
- circumventing the application of Article 12: false evidence that Article 13 instead of Article 12 should be applied;
- fraudulent use of Article 13(3).

Member States were asked to report the cases encountered both from the point of view of a ‘receiving’ Member State (*Table 1*) and of a ‘sending’ Member State (*Table 2*). *Table 1*

⁸ This chapter also refers to data reported by Belgium regarding the application of the dialogue and conciliation procedure concerning the validity of PD A1 (Decision No A1) as well as results from the [POSTING.STAT](#) research project.

⁹ One warning should be mentioned. Sometimes only a few States have given data. It would not be appropriate e.g. to conclude from this list of a limited number of countries, that fraud would be very high in one particular country compared to all other EU Member States.

shows the quantification of inappropriate use from the point of view of the 'receiving' Member State. The column 'Reason' presents the more detailed explanations of fraud and error cases reported by the Member States. The column 'Other quantification' shows the additional type of quantification that was reported by Member States.

The reported number of cases of inappropriate use is generally at a low level in most of the receiving Member States.¹⁰ Only **the Netherlands** (2 465 cases) reported a significant number of irregular cases. The other reporting Member States (**BE**,¹¹ **CZ**, **IE**, **LV**, **MT**, and **IS**) reported no or a very limited number of cases. Both **France**¹² and **Slovakia** are aware of cases of inappropriate use but are not able to quantify the size of it. In relative terms, the cases of inappropriate use do not exceed 0.5 % for the reporting Member States with the exception of the Netherlands for which it amounts to 1.6 %.

Table 1 – Number of cases of inappropriate use of applicable legislation (PD A1), as a receiving Member State, 2021

	Cases	Other quantification	Reason	% of PDs A1 received*
BE	180	Amount involved EUR 188 184		0.1 %
CZ	2		Falsified PD A1	0.004 %
IE	0			
FR		Amount recovered EUR 33 268 228	Fraud: * False PDs A1 * The company has no economic/structural/professional reality in the sending Member State but only exists to post workers to France * Non-compliance with the conditions of posting (art 12) and multi-activity (art 13) * Creation of pure management structures to make posted workers available to construction sites or farms * The company is only created via a complex legal arrangement to provide French companies, on French soil, with posted workers * A French company posts employees within the EU, provides PDs A1 but does not make any social declaration/payment of social security contributions in France	
LV	6		Falsified PD A1	0.2 %
MT	0			
NL	2 465		Fraud	1.6 %
SK			Fraud: * Cases of manipulation of PD A1 * False evidence that Article 13 instead of Article 12 should be applied Error: * Bogus self-employment * Incorrectly or insufficient completion of the PD A1 issued by the competent institution.	
IS	0			

* Based on the number of PDs A1 received according to Article 12.

Source: Administrative data PD A1 Questionnaire 2022

In addition to the cases of inappropriate use encountered as a receiving Member State, the questionnaire also asked about the situations of inappropriate use encountered as a 'sending' Member State, which is shown in *Table 2*.¹³ Most of the competent Member States reported no or only a limited number of cases of inappropriate use (**CZ**, **DE**, **IE**, **FR**, **IT**, **LT**, **HU**, **MT**, **SI**, and **IS**). Only **the Netherlands** and **Poland** reported over 100 cases of inappropriate use, of which the majority concerned cases of fraud for both Member States. Slovakia is aware of inappropriate use but cannot quantify it. The rather limited occurrence of inappropriate use is also evident when comparing it to the total number of PDs A1 issued

¹⁰ The number of reporting Member States is too small to make a representative comparison.

¹¹ In 2021, some € 15.3 million claims related to unpaid social security contributions within a cross-border context (including additional contributions imposed) (see POSTING.STAT results for Belgium).

¹² See e.g. the *Terra Fecundis* case.

¹³ The number of reporting Member States is too small to make a representative comparison.

by the competent Member States. For none of the reporting Member States, the share was higher than 0.3 %.

Table 2 – Number of cases of inappropriate use of applicable legislation (PD A1), as a sending Member State, 2021

	Cases	Other quantification	Reason	% of total PDs A1 issued*
CZ	0			
DE	0			
IE	0			
FR	0			
IT	49		* 44 error cases: incorrect indication of data (period of posting, data on the employer) * 5 error cases: incorrect certification of the position of the worker and incorrect indication of the applicable legislation	0.03 %
LT	27		Article 12 should be applied instead of Article 13	0.1 %
HU	6	63 persons	Lack of domestic activity and incorrect data provided	0.01 %
MT	0			
NL	120		Fraud	0.3 %
PL	175		* 155 cases of fraud: falsified PDs A1 * 20 cases of error	0.1 %
SI	6	A few million euros	Fraud: Reasonable doubt about compliance with Art. 12: substantial character of the activities, prior submission to the social security legislation of the sending state, maximum anticipated duration of 24 months	0.01 %
SK			Fraud: * Cases of falsification of documents issued by the relevant institution when issuing PD A1 * False evidence that Article 13 instead of Article 12 should be applied * "Letterbox" companies - payment of the social insurance contributions in a more convenient social security scheme * Cases of manipulation of PD A1 Error: * Improperly defined position of the person concerned - e.g., self-employment should be properly defined as an employee's activity	
IS	0			

* Based on the number of PDs A1 issued according to Article 12.

Source: Administrative data PD A1 Questionnaire 2022

Furthermore, data was reported on the number of PDs A1 requested to be withdrawn as a receiving Member State and the number of PDs A1 withdrawn as a sending Member State (Table 3).¹⁴ As a sending Member State, **Italy** and **Poland** withdrew the highest number of PDs A1, namely both over 430 PDs A1 while the other reporting Member States stayed under 80 PDs A1 withdrawn in 2021. For Poland, the number of PDs A1 withdrawn is decreasing compared to previous years (from 1 197 PDs A1 in 2019, to 528 PDs A1 in 2020, to 'only' 431 PDs A1 in 2021). **Hungary** reported 25 PDs A1 which were withdrawn in 8 cases due to an error in the legal basis. **The Netherlands** withdrew 76 PDs A1, and on top of this, 44 applications were rejected due to their investigations.

¹⁴ Although the number of PDs A1 withdrawn is useful information, it is important to note that there are other interesting statistics regarding the withdrawal of PDs A1. The reality is that there are often much more requests between Member States to verify whether the conditions for delivering a PD A1 were indeed complied with compared to the number of PDs A1 that were eventually withdrawn. Moreover, the number of reporting Member States is too small to make a representative comparison.

Table 3 – Number of PDs A1 requested to be withdrawn as receiving Member State and number of PDs A1 withdrawn as sending Member State, 2021

As receiving Member State			
	Number of PDs A1 requested to be withdrawn (A)	Total number of PDs A1 received under Art. 12(B)*	% of requested PDs A1 to be withdrawn (A/B)
BE	48	175 456	0.03 %
DE	Minimum 1 952	431 801	0.5 %
FR	579 employees	303 945	0.2 %
NL	2 465	152 055	1.6 %
As sending Member State			
	Number of PDs A1 withdrawn (A)	Total number of PDs A1 issued under Art. 12 (B)*	% of withdrawn PDs A1 (A/B)
BG	23	10 911	0.2 %
IT	439	189 702	0.2 %
LT	27	31 784	0.1 %
HU	25	41 017	0.1 %
NL	76	44 885	0.2 %
PL	431	223 293	0.2 %

* Based on the number of PDs A1 issued and received according to Article 12.

Source: Administrative data PD A1 Questionnaire 2022

From the point of view of the receiving Member State, Member States can request for a PD A1 to be withdrawn. Most cases are reported by **the Netherlands** with over 2 400 PDs A1 requested to be withdrawn.¹⁵ Furthermore, **Germany** stated that in 2021, 21 dialogue and conciliation procedures were initiated in which at least 1 952 PDs A1 were contested by a total of 1 952 workers from 27 companies. **France** reported requests for withdrawal of PDs A1 within the framework of the control of 14 companies for 579 employees concerned and 11 Member States concerned. When comparing the number of requested withdrawals to the total number of PDs A1 received, the share only exceeds 0.5 % in the Netherlands (1.6 %).

