

AC 261/22
Summary of the minutes of the 373 rd meeting of the Administrative Commission
SECRETARIAT – 10.08.2023

Orig. EN

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

**Summary of the minutes of the
373rd meeting of the Administrative Commission 14-15 December 2022**

A. Agenda

The agenda was approved.

B. Approval of Minutes

The Administrative Commission approved the minutes of the Working Party of the Administrative Commission on 9 March 2022, the minutes of the 370th meeting of the Administrative Commission on 30-31 March 2022 and the minutes of the Working Party of the Administrative Commission on 1 June 2022.

C. Communications and Questions

The Presidency provided information on the state of play of the proposal for the revision of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009. The Secretariat informed the delegations that the calendar of the meetings was updated. The Audit Board meeting will be in a hybrid mode.

The co-rapporteurs of the Ad-hoc Group on the Digitalisation of the EHIC reported that the group would start working on a business case to evaluate the possible technical solutions for a digital EHIC. The delegations were informed that there was no clear consensus regarding the level of priority for the business requirements.

The delegation were updated on cooperation with ELA, namely on ELA's new Cooperation Programme on Posting of Workers as well as ELA's Single Programming Document 2024-2026.

The delegation were informed that the extension of the transition period in the Guidance note on telework was approved by written procedure and that both the Guidance note on telework and the Guidance note on COVID-19 pandemic were published on the Commission website.

The Secretariat invited the delegations to provide their position concerning the cooperation between the State of residence and other Member States where views differ on which Member State is competent according to Article 13 of Regulation (EC) No 883/2004.

The Secretariat recalled that at the October meeting the Administrative Commission agreed on a common interpretation of Article 32 of Regulation (EC) No 883/2004, deciding that the interpretation would apply exclusively to new cases, while no solution for the old and open cases had been reached. The delegations were informed that the topic was discussed by the Audit Board that considered that the solution for past cases should be found within the Administrative Commission.

The Secretariat explained that, as announced in its Work Programme for 2023, the Commission will present for the third quarter of 2023 an initiative on digitalisation in social security and free movement of persons, in connection with the work on ESSPASS. The Secretariat informed that it would continue to regularly update the Administrative Commission on the main digital initiatives affecting the social security coordination, including in dedicated Working Parties.

I. Approval/notice without discussion

The Administrative Commission approved without discussion the following items: Nominations for membership to the Ad-Hoc Groups established for the definition of data to be exchanged electronically; Change Requests referring to business aspects; Specific Identification Parameters submitted to date by the Participating Countries; Average costs 2020 and 2021; Statement of annual accounts as at 31 December 2021.

II. Report on the outcome of the Working Party of the Administrative Commission of 30 November 2022

The Chair informed first part of the Working Party/International Forum was devoted to exchange of information on the content the database of bilateral agreements and possible further improvements. The second part of the forum was dedicated to practical handling of the issue of temporary protection for Ukrainian citizens. In addition, the afternoon part of the Working Party meeting was dedicated to the joint activities between AC and ELA.

III. Statistical reporting on the coordination of social security schemes

The Administrative Commission approved the presented reports, taking into account the notified changes. The Administrative Commission also approved the provisional calendar for statistical data collection.

IV. Annual discussion on Fraud and Error

The Administrative Commission approved the new annex of the Annual Statistical Report for Fraud and Error.

V. Accidents at work and occupational diseases: Reimbursement of costs for all benefits in kind provided for under the legislation of the assisting state

There were diverging views among delegations. Therefore, delegations were invited to submit notes on the subject in view of further discussions at the next meeting of the Administrative Commission.

VI. Ad-hoc group on telework– interim report

The Administrative Commission took note of the interim report of the Ad-hoc group on telework reflecting the current state of play of the work within the group. The Administrative Commission invites the Ad-hoc group to continue its intense work on the subject to be able to discuss the final report at the next meeting at the end of March 2023.

VII. Sickness benefits: Healthcare benefits for prisoners

The Administrative Commission noted that there are strong arguments that the foreign prisoners are covered by Regulation (EC) No 883/2004 as they previously moved from one country to another. However, that does not mean that the care should automatically be reimbursed by the Member State of origin. The Administrative Commission agreed that if there is a prisoner with a valid EHIC, the competent institution of the place of stay (imprisonment) would check with the institution that issued the EHIC whether the person is still considered as an insured person within the meaning of Regulation (EC) No 883/2004 and proceed accordingly when applying national legislation.

VIII. Work Programme of the Audit Board for the years 2023-2026

The Administrative Commission took note and approved the Work programme of the Audit Board.

