

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

**Main conclusions of the
352nd meeting of the Administrative Commission**

18-19 October 2017

A. Agenda

The agenda was approved.

B. Approval of Minutes

The Administrative Commission approved the minutes of the 349th meeting on 14-15 December 2016, the Working Party of the Administrative Commission on 14 March 2017 and the Joint meeting of the Administrative Commission and Technical Commission on 3-4 May 2017.

C. Communications and Questions

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

The Secretariat informed about its intention to request the corrigenda following the verification of language versions of Article 75 of Regulation (EC) No 987/2009. The Polish language version of Decision No R1 would be aligned.

On the proposal to collect statistical data based on gender for all existing questionnaires for 2018 onwards, the Secretariat informed that, in view of the limited number of replies received from delegations, it did not see the added value of a statistical data collection based on gender in the framework of the Administrative Commission at this stage.

The Article 9 Declarations for the reference year 2016 were published*.

The European Commission is looking into ways of modernising and adding value to the information about the European Health Insurance Card (EHIC) provided on the website and/or the EHIC smartphone app.

* Available under the link: <http://ec.europa.eu/social/main.jsp?catId=868&intPageId=2285&langId=en>

I. Approval/notice without discussion

The Administrative Commission approved without discussion nominations for membership to the Ad-Hoc Groups established for the definition of data to be exchanged electronically and the Ad-Hoc Group on family benefits, as well as the nomination for the Chair of the Steering Committee for Fraud and Error.

The Administrative Commission took note without discussion of the outstanding uncontested claims introduced under Regulation (EEC) No 574/72, the National Contact Points nominated pursuant to Decision No H5 to promote cooperation between Member States to combat fraud and error within the field of social security coordination and the updated membership of the EESSI Change Management Board.

II. Report of the outcome of the Forum on the international dimension of social security of 5 October 2017

The Chair gave an overview of the results of the fifth Forum on the international dimension of social security on 5 October 2017. The next Forum would take place in October 2018.

III. Follow up to the Working Party of the Administrative Commission on Posting Issues of 14 March 2017

The Administrative Commission agreed to amend the Portable Document A1 and the Guidelines to Portable Document A1. One of the amendments concerns the possibility to issue a Portable Document A1 in case of persons working in one Member State (for instance, in case of frontier workers who need to prove in the Member State of residence their affiliation to a different social security system). The other amendments are of a technical nature.

The Administrative Commission adopted the new Recommendation No A1 concerning the issuance of the attestation referred to in Article 19(2) of Regulation (EC) No 987/2009 of the European Parliament and of the Council (in practice the Portable Document A1).

In light of the current discussions in the Council and considering that no significant progress was made in the last meeting, the Presidency decided to put on hold the work in the Administrative Commission for the proposals to amend Decisions Nos A1 and A2.

IV. Submissions to and decisions of the Conciliation Board

The Belgian and Polish delegations were invited to make additional efforts to reach agreement for the resolution of the three outstanding individual cases related to the interpretation of "substantial activities" in the context of posting of a self-employed person. To avoid potential difficulties in future cases, all delegations were invited to submit proposals on possible criteria for determining substantial activities in case of self-employed persons posting themselves to another Member State.

V. Follow up to the discussion on determination of applicable legislation when no Portable Document A1 has been issued

Most delegations supported the view that the lack of a Portable Document A1 (PD A1) cannot be regarded by the host Member State as sufficient for automatically applying its own social security legislation. The applicable legislation has to be assessed based on objective criteria

and, where possible, in common agreement with the sending Member State. The lack of a PD A1 can be regarded, however, as an indication that the posting conditions are not fulfilled. Where such a conclusion is not supported by the institution of the sending Member State and no PDA1 was issued, the host Member State can apply its own legislation only provisionally in accordance with Article 6 of Regulation (EC) No 987/2009.

VI. Legislation applicable to civil servants pursuing activity in more than one Member State

Most delegations supported the view that Article 13 of Regulation (EC) No 883/2004 concerning the pursuit of activity in two or more Member States should apply in the situation of a person working as a civil servant in two or more Member States (and not Article 11), so as to avoid that the person concerned is covered by two social security legislations at the same time.