Decision No A1 of 12 June 2009¹⁶ lays down the rules for the application of a dialogue and conciliation procedure concerning the validity of documents, the determination of the applicable legislation and the provision of benefits under Regulation (EC) No 883/2004. There are three phases defined in the dialogue and conciliation procedure. In the first stage, in the event of doubts concerning the validity of the PD A1 issued by the competent institution of another Member State, or in the event of a dispute relating to the (provisional) determination of the applicable law, the inspection services send a reasoned request to the competent institution(s) in the other Member State concerned, asking them to provide the necessary clarifications concerning its decision and, if necessary, to withdraw the PD A1. If the institutions cannot reach an agreement during the first stage of the dialogue procedure, the institutions notify their competent authorities. They each appoint a central contact person. These contact persons shall endeavour to seek an agreement on the matter. If no agreement is reached at the end of the second phase of the dialogue, the parties concerned may go to the Administrative Commission, with the possibility of a referral to a Conciliation Board if both parties to the dispute and the Administrative Commission agree.

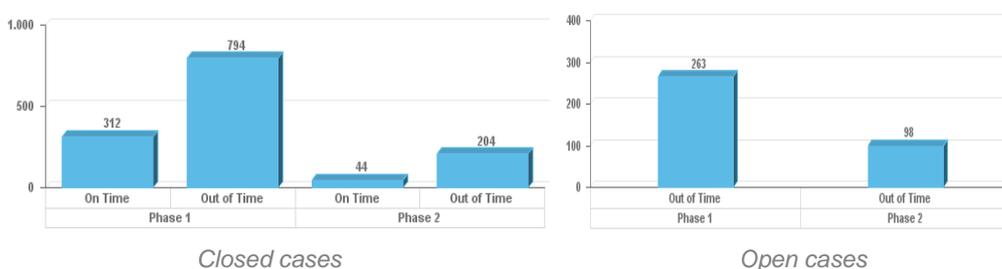
Article 19 of Decision No A1 of 12 June 2009 states that “Member States shall report to the Administrative Commission every year their data on the number of disputes in which the procedure set out in this Decision is applied, the Member States involved, the main issues, the length of the procedure, and the outcome of the procedure.”

¹⁵ In 2020, a total of 539 PDs A1 issued to the Netherlands were withdrawn by the competent authorities in the sending Member States at the request of the competent institution in the Netherlands (SVB) Furthermore, there were still 1,643 outstanding requests to withdraw the PD A1 pending. As result of the enforcement of PDs A1 by the SVB, the Tax and Customs Administration was able to levy € 1.8 million in premiums (or some € 3,340 per withdrawn PD A1) (POSTING.STAT results for the Netherlands).

¹⁶ [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0424\(01\)&from=de](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0424(01)&from=de)

To our knowledge, only Belgium has presented such data to the Administrative Commission (see AC note 292/20).¹⁷ In order to give full effect to Decision A1, the Belgian Federal Public Service Social Security initiated the OSIRIS project in June 2015, in partnership with the other competent Belgian institutions. The aim was to systematise the use of the dialogue and conciliation procedure in the handling of disputes relating to the validity of PDs A1. In total, 1 715 files have been processed via the OSIRIS platform between June 2015 and 1 January 2022 (cumulative). By far the most files concern PDs A1 issued by Poland (759 files or almost 44 % of the total files) and, to a lesser extent, files related to A1 forms issued by Portugal (14%), Slovakia (7.8%), Romania (6.8%) and Bulgaria (5.4%). Since June 2015, only seven times a 'Belgian' case was discussed by the Conciliation Board (phase 3). Of the 1 354 cases that were closed between June 2015 and 1 January 2022, only 356 (26%) were processed within the timeframe laid down in Decision A1 of the Administrative Commission (312 out of 1,106 (or 28%) in stage 1 and 44 out of 248 (or 18%) in stage 2) (see Figure 1). None of the 361 cases still open on 1 January 2022 had been processed within the time limits of Decision A1 (263 in stage 1 and 98 in stage 2).

Figure 1 – Number of open/closed cases in OSIRIS (BE), processing time per phase



Source: AC note 292/20 from Belgium

5.3. Cross-border healthcare

5.3.1. Unplanned necessary healthcare

5.3.1.1. Inappropriate use of the EHIC

Inappropriate use of the European Health Insurance Card (EHIC) is problematic for both the Member State of stay, which has to claim a reimbursement, and the competent Member State, which has to cover it. Safeguards to avoid misuse are provided in Decision S1 on the EHIC of the Administrative Commission (e.g. cooperation between institutions in order to avoid misuse of the EHIC, the EHIC should contain an expiry date, etc.).

Only 12 Member States responded to the question on inappropriate use of the EHIC. Six Member States did not find any cases of fraud or error involving EHIC (**DK, MT, NL, SI, LI, and NO**). The other six Member States did report inappropriate use (**EE, ES, FR, HR, AT, and CH**) of which four were able to (partly) quantify it (*Table 4*).

In terms of fraud, **Estonia** and **Croatia** mention that uninsured persons sometimes use an EHIC. Furthermore, both Croatia and **Spain** report that persons get insured, or enter into a fictive work contract, just to obtain an EHIC.

¹⁷ See Note from the Belgian delegation of 25 November 2020: "Report on the use of the dialogue and conciliation procedure provided for in Decision A1" (AC 292/20). This report lists and describes the main difficulties encountered in the implementation of procedure A1 and, for each of them, formulates possible solutions and requests for the attention of the Administrative Commission.

¹⁸ However, Germany reported in the PD A1 questionnaire that in 2021, 21 dialogue and conciliation procedures were initiated in which at least 1 952 PDs A1 were contested by a total of 1 952 workers from 27 companies (see above).

The highest number of cases were identified by **Austria** (813), a slight increase from 787 cases in 2020 (*Table 4*)¹⁹. **Estonia** also reported more than 100 cases, which is in line with the previous reference year. When comparing the reported cases to the total number of claims paid, Estonia stands out with 2.7 % followed by Austria with 1.6 %, while the share stays under 0.3 % for **France** and **Croatia**. The amounts involved are all above EUR 100 000, which Austria almost reaching an amount of EUR 300 000. The monetary impact for the reporting Member States remains limited.

Table 4 – Number of cases of inappropriate use (fraud and error) of the EHC, 2021

	Total number of cases identified in 2021	Total amount involved in 2021 (in €)	Share in total number of claims paid in 2021	Share in total amount reimbursed in 2021	Total number of cases identified in 2020
EE	144	113 966	2.7 %		112
FR	5	186 836	0.0 %	0.6 %	
HR	27		0.2 %		25
AT	813	295 202	1.6 %	1.5 %	787

Source: Administrative data EHC Questionnaire 2022

In addition, Member States were asked whether they were aware of any intermediaries (websites or other) charging for advice on the application of the EHC, which is not allowed. Only **Switzerland** and the **United Kingdom** reported that there are such cases present. Switzerland noted that the cases cannot be specified. The United Kingdom noted that when websites acting as intermediaries for EHC applications which charge customers a fee are found to be in breach of UK legislation, they are reported to UK trading standards.

Finally, Member States were asked if they are aware of other problems related to the use of the EHC. Ten Member States (**BE, DK, DE, EE, HU, NL, AT, PL, FI, and CH**) indeed mentioned other difficulties, while 15 (**CZ, IE, FR, HR, LV, LT, LU, MT, PT, RO, SI, SK, SE, NO, and UK**) did not find additional difficulties. Some problems mentioned the difference between planned and unplanned necessary healthcare, the non-acceptance of pregnancy and childbirth healthcare based on EHC, and the fear of late/non-payment. Furthermore, it is difficult for patients to recognize whether the service provider in the respective Member State has a contract with the statutory health insurance. A uniform logo could possibly remedy this. A final suggestion is indicating the issuing date and/or starting date of the entitlement on the EHC to avoid errors.

5.3.1.2. Invoice rejection

Almost all reporting Member States indicated that invoices were rejected by their institutions or in other countries. Only five Member States reported that no invoices were rejected by institutions in other countries (**LU, MT, SK, LI, and NO**), and six reported that no invoices were rejected by their own institutions (**EE, LU, MT, SK, LI, and NO**).