IX. ELA: Cooperation between the Administrative Commission and the European Labour Authority – joined projects

The Administrative Commission further discussed the joint projects' recommendations by the Board for the Cooperation with the European Labour Authority and for Conciliation (CCB) for the following initiatives: EESSI system; study on the application of Article 16 Regulation (EC) No 883/2004; improvement of information resources in the field of registering for insurance and payment of contributions and enhanced follow-up to statistical reports. As regards Human Centred Design initiative, the Administrative Commission considered this approach worth further assessment. As regards the revision of the Practical guide, the Administrative Commission concluded that this activity should remain in its exclusive competence. The CCB was invited to report to the Administrative Commission in more detail about the mentioned initiatives after further exchanges with ELA.

X. Applicable Legislation: posting vs. multistate activities

Delegations were invited to send in further notes on the subject and that there was a clear interest in taking this topic into account in the revision of the Practical Guide to provide more clarity on the differentiation between the two Articles. As to the example presented by the Slovak delegation there seemed to be a majority in favour of applying Article 12, but there were also diverging interpretations.

XI. Applicable Legislation: Review and update of the practical guide on the applicable legislation

The Administrative Commission noted the willingness of the delegations to review and amend the Practical Guide. Member States are invited to send their nominations to participate at this work.

XII. EESSI

The Administrative Commission took note of the reports from the last Technical Commission and Executive Board meetings.

The Administrative Commission concluded that referring to the joint note from 14 TC delegations several AC delegations expressed their wish to create a body, similar to the EB, to monitor the full deployment of EESSI, supervise the Business Process Improvements (BPI) and create synergies with other digital initiatives. The Commission reiterated its position not to invest resources in a new governance body and questioned its added value considering the governance bodies already in place and their responsibility for the tasks proposed.

The Administrative Commission took note of the status of EESSI and progress in the BUCs implementation and urged two countries currently breaching E7 decision to accelerate their efforts. The Administrative Commission expressed concerns about further delaying the full implementation of EESSI, now planned for June 2024, due to the delays from some countries.

The Administrative Commission took note of the operational issues in production and in particular the long downtimes and non-reactiveness of some institutions that impacted negatively several participating countries and due to which some exchanges were not taking place. The Administrative Commission also took note of the status of EESSI releases appreciating that finally all countries have updated their RINAs to latest version and their Access Points (AP) to at least 2020 release, which addresses previous security concerns. Regarding APs upgrade, the Administrative Commission urged the few remaining countries to speed up the upgrade to the latest AP 2021 release.

The Administrative Commission took note of the fact that the joint RINA call for tender had not yet been published and was still pending the official greenlight from the Italian Digital Agency and some final steps in the translation.

The Administrative Commission took note of the progress of the Business Process Improvement programme.

The Administrative Commission took note of the 2022 activities linked to the Institution Repository (IR) and acknowledged the need to review Decision E2, describing the change management procedure for the details of the bodies and institutions listed in the electronic directory (now replaced by the IR) and their competences, to adapt it to the current reality and overcome the identified limitations.

The Administrative Commission took note of the intervention from the Croatian delegation on data protection, sharing the opinion from their Data Protection Authority (DPA) on the role of controller and processor within EESSI and encouraging other Member States to also consult their DPA.

XIII. Codification/Publication of the COVID-19 guidance

The Administrative Commission took note of the comments of the delegations on the text of the draft AC decision on the publication of the COVID-19 guidance. The Secretariat will prepare a new version of the draft decision for discussion the next AC meeting.

XIV. Family benefits: Coordination of Italian family benefits

The Administrative Commission was not informed about the new Italian legislation. Such notification is crucial for the good and loyal cooperation. It invited the Italian delegation to send a note on the legislation at stake. It reminded that a situation such as the one at stake, is unfortunate and dangerous for the future of the social security coordination which is directly applicable.

XV. Unemployment benefits: Reimbursement of unemployment benefits under Article 65 of Regulation (EC) No 883/2004 and application of Decision U4

The Administrative Commission concluded that no formal steps are foreseen to be taken by the Commission services. The past outstanding debt claim issues remain to be resolved independently by the affected Member States.

XVI. Changes in Member States legislation

The Administrative Commission took note of the changes in the Dutch, United Kingdom and Slovak legislations and invited the Croatian delegation to provide further information about the nature of their benefit.

XVII. Miscellaneous amendments – Withdrawal Agreement

The Administrative Commission took note of the United Kingdom's request.

XVIII. Draft agendas of the meetings of the Administrative Commission in the first half of 2023 and Swedish Presidency priorities

The Administrative Commission took note of the draft agendas of the meetings of the Administrative Commission in the first half of 2023 and Swedish Presidency priorities.

XIX. Other Business

The Administrative Commission confirmed that there was no other business to discuss and closed the meeting.

The meeting was chaired by Ms Gabriela Pikorová, representative of the Czech Republic, the Member State holding the Presidency at the Council of the European Union from 1 July to 31 December 2022.