VII. Amendment to Portable Document U1

Delegations took note of the proposed amendments to Portable Document U1 (PD U1) as a result of changes in the Bulgarian legislation and were invited to inform if other amendments are necessary due to changes in national legislation.

All the interested delegations were invited to provide information and quantitative data if available on fraud related to the use of PD U1.

VIII. Follow up to the discussion on residence supplement of Article 58 of Regulation (EC) No 883/2004 in case of pensions paid by another Member State in a single payment

Delegations addressed different issues concerning the application of the social security coordination rules in case of lump sum pension payments. The fact that a pension is paid once, and not on a regular basis might have an impact on the payment of a supplement based on Article 58 of Regulation (EC) No 883/2004, as well as on the determination of the competent Member State for sickness cover of the retired person. The Secretariat would conduct a survey to obtain more details on the issues raised.

IX. Statistical reporting on the coordination of social security schemes

The Network of Experts on Statistics on Free Movement and Social Security Coordination presented the Statistical report on cross border healthcare, the Statistical report on maternity and equivalent paternity benefits and the Statistical report on cross-border old-age, survivors' and invalidity pensions. The approval of these reports was deferred to the next meeting of the Administrative Commission and delegations were invited to send comments in writing.

On improvements to the statistical questionnaire on cross-border old-age, survivors' and invalidity pensions, the Secretariat would reflect on the future steps.

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

The Chair invited delegations to reply in writing if they agree to add a date of issue on the EHIC and, if yes, if they agree with a 10-year transitional period. Based on the replies received, the Secretariat would reflect on future steps.

XI. European Reference Networks

The European Commission presented the newly launched European Reference Networks[†] (virtual cooperation networks bringing together healthcare providers across Europe to tackle complex or rare medical conditions that require highly specialised treatment and a concentration of knowledge and resources).

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

Delegations debated if during a provisional period (before the occupational nature of the accident or the disease is recognised by the competent Member State) a person should be entitled to special benefits for accidents of work and occupational diseases or to sickness benefits. If the person should be entitled to the special benefits, the reimbursement of the expenses in case the accident or disease proves to be in the end not work-related should be discussed.

As no agreement could be reached, the topic would be discussed in a later meeting of the Administrative Commission.

XIII. EESSI

Delegations took note of the updates on the progress of the EESSI project, the work of the Executive Board, Technical Commission and Change Management Board and the progress of the fulfilment of conditions agreed at the June acceptance of EESSI being fit for purpose, including the next steps on finalising the EESSI Terms of Collaboration.

The Administrative Commission approved Decision No E6 determining when a message will be considered legally delivered in EESSI. The Decision will be translated in all languages and published in the Official Journal.

The Administrative Commission also approved the EESSI Business Use Case Guidelines Batch 2 and 3 (subject to some clarifications and except the Guidelines for H_BUC_02 a, b and c), Change Requests related to the EESSI Business Model (except the one related to the FB_BUC_01, which was approved subject to additional comments) and the corrective updates brought to version 4 of the Structured Electronic Documents (subject to comments).

Discussions took place on the EESSI Institution Repository Codes and the EESSI sub-domains use and need; delegations were invited to send written contributions.

XIV. Miscellaneous amendments - Council and European Parliament Regulation

Delegations had no objections to the request from the Estonian delegation in relation to Annex I to Regulation (EC) No 883/2004.

XV. Changes in Member States' legislation

Delegations took note of the changes to the Polish legislation related to retirement age.

[†] For more details, follow this link: https://ec.europa.eu/health/ern_en

XVI. Draft agendas of the meetings of the Administrative Commission in the second half of 2017

The Secretariat presented the draft agenda for the 353nd meeting of the Administrative Commission.

XVII. Other Business

The meeting was chaired by Mrs Agne Nettekoven, representative of Estonia, the Member State holding the Presidency at the Council of the European Union from 1 July to 31 December 2017.