The reason cited most by Member States is missing or incorrect information, followed by the problem that the period of treatment is not (completely) covered by the entitlement document, for instance because the person was not insured anymore during the benefit period. Finally, a duplication of claims or double invoice seems to be a common problem as well.

Twelve Member States were able to (partly) quantify the number of rejected invoices by their institutions or other institutions (*Table 5*). Those cases could be compared with the total number of claims of reimbursement received or issued by an E125 form. Most rejections in other countries were reported by **Germany**, namely 12 240. The unweighted average for the share of rejections in other countries in total reimbursement claims issued amounts to 5.2 %. However, there are large differences between Member States. For instance, a high percentage of claims for reimbursement from **Hungary** (20.3 %) and

¹⁹ The number of reporting Member States is too small to make a representative comparison.

Romania (13.4 %) were rejected. For Hungary, this is a serious increase from a share of 4.8 % in 2020.

From the other perspective, rejections by own institutions, **Germany** also rejected most claims, namely 4 115, followed by **Romania** (2 741) and the **Czech Republic** (2 213). The average share of rejections in total reimbursement claims received reaches 4.0 %. Once more, especially **Hungary** (18.3 %) and **Romania** (14.8 %) stand out by a high rejection share, as well as the **Czech Republic** (6.6 %). For Hungary, the increase compared to reference year 2020 (1.2 %) is again noticeable.

It should be noted that an increase in rejections could have some serious consequences. It could lead to an increase of the administrative burden for the Member State of stay if additional information must be provided in order to receive the reimbursement. It also results in a delay of payment or even in a budgetary cost for the Member State of stay if claims are not accepted by the competent Member State. However, when invoices are first rejected, they can afterwards still be accepted. For instance, **Lithuania** reported that out of the 78 rejections in other countries, 72 were accepted after forwarding the requested documents.

Table 5 – Number of rejected invoices, 2021

	Rejections by institutions in <u>other countries</u>	Share of rejections in total reimbursement claims issued	Rejections in 2020	Rejections by <u>your institutions</u>	Share of rejections in total reimbursement claims received	Rejections in 2020
CZ	1 388	4.0 %	4.0 %	2 213	6.6 %	6.5 %
DK	164	1.9 %	0.4 %	62	0.4 %	0.2 %
DE	12 240	4.9 %	1.6 %	4 115	1.0 %	2.1 %
ES				46	0.1 %	0.1 %
FR	1 427	3.1 %	1.7 %	524	0.2 %	0.4 %
HR	1 086	1.1 %	0.8 %	276	2.2 %	1.6 %
LV	18	1.8 %	1.0 %	19	0.3 %	0.4 %
LT	78	3.5 %	1.1 %	102	1.3 %	0.5 %
HU	2 302	20.3 %	4.8 %	1 753	18.3 %	1.2 %
PL	924	0.5 %	0.5 %	902	1.2 %	2.4 %
RO	486	13.4 %		2 741	14.8 %	
SI	389	2.6 %		211	1.5 %	
Total*		5.2 %			4.0 %	

* Unweighted average of the reporting Member States

Source: Administrative data EHIC Questionnaire 2022

5.3.2. Planned cross-border healthcare

The majority of Member States did not reply to the question on inappropriate use or mentioned that such information is not available (**BE, BG, CZ, DE, IE, EL, ES, FR, LT, LU, MT, NL, PL, PT, SI, SE, LI, CH, and UK**). Additionally, many Member States reported that no cases of fraud or error were found (**DK, EE, HR, LV, HU, RO, SK, FI, and NO**). Only **Austria** mentioned that fraud can occur when after the refusal to issue a PD S2, the requested benefit is claimed by means of an EHIC. However, quantification of this type of fraud was not possible.

5.3.3. Entitlement to healthcare by persons residing in a Member State other than the competent Member State

While the majority of Member States did not fill out the question on fraud or error, or mentioned that no information is available, the second largest group are those Member States that did not find any inappropriate use (**DK, HR, MT, RO, FI, SE, LI, and CH**). Only four Member States reported cases of fraud or error (**ES, LT, PL, and NO**). **Spain** mentioned fraud cases of pensioners insured in another Member State who were not registered with the competent institution in Spain although they had received a PD S1. As

a result, these pensioners are currently insured in Spain solely based on their residence. In case healthcare is provided to these pensioners, no claim of reimbursement will be sent by Spain although it is not the competent Member State according to the Coordination Regulations. Another instance of fraud is 'covered actual residence' of persons who do not wish to formalise their change of residence and continue to use an EHIC instead of a PD S1. Finally, Spain noted cases of error as it detected many cases of teleworkers who wish to have a PD S1, without having processed the PD A1 of maintenance of applicable legislation.

Lithuania provided an extensive overview of cases of fraud and error. It issued a total of 120 contestations of invoices which were received for healthcare provided to insured persons residing in another Member State for an amount of EUR 305 010. Furthermore, Lithuania received 533 contestations of invoices for an amount of EUR 81 677. The main reasons were the non-registration of the PD S1 in the country of residence, a PD S1 which was not valid during the provision of healthcare services, or an uninsured person.

5.4. Unemployment benefits

5.4.1. Export of unemployment benefits

Most of the reporting Member States stated that no cases of fraud or error were detected (**BE, EE, ES, HR, IT, CY, MT, NL, PL, RO, SK, FI, IS, LI, and NO**). Only four Member States reported cases of fraud and error, namely **the Czech Republic, Greece, Denmark, and Hungary**. Although **Greece** is not able to provide a quantification due to the lack of data, it provided a list of possible occurrences of inappropriate use.

The reasons mentioned for this inappropriate use are often connected to the fulfilment of the conditions by the unemployed persons before leaving and upon arrival. For instance, **Greece** mentioned that unemployed persons sometimes depart to another Member State without informing the competent institution and without applying for a PD U2, they do not remain available to the employment services of the competent Member State for at least four weeks after becoming unemployed, or they do not register as unemployed in the receiving Member State within seven days of arrival. This indicates that many unemployed persons might still not be aware of their rights and obligations.

Only Denmark, Hungary and the Czech Republic were able to quantify the cases of inappropriate use, as mentioned in *Table 6*.²⁰ In **Denmark**, 3 cases of fraud and 25 cases of error were detected. Although no specific reasons were provided, the amounts involved could be broken down between the repayment of the benefit and the administrative sanction. In total, the 28 cases of inappropriate use in Denmark amounted to EUR 30 380. In **Hungary**, 5 cases of fraud were detected in which EUR 1 107 was involved. It concerned cases in which the persons involved were doing casual or short work while exporting their unemployment benefit without notifying the competent institutions. In the **Czech Republic**, 2 cases of institutional error were mentioned without the corresponding amount. It concerns a case in which the foreign institution did not pay unemployment benefits despite issuing a PD U2 and a case in which it received a U13 even though the export had ended.

Table 6 – Number of cases of fraud and error identified in case of export of unemployment benefits, 2021

	Number of cases identified	Amount involved (in €)	Reason
CZ	2		Error * Foreign institution did not pay even though PD U2 was issued * Receiving U13 even though export ended
DK	3	6 800	Fraud (Repayment of benefit EUR 6 800; administrative sanction EUR 10 831)
	23	9 999	Error (Repayment of benefit EUR 9 999; administrative sanction EUR 2 218)

²⁰ The number of reporting Member States is too small to make a representative comparison.

	2	532	Institutional error
HU	5	1 107	Fraud: During the period of receiving export of unemployment benefit in Hungary, the customer performed casual or short work, without notifying the competent authority.

Source: Administrative data PD U2 Questionnaire 2022

5.4.2. Aggregation of periods for unemployment benefits

Twelve Member States (**EE, HR, IT, LV, LT, MT, PL, RO, FI, LI, NO, and IS**) reported no cases of fraud and error, while nine Member States (**BE, BG, CZ, EL, ES, FR, HU, SK, and SE**) did report several cases. The remaining 11 Member States (**DK, DE, CY, IE, LT, NL, AT, PT, SI, CH, and UK**) did not have data available or did not fill out this question.

Regarding fraud, the main reasons given were false PDs U1, provision of false documents, fictitious employment, or non-declaration of facts such as not notifying the competent institutions when starting to work. With regard to error, there were often mistakes in declarations and inaccurate data, both from institutions and citizens, such as an incorrect date or missing information.

Out of the nine Member States which reported fraud and error, seven were able to (partially) quantify the number of cases and the amount involved (*Table 7*).²¹ While **Belgium, Spain, France, Hungary, and Sweden** reported less than 10 cases each, **the Czech Republic** reported 126 cases of inappropriate use, and **Bulgaria** 169 cases. Nevertheless, the highest amount involved is reported by **France**, with over EUR 170 000 in total for four fraud cases. Furthermore, Bulgaria, the Czech Republic, and Spain reported an amount involved of over EUR 10 000.

The number of cases of inappropriate use can be compared to the total number of PDs U1 received, which gives us an idea about the impact of fraud and error. In Belgium, Spain, France, and Hungary, the cases constitute less than 1 % of PDs U1 received, while in Sweden the share amounts to 2.3 %. In Bulgaria, in 10.9 % of the PDs U1 received an error was made (or fraud was committed). Finally, out of the 650 PDs U1 received by the Czech Republic, 126 were involved with inappropriate use (mostly concerning error) or 19.4 % of all PDs U1 received.

Table 7 – Number of cases of fraud and error identified in case of aggregation of periods for unemployment benefits, 2021

	Cases	Amount (in €)	% of total PDs U1 received*	Reason
BE	2 5		0.04 %	Fraud: Receiving unemployment benefits while doing paid work in a neighbouring country. Error: Application for unemployment benefits without first resuming to work for 13 weeks.
BG	1 168	5 603 34 317	10.9 %	Fraud: Presentation of fake PD U1. Error: Discrepancies in the information filled in PD and SED by the competent institution for insurance periods and/or date of termination of last employment.
CZ	20 106	8 000 11 000	19.4 %	Fraud: Jobseekers did not inform competent institution of paid work. Error: * <i>Institutions:</i> - Typos in forms. - Incorrectly confirmed dates of social security period, end of employment, etc. - Incorrectly confirmed salary info and reason of termination. - Requested information was missing. - LOCR received both U1 and SED concerning same client, but with different information. - Some countries did not confirm requested information. - Issuing of forms took long time. * <i>Citizens:</i> - Reporting incorrect date of beginning of new employment. LOCR found it out later from SED/PDU1. - Late information about the start of new gainful activity.
ES	1	7 405	0.1 %	Fraud: Inappropriate use of the provisions by only being insured in Spain for a very short time (1-2 days).

²¹ The number of reporting Member States is too small to make a representative comparison.

	Cases	Amount (in €)	% of total PDs U1 received*	Reason
	2	4 279		Error: PD U1 issued by agencies instead of the competent institution.
FR	4	170 489	0.1 %	Fraud: False European Employee Document
HU	4	873	0.2 %	Fraud: Jobseekers did not inform competent institution of paid work.
SE	2			Error: Unreasonable dates of work and amounts. Corrected after it was discovered to be a typo.
	1		2.3 %	Error: Competent institution stated the wrong year of period that does not match the other information and certificates

* The number of cases is divided by the total number of PDs U1 received.

Source: Questionnaire on aggregation of periods in case of unemployment benefits 2022

5.5. Old-age, survivors', and invalidity pensions

Only eight Member States (**BG, DK, DE, FR, CY, MT, AT, and RO**) provided an answer to the question regarding fraud and error when applying the EU provisions to old-age, survivors', and invalidity pensions, while **Spain** and **Luxembourg** reported they were not aware of any cases of inappropriate use.

Bulgaria, Germany, Cyprus, and Austria were the only Member States which provided more detailed reasons for fraud or error. The fraud found in **Bulgaria** concerned the non-declaration of certain facts, and in **Austria** the deception about residence, the state of health, or gainful employment. In both Member States, false documents were also encountered. In terms of error, there were differences in certified insurance periods, missing confirmations, or errors made by officials. **Germany** mentioned that significant overpayments result from the German pension insurance because people do not fulfil their obligations to cooperate. Even if the institution of the place of residence is informed about changes, the passing on of the information is currently not guaranteed. **Cyprus** mentioned that error cases concerned wrong E205/P5000 forms.

In absolute figures, the number of cases involving fraud and error is rather small (*Table 8*).²² The highest numbers are found in **Austria and France** with over 350 cases, followed by **Malta** with 151 cases. Austria reported 195 cases in reference year 2020 and mentioned that the increased number of cases in reference year 2021 is due to administrative changes. In **Bulgaria, Denmark, Cyprus, and Romania** it concerns less than 30 cases each. Therefore, in relative numbers as well, the impact of inappropriate use for these seven reporting Member States is very limited. Both the share in total number of persons and total amount paid stays under 0.3 %. The only exceptions are the number of cases of inappropriate use found in **Cyprus and Malta**, which make up 1.0 % and 9.6 % of total number of persons respectively. Nevertheless, in Cyprus it concerns error cases, and in Malta it concerns 151 cases of pensions which were suspended until further investigation after which it can be determined if they were indeed cases of fraud or error.

²² The number of reporting Member States is too small to make a representative comparison.

Table 8 – Number of cases of fraud and error identified in case of old-age, survivors', and invalidity pensions, 2021

	Type of fraud or error	Total number of cases identified	Total amount involved (in €)	Average amount per case	Share in total number of persons	Share in total amount paid
BG	Fraud: not declaring facts by the persons with relevance to the pension entitlement and pension amount e.g., marriage in another MS, insurance periods in another MS	3	14 605	4 868		
	Fraud: presenting false documents for insurance and income	2	3 901	1 951		
	Error: differences in certified insurance periods by the competent institution of another MS	2	154	77		
	Error: errors made by the officials	5	1 604	321		
	Total	12	20 264	1 689	0.2 %	0.3 %
DK		2	12 614	6 307	0.005 %	0.004 %
FR	Fraud	136	4 358 725	32 049		
	Error	218	3 175 944	14 569		
	Total	354	7 534 668	21 284	0.03 %	0.2 %
CY	Error: wrong E205/P5000	28	0		1.0 %	
MT	Suspended pensions	151			9.6 %	
AT	Fraud: Deception about residence (habitual or legal residence in Austria in connection with the receipt of a compensatory allowance or a care allowance)	83				
	Fraud: Deception about the state of health (aggravation, simulation)	10				
	Fraud: Deception about gainful employment (e.g., bogus employment relationship)	15				
	Fraud: Other (e.g., general violations of the obligation to declare income, undeclared work, falsification of documents for the purpose of obtaining benefits from the support fund)	35				
	Error: Overpayments because of missing confirmations	213	220 003	1 033		
Total	356				0.2 %	
RO	Error	18	8 291	461	0.1 %	0.01 %

Source: Administrative data Questionnaire on Old-age, survivors' and invalidity pensions 2022

5.6. Family benefits

Only a handful of Member States provided information on inappropriate use regarding family benefits. **Spain and Malta** reported that no cases of inappropriate use were found. **Switzerland** indicated that the procedure using forms E411/F001 is usually sufficient to adequately clarify the facts and benefit claims thus avoiding cases of fraud and error.

Only four Member States indicated that fraud or error had occurred and were able to quantify its occurrence (**Belgium, the Czech Republic, Germany, and Romania**). Most cases of fraud relate to not providing correct or complete information (e.g., documents submitted late, errors in forms, delayed communication with other Member States).

Table 9 shows the quantification for these four Member States.²³ Most cases were reported by **Germany**, namely 52 762 of which 44 733 concerned error and 8 029 fraud. **Romania** reported around 1 400 cases of error, **Belgium** 771 cases of error and 35 cases of fraud, and finally the **Czech Republic** mentioned 159 cases of error. The latter number of cases represent 53 % of total export of family benefits for the Czech Republic, but the share in the total amount exported only amounts to 9.8 %. The highest amounts are seen in Belgium, Germany, and Romania, all over EUR 1 million. Nevertheless, in Belgium it only accounts for 2 % of the total exported amount.

²³ The number of reporting Member States (only four) is too small to make a representative comparison.

Table 9 – Cases of fraud and error in case of export of family benefits, 2021

	Type of inappropriate use	Cases	Amount (in €)	Share in total export of family benefits	Share in total exported amount
BE	Fraud	35	236 554		
	Error	771	1 273 741		
	Total	806	1 510 295	3.0 %	2.0 %
CZ	Error	159	110 750	53.0 %	9.8 %
DE	Fraud: tax evasion (self-disclosure so no sanction)	2 374			
	Fraud: tax evasion (Closed criminal proceedings)	5 655	1 413 146		
	Error: Examples of official negligence: mistyping, offsetting Example of unintentional negligence of the client: notification no longer entirely immediate, documents submitted late, etc.	44 733			
	Total	52 762			
RO	Error: Double payments of child state allowance or child raising indemnity caused by errors in forms or delayed communication with other member states	1 388	1 030 356	7.1 %	

Source: Administrative data Questionnaire on the export of family benefits 2022

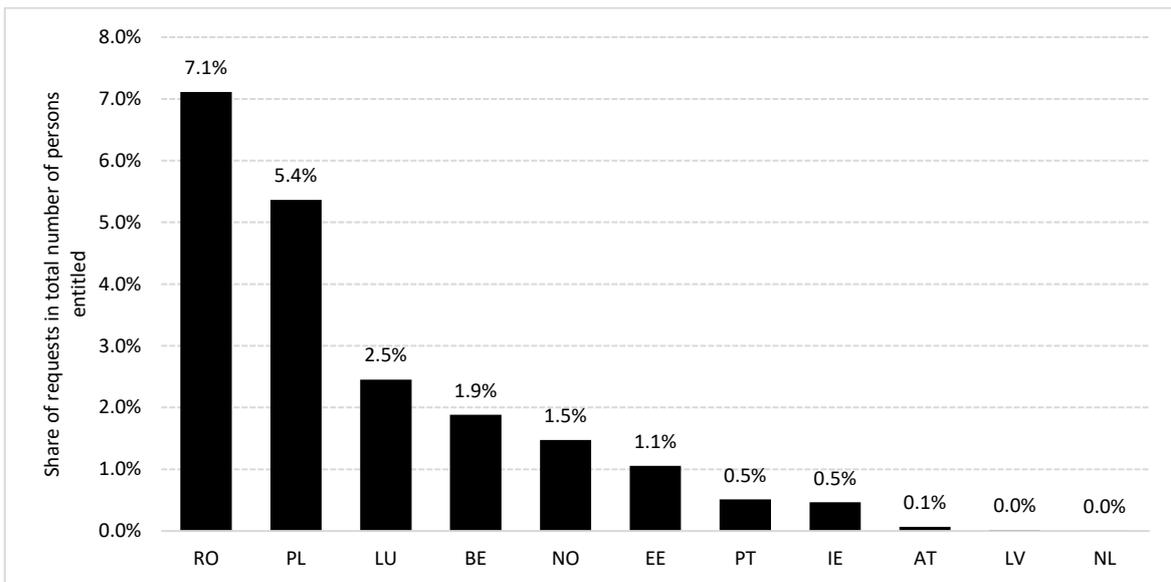
5.7. Recovery of outstanding contributions and unduly paid benefits

A request by the *applicant party* for the collection of contributions and the recovery of unduly paid benefits can be submitted to the *requested party* (Article 84 of the Basic Regulation and Articles 78 to 85 of the implementing Regulation).

On average, most of the requests submitted/received in 2021 are still pending. This does not come as a surprise as processing these requests is a time-consuming exercise. In several Member States, the number of unsuccessfully closed claims exceeds the number of successfully (i.e. the claim was not fully or partially recovered) closed claims. This reflects how challenging it is for competent authorities to recover outstanding contributions or unduly paid benefits.

More than eight out of ten requests submitted or received by Member States apply to the recovery of unduly paid family benefits. In addition, a relatively high number of requests to recover unduly paid old-age pensions, unemployment benefits, and sickness benefits are received/submitted. In relative terms (as a percentage of the total number of persons entitled to a family benefit), **Romania, Poland, Luxembourg, Belgium, Norway and Estonia** asked to recover a relatively high percentage of exported family benefits (over 1 % of benefits). This appears to be less the case in the **Portugal, Ireland, Austria, Latvia, and the Netherlands**.

Figure 2 – Requests for recovery of unduly paid family benefits submitted compared to the total number of family benefits exported, 2021



Source: Questionnaire on recovery procedures and Questionnaire on the export of family benefits 2022

The question whether error was found in the recovery procedures in 2021 was only answered by 7 Member States. **Belgium, Ireland, and Spain** reported that no (detailed) information is available, while **France and Malta** reported that no cases of error were found. Only Poland and Sweden reported cases of error. **Poland** reported 7 cases for an amount of EUR 11 767, consisting of 2 cases in which a photocopy of original documents was not sufficient, 2 cases in which only one certified copy of a document was sent instead of 2, and 3 cases in which an incorrect exchange rate of the amount due was used. In **Sweden** it concerns 37 cases in total, consisting of 15 cases with an incorrect exchange rate, 5 cases of non-use of R017, 10 cases with a missing payment reference, and 7 cases with a missing execution title.

6. In the field of benefits in kind, Steps taken in the reference year (2020) to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens

Member States have taken different steps to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens in the field of benefits in kind.

Steps taken to promote compliance with the coordination rules	Member States
by institutions	
Informing the staff	AT
via circular letters or on the intranet	HR, IT, LUX
via circulars, guidelines	DE, IT
via letters by post	HR
via FAQs about handling cross-border situations in the scope of Regulation (EC) No 883/2004	DE
via seminars	DE, PL
via central contact points/online support	IE
Training of staff	AT, CH, DE, FI, IT
Workshops/working groups/meetings to discuss and find common solutions to problems relating to the coordination Regulations and to share information and good practices	AT, DE, RO
by healthcare providers	
Informing of healthcare providers	AT
via website(s)	AT, DE, DK, HR, LUX, NL, PL
via leaflets/brochures/posters	AT, DE
via letters by post	HR, LV
via e-mail or phone	LUX, MT
via circulars, guidelines	AT, IE
via personal advice and support	EE, PL
Training of healthcare providers	AT, EE, MT
Meetings to exchange information and knowledge	IT

Steps taken to provide information to citizens regarding the coordination rules:	Member States
Informing	BE, PT
via website(s)	AT, CH, DE, DK, EE, FI, HR, IE, IT, LT, LUX, LV, NL, PL, RO, SK
via brochures/flyers/folders/leaflets	AT, DE, PL, IT, SK
via mail	DE
via the press	AT, CH, EE, LV, MT, PL, RO, SK
via radio/television programmes	AT, MT, PL, RO
via magazines circulated to doctors' practices	AT
via mobile application(s)	IE
via social media	LV
via official centres for providing information/costumer services/call centres/online support	EE, IE, RO, SK
via the annual policy information of health insurance companies	NL
on an individual basis via telephone, in person or via letter/mail	AT, DE, EE, HR, LUX, RO, SK
via information accompanying the EHIC	FI, NL, SE

Some Member States apply specific measures in the field of health benefits. In **Austria**, for example, if contracted doctors charge private healthcare fees after unjustifiably refusing to accept an EHIC, they are required to explain themselves and there is subsequent reimbursement. Furthermore, healthcare providers are encouraged, when a person presents an EHIC, to check this person's identity by asking to see an official photo ID. In **Germany**, healthcare providers are automatically informed by their respective national associations. The national association of statutory health insurance funds (DVKA) is also in touch with its contacts in the healthcare providers' associations and supplies them with all the relevant information on the EHIC through leaflets and a website. In **Denmark**, one notices some cases where Danish insured persons are denied healthcare benefits in conjunction with pregnancy and childbirth or necessary treatment of chronic or pre-existing medical conditions with their European Health Insurance Card (EHIC) during a temporary stay in another EU/EEA country. Many healthcare providers require a prior authorisation (PD S2) as guarantee for the payment, even though the persons in question did not travel abroad with the sole purpose of receiving medical treatment and can present a valid EHIC issued by **Denmark**. The Danish Patient Safety Authority tries to resolve such cases by sending a letter to the healthcare providers outlining the right to healthcare benefits granted by the EHIC.

7. Best practices, lessons learned, issues or concerns (including regarding privacy and data protection) when dealing with cross-border cooperation and information exchange within the framework of Regulations (EC) No 883/2004 and (EC) no 987/2009 on the coordination of social security systems

7.1. Best practices

The reports mention several best practices in five different fields.

- Several Member States (**AT, BE, CH, DE, DK, EE, FI, HU, IE, IT, LUX, MT, NL, PL, PT, RO, SK**) provided examples of best practices regarding cross-border cooperation and data exchange between Member States. The benefit of having at irregular intervals inter-institution discussions with certain Member States and having personal contacts (**AT, IT, LUX**) is mentioned, as it helps to limit the need for contestations and litigations (**MT**) or to generate an increased sense of responsibility (**IT**). A positive example can be found in the regular meetings of case handlers in the Nordic countries (four times a year) to exchange information about and discuss legislative and practical issues as well as current matters within the field of applicable legislation (**FI, SE**). The computerised transmission of applications and information limits human intervention and potential interference with the regularity of the production process. It is also proposed that a legislative provision should be adopted in which the employment offices of these States provide, to all those who register as jobseekers, a questionnaire containing all the information necessary to identify whether the person is already receiving unemployment benefits in another Member State and if s/he has fulfilled the obligations for the exportability of the service (**IT**). The European Platform to combat cross-border social security fraud and error helps to solve problems in a short-time frame (**FI**) and can be used to develop shared strategies within the existing legal framework and to easily share opinions, ideas and best practices (**AT, IT, NL**). Also working with the NCP's of other countries was seen as very helpful (**DK, IE**). Several other reports indicate positive experiences with bilateral meetings helping to improve the flow of information when processing social security cases and to determine potential cases of fraud or error (**DK, HU, PL**). A more frequent cross-border use of e-mail between institutions, enabling a more efficient exchange of information, is seen as a best practice (**PT**). Malta e.g. exchanges data with the UK about pensioners every 6 weeks. Lastly, more seminars should also be organised for the clerks (**FI**). The ESSI system (Electronic Exchange Social Security Information), plays a strategic role, as the Structured Electronic Documents (SED) helps to speed up the exchange of data and makes it safer. Also the RINA (Reference Implementation for a National Application) system developed within this project supports this exchange (**CH, FI, IT**). The ESSN (European Social Security Number) which uses the Quorum blockchain technology to ensure the unique identification of citizens within the EU could be the identification key used for the construction of a European computerised system which allows access to information held in national files for integrated management of the social security, labour and tax data of each entity. This could contribute to combat the phenomenon of fraud (**IT**).

- An analysis and isolation of critical information about clients and the adjustment of the procedure to exchange information in the context of the General Data Protection Regulation is crucial to effectively prevent and combat fraud and error (**BE, IT**). Secure IT methods and tools, such as the use of digital encryption methods, is very important in this respect (**ES, HR, PT**). In **Poland**, *KRUS* uses the European Online Information System of the German Old-Age and Disability Insurance (EOA) which enables this institution to get information about applicants' German insurance history and the amount of German benefits received.
- A few Member States (**CH, DK, FI, IT, LUX, NL, NO**) also reported on best practices regarding internal cooperation and data exchange. The use of databases and registers is very helpful. The copies of PDs A1 issued abroad are e.g. digitalised and recorded in a database (**AT**) or comprehensive and up-to-date registers (databases) in general (population register, business register, etc.) and in the field of social insurance (**FI**). An increased use of data mining constitutes an effective tool in combating fraud and error as an increased use of objective data from registers will contribute to identifying indicators, potential risks, cases, and patterns of fraud, as well as strengthen the due process to the advantage of the claimants, by streamlining to a greater extent the administration of social benefits across branches of social security on the basis of objective data. (**DK, IT**). Setting up offices who are specialised in detecting fraud is very beneficial (**CH, NO**).
- With respect to the dissemination of information, **Lithuania** highlights 'Clean hands', a measure to help determine the corruption index of personal healthcare institutions, which reflects the publicity and openness of healthcare institutions (patients' access to information) and the implementation of corruption prevention measures. It is also applied in determining the amount of the variable component of remuneration for managers of healthcare institutions. Other methods for dissemination are the use of social media (**LV**) or the organisation of meetings and events (**FI, LV, PL**).
- Lastly, regarding PDs, SEDs and other forms, the **Czech** Social Security Administration states that if there is an enforceable title, it has been certified to send a request for enforcement (SED R 017), so there is no obligation to send the request for information asked for by some Member States. **Italy** mentioned the creation of the SED F003. Information about the payment of family benefits regarding the priority right could prove a useful tool, with the launch of EESSI, to prevent and combat fraud and error (when people have not communicated their transfer abroad despite their obligation to do so) both in unemployment benefits and family benefits.

7.2. Lessons learned

With regard to lessons learned from cross-border cooperation **Belgium** reported that a structured system with functional contacts is key in ensuring equal treatment of all (EU) citizens in an open-border Europe, since otherwise a lot of time and effort is often lost in order to find the right contact, if one is found at all. A more structured collaboration via bilateral agreements to enhance methods of data exchange is seen as beneficial (**BE, HU**) as it would also allow the relevant institutions to carry out their tasks in a proper and uniform manner within a reasonable timeframe. (**IT**).

An important lesson learned in **Denmark** are the significant advantages of centralising the exchange of information with other Member States on cross-border fraud and error within a specialised unit that can assist and provide guidance to other national institutions.

7.3. Issues and concerns

Although some best practices regarding cross-border cooperation and data exchange were already mentioned, several Member States (**AT, BE, CZ, DK, LUX, MT, PL, PT, RO, SK**) also expressed some issues and concerns in this area. Recurrent problems are: the reluctance of foreign institutions to cooperate with the liaison institution, competent institutions and the institutions of the place of residence; failure by foreign competent institutions to respond to the official letters from the liaison institution, competent institutions and the institutions of the place of residence (total failure of deadlines or slow response) (**AT, LUX, PL**); forms are only being issued, despite insurance periods being known, once insured persons make an application and known facts are being denied (**AT**); inadequate exchange of data (**AT, PT**); linguistic difficulties (**AT, LUX**) difficulties in determining the institution competent to consider the case (**PL**); the requesting Member State cannot provide sufficient information enabling the institutions to precisely identify the person subject to investigation (**RO**); differences in privacy legislation and general restrictions on data exchange as a result of which the e-mail communication is limited to sending reminders, or exchanging basic information (**CZ, DK, LUX, MT, SK**). Consequently, the cross-border enforcement of the statutory obligations of employers and workers, or of penalties in the case of offences, remains difficult (**AT**). Furthermore, the lack of an actual enforceable possibility of challenging the PD A1 remains a problem, so a modification of the dispute resolution procedure might be helpful here, in the shape of a specific obligation on the institution responsible to carry out checks where there are justified doubts within shorter timeframes (**AT**). The territorial possibilities of control actions by the social inspectorate lead to enormous difficulties, and to an unequal treatment of similar cases where, when all those involved reside on the same territory, the matter would be fully investigated. (**BE**).

Best practices	Member States
cross-border cooperation and data exchange between Member States	AT, BE, CH, DE, DK, EE, FI, HU, IE, IT, LUX, MT, NL, PL, PT, RO, SK
Secure IT methods and tools,	BE, ES, HR, IT, PL, PT
Internal cooperation and data exchange	CH, DK, FI, IT, NL, NO
Dissemination of information	FI, LT, LV, PL
PDs, SEDs and other forms	CZ, IT
Lessons learned	Member States
Structured collaboration	BE, HU, IT
centralising the exchange of information	DK
Issues and concerns	Member States
Difficulties in cooperation	AT, BE, CZ, DK, LUX, MT, PL, PT, RO, SK

8. Examples of, or proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of social security coordination which national contact points can operationalise without the need for changes to national or EU law

Different proposals are made to improve close cooperation between the Member States and institutions. Faster action and friction-free teamwork between the Member States concerned would be a substantially more promising scenario (**AT**). Several Member States emphasize the importance of the National Contact Points (NCPs) (**IT, NL, NO, PT**) and suggest improvements of its working. A flexible and informal daily flow of information, views, practices, and ideas would be ideal. To ensure more flexible use of the platform, it would also be useful if each country could enter data and receive feedback in its own language (**IT**); the establishment of more sub-groups like the European Benefit Fraud Network (**NO**) or the promotion of regular meetings between NCPs and representatives of institutions and services with competence in the different areas of social security coordination (**PT**). Another proposal is to conclude new bilateral or multilateral agreements between the Member States (for example, agreements on the exchange of information about persons' place of living (change of residence), employment periods, deaths, etc.) (**LV**). Much is expected from the ELA, an institution that could play a facilitating role in organising joint inspections and other issues like data exchange and house visits to combat fraud and error (**NL**). Also, the spreading of information is considered as an efficient measure to prevent fraud and error (**FI, LT**). It might be an idea to set up a thematic database (held on the European Platform to combat cross-border social security fraud and error) covering good practices referring to other issues identified by the Member States and reported over the years and other AC notes. This database could be supplied by a kind of library with all the respective FreSsco/Moves reports and any other EU or international documents referring to issue of preventing or combating fraud and error in the field of EU social security coordination (**PL**). Other ideas are to set up an European website with all the relevant information on how to insure a person in each Member State (**FI**), a central database on which individual Member States would publish the relevant national forms for claiming sickness and maternity cash benefits in a given Member State (**SK**) or to equip all enforcement bodies with a system so that social insurance numbers can be checked and thus no more certificates can be issued with a fictitious social insurance number. The swift exchange of information and data between competent institutions is crucial, but also cross-border inspections should be facilitated (**BE**).

Electronic documents remain a concern. With regard to the issue of PDs A1, it would be desirable that there is an obligation to provide detailed information about inter-State facts, including a binding declaration to confirm that the data is accurate and complete. (**AT**) **Italy** proposed again the elimination of Portable Document U1 and the preferred use of SED U001 as a radical solution to prevent any cases of irregularity/fraud, pending the amendment of the document to put personal data on each page. Pending possible elimination, consideration should be given to the possibility of setting up a shared database for consulting the forms in question, even though the launch of EESSI could solve these issues. On the other hand, EHICs should be made electronically readable in future and/or the full period of validity should be visible directly on the card (**AT**).

9. Conclusion

The fight against fraud and error gained during the last years a growing interest. Anti-fraud policies are enacted, separate units or departments focussing on this fight are set-up and more and more the development of data analytics, risk profiling and risk indicators are considered as crucial. In line with the reports of previous years, this report reveals that despite all these best efforts, there is still room for improvement. One difficulty, is that the reports often do not state clearly whether we are dealing with fraud or with error. The Member States have reported a diverse range of measures undertaken – with varying intensity – in order to tackle fraud and error in general and within the different branches of social security specifically. In spite of the differences amongst Member States as concerns fraud and error, the reported steps and measures are demonstrative of the continued willingness of the Member States to tackle these practices.

It is notable that in the area of prevention and detection of fraud and error, several Member States still put lots of efforts in information dissemination, in order to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens. Information is important and we therefore consider it a good thing that more and more Member States remind their citizens of their obligations to inform the competent authorities of any change in their personal situation, as this may have consequences for their entitlements. Some Member States even attach sanctions in cases of failure to fulfil such obligations. Moreover, information dissemination is important for the staff of social security institutions and other parties involved in the application of the coordination rules, as it allows them to detect cases of fraud and/or error earlier and deal with them accordingly. We therefore encourage the European Commission and the Member States to keep making improvements towards information dissemination. The European Labour Authority may play an important role here and also to ensure that data is sufficiently up-to-date and accurate so that all persons concerned can exercise their rights.

Concerning the steps taken regarding controlling and monitoring actions, the implementation of regular checks of a person's legal status and monitoring activities constitute a substantial step in the prevention of and fight against fraud and error. There is a clear tendency to require authentic documents and to perform control measures during the application process. Data matching and data mining are found to be very useful techniques to partly fulfil these tasks. In the first instance, in order to be able to fully make advantage of these techniques, extensive corresponding databases and registers are needed. Moreover, these databases are increasingly being used in the application processes. The authors of this report therefore encourage the Member States to keep establishing, improving, and updating their databases and registers and to facilitate consultation of these databases and registers by relevant parties, if possible, even by institutions of other Member States. The creation of a central register of PDs A1 was for instance found to be very useful. For other risks as well (eg. in the field of unemployment benefits), the development of electronic questionnaires is considered a possible improvement.

Where extensive databases and registers are available, the techniques of data mining and data matching can simplify the processes of risk profiling, risk management and risk targeting. An increasing number of Member States emphasize the benefits of such techniques and the use of a set of indicators. By using these processes, cases of fraud or error can be prevented or detected early. The authors of this report would like to emphasize to the Member States that, notwithstanding the positive effects towards preventing and even combating fraud and error, they should always be aware of the fact that some risk profiles or cases of fraud can slip through the net and that risk targeting can lead to the perpetrators relocating the fraud towards fields that are not targeted. Member States have to keep looking at fraud and error with an open mind, next to the aforementioned IT processes. We would also like to encourage the Member States to further implement electronic payment

control systems, since they are very effective in preventing fraud and error. It is clear that various Member States have a vast amount of know-how on all the above-mentioned processes at their disposal. We suggest that Member States share their know-how, best practices, lessons learned and remaining issues so that all the Member States can reach the same level of progress. Through the exchange of such information, new insights will be revealed, and existing systems and processes will be further developed. It is clear that cross-border cooperation and information exchange can boost efficiency and economise resources often too scarce. The creation of the European Labour Authority has certainly contributed to a growing interest for and expectations with respect to closer collaboration in the domain of combatting fraud and monitoring actions in the fight against fraud and error (particularly joint inspections).

Since most of the controlling and monitoring actions still happen at national level, close cooperation and data exchange between the Member States is needed. It is clear that Member States keep on trying to improve the communication (including data exchange) and cooperation between internal competent authorities as well as the competent authorities in other Member States and are still willing to take the necessary steps to fulfil these intentions. The reported steps show the eagerness of the Member States to improve the already existing forms of cooperation and constitute new forms and stimulate data exchange. Electronic data exchange is clearly encouraged above paper work. Regarding the data exchange, the existence of structured data collection and storage in databases or registers is once more highlighted by the Member States. Regarding intranational cooperation, the authors of this report would like to stress the importance of joint, multidisciplinary intervention teams. Since cases of fraud often cover more fields than just the (particular) field of social security, interventions together with other social security institutions, tax authorities and police authorities can lead to the detection of cases of fraud and/or error which would not have been detected in the case of an intervention of only one of the parties concerned. We therefore welcome the fact that in an increasing number of countries the social security institutions contact and exchange data with other administrations and/or inspection services (e.g. tax services, national registries, State or Government Ministries). At international level, the creation or improvement of specialised units/teams to further develop the international cooperation and data exchange can be encouraged. Based on the country replies of the Member States, the Network of the National Contact Points (NCPs) and its Platform have contributed to the improvement of the fight against social security fraud and error in the framework of the coordination rules. We therefore encourage the NCPs to further encourage the social security institutions and other parties involved to reach out to other Member States' NCPs where necessary. However, it has to be noted that there is still a long way to go, since the vast majority of Member States still report problems concerning cross-border cooperation and information exchange. Concerning data exchange at national and international level, there is still some progress to be made. Concluding bilateral cooperation and/or data exchange agreements is a move in the right direction, with the necessary attention for the legal value of the agreements. Multilateral agreements on an international level, cf. the Benelux and Nordic and Baltic initiatives, are welcomed and – as past experiences in other domains have demonstrated – could prove to be a steadier legal ground for cross-border cooperation and the exchange of information as well as an inspiration for supranational initiatives.

Lastly, almost all the Member States made efforts regarding the recovery of unduly paid benefits and the application of sanctions. The reports show a particular interest for the challenges in these domains and for improvements with respect to the recovery of unduly benefits. In the view of the authors of this report, the foregoing is a positive development. After all, these actions are not only essential to combat fraud and error, they also have a huge influence on the prevention of fraud and error, since they have a deterrent effect on (possible) frauds.

Based on the information provided by the Member States about specific problems in implementing the EU coordination rules which may lead to (at least risks of) fraud and error, various kinds of problems can be distinguished.

Firstly, although it is clear that most of the Member States are willing to improve the level of cross-border investigation and cooperation in general, some problems still persist. Member States often experience difficulties regarding the determination of the competent institution in other Member States. Furthermore, the fact that the European coordination rules do not include procedures for the cross-border investigation of suspected cases of fraud and error is found problematic. Further initiatives would be welcomed either by an elaboration of specific rules or by procedures set-up under the European Labour Authority. These investigations are often subject to long response times, if a response is received at all. The authors are of the opinion that NCPs could definitely play a role in the improvement of cross-border cooperation and investigation. Furthermore, it still seems necessary to reflect about cross-border competences for inspection services.

Problems concerning the applicable legislation are still present. Problems also arise from ignorance of the beneficiaries regarding the applicable legislation. For many people-beneficiaries, employers and institutions- the rules on activity in more than one Member State are found hard to understand and difficult to apply, just as the determination whether an undertaking is carrying out a significant part of its activity in the sending or posting State, and the determination of marginal work. The applicable criteria are found to be too ambiguous. Perhaps a reform of the criteria, making them more specific –update of the Practical guide on applicable legislation- could be helpful. Moreover, the determination of the place of residence also still creates problems. But also the use of PDs and SEDs raises issues, since those documents keep creating a vast opportunity for fraud and error. The PD A1 (among others) is found to be inadequately protected against forgery. The set-up of authentication methods is important in this respect.²⁴ Major concerns were raised around the difficulty to withdraw documents which are incorrectly issued by foreign institutions or individuals themselves. Further reflections on the content of the PDs and SEDs seem appropriate. Subsequently, although compared to last year's report considerably less Member States have reported such problems, some Member States still experience problems regarding the recovery of unduly paid benefits.

Lastly, it is clear that the EHIC still causes lots of problems, since the Member States reported various difficulties concerning the EHIC throughout the report. The fact that the EHIC is still a paper document which cannot be read electronically and which sometimes does not show the period of validity, is found problematic. It would be preferable to make the EHIC electronically readable (perhaps by pairing the EHIC to the eID). On the other hand, various measures were taken to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens.

Secondly, almost all the Member States expressed their concerns about (the absence of/difficulties regarding) the exchange of data between the Member States. The lack of a unified, formalised system to exchange data is a source of anxiety. Also, the lack of a legal base for the exchange of (bulk) data between Member States to combat fraud is denounced, as it can be debated whether the provisions on information exchange provided by the coordination Regulations are a sufficient legal basis in all cases dealing with fraud and error, in particular regarding privacy and data protection issues, even more specifically in cases of fraud leading to criminal prosecution or administrative sanctions. It is found that data protection issues arise on many occasions when applying the coordination Regulations or when cooperating with other national institutions or foreign institutions. There is still a need for further attention to rules on data sharing, both at national and European level. Indeed, one cannot argue that the fight against social fraud is of such great societal importance that the protection of privacy is subordinate to it. It will be necessary that a balance must always

²⁴ See also Note AC 266/20 of the Administrative Commission for the Coordination of Social Security Systems.

be struck between the interest in combating fraud and the infringement of a fundamental right as privacy. The legislation on the protection of individuals with regard to the processing of personal data both confers rights for the benefit of the individuals whose personal data are processed and also imposes obligations on the 'controller' of those data. It is necessary to clarify which obligations and challenges apply in this regard to inspection services. Electronic data exchange between the Member States and the resulting possibility of data matching is still on the rise. There is only a minimal level of uniformity between the bilateral agreements, and the question arises to what extent the exchange of data is compatible with (national and European) rules on privacy and data protection. Some Member States find that it does not seem possible to obtain satisfactory results by means of almost spontaneous initiatives implemented in the framework of administrative cooperation provided for under the current European legislation. It is clear that there is a need for a fully operational and interoperable system for the electronic exchange of data and a comprehensive legal framework allowing for such exchange with due respect for privacy and data protection and reducing procedural risks to the absolute minimum. Awaiting the foregoing, we encourage the Member States to keep establishing new formalised, structured forms of data exchange, possibly by closing legally sound multilateral agreements on data exchange and by giving the competent institutions of other Member States access to institutions' national databases in accordance with, among others, the General Data Protection Regulation. Although electronic data exchange has major advantages, it still is a tool that cannot replace inspections and personal contacts between inspection services, which are considered crucial.

Thirdly, in some Member States cooperation and exchange of data is set up with authorities outside of the framework of social security coordination (labour inspectorates, tax departments, judicial authorities, etc.). Member states feel the greater need to exchange data with all these institutions.

The reported best practices, lessons learned and issues and concerns reflect the essence of this report. Although the Member States are willing to improve the cross-border cooperation and communication (including data exchange) between them, the fact that cross-border cooperation is in practice largely based on the goodwill of the Member States leads to the finding that some Member States are not always cooperative (they do not respond to questions, do not share data, etc.) and that other Member States report they can do very little in such a situation. The prevention of and fight against fraud and error still is a major topic in all Member States. The foregoing can also be deduced from the reported examples of our proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of social security coordination which NCPs might consider implementing without the need for changes to national or EU law. Member States for instance encourage each other to make increased use of the European Platform to combat cross-border social security fraud and error and the NCPs themselves, by e.g. holding regular meetings between NCPs or establishing more sub-groups of the NCP Network on specific matters. Also, the establishment of (thematic) databases on the Platform was proposed. It is our view that, concerning the foregoing, the risk of fragmentation of the NCPs with more sub-groups and its consequences should be borne in mind, since it might hamper the efficiency of the NCPs (or NCP networks) and, to at least some extent, might give significant indications as to the limits of the establishment of NCPs.

In view of the aforementioned, it appears that three fundamental steps need to be taken.

In the first place, the cross-border cooperation between Member States' national institutions of social security is still to be facilitated, with due regard for enforcement. In this context, also the European Labour Authority will play an important role by facilitating the cooperation, accelerating the exchange of information between Member States and supporting their effective compliance with cooperation obligations.

Secondly, in connection with the first suggested step, the exchange of data between national competent authorities as well as the competent authorities in other Member States still has to be regulated, with due regard for data protection concerns. The lack of cooperation in this respect singlehandedly functions as a gateway to a number of issues amongst Member States in the field of social security coordination. In this respect, it should be noted that the Commission's proposal to revise the social security coordination Regulations includes several amendments in relation to data protection and it remains to be seen which further action concerning fraud and error in the context of social security coordination will be necessary. In addition, EESSI was mentioned as an improvement. At the same time, we may not forget that EESSI is not an instrument aimed at combating fraud and error.

Finally, the vast majority of authors of the Member States' national reports seem unaware of the importance of a multidisciplinary approach to tackling at least some major forms of cross-border social fraud, such as cases of organised cross-border social fraud. Over the years, little to no reference was made to organised forms of cross-border social fraud, which is remarkable given the impact on national economies, the rights of workers involved as well as the image and perception of the European Union. We urge all Member States to raise awareness of organised forms of cross-border social fraud (e.g. posting schemes, organised benefit fraud, organised forms of labour exploitation, etc.), of the need for a multidisciplinary approach to tackling such cases, and of the specific issues and opportunities that arise in multidisciplinary environments.

Despite the new approach to the collection of statistical information, only a few Member States provided figures on fraud and error. These fragmented data nonetheless give an indication of the size of fraud and error in the field of EU social security coordination as well as an overview of some types of fraud and error- this may encourage more Member States to provide the data next year. A higher response rate will lead to more concrete conclusions.

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