

AC 114/22
Summary of the minutes of the 371 st meeting of the Administrative Commission
SECRETARIAT – 12.01.2023

Orig. EN

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

**Summary of the minutes of the
371st meeting of the Administrative Commission 13-14 June 2022**

A. Agenda

The agenda was approved with the addition of a communication point on EESSI Business Process Improvement (BPI) under C. Communications and Questions.

B. Approval of Minutes

The Administrative Commission approved the Minutes of the 368th meeting of the Administrative Commission on 19-20 October 2021.

C. Communications and Questions

The Presidency provided information on state of play of the revision of Regulations (EC) No 883/2004 and 987/2009, where no new progress has been made on the file.

The Secretariat underlined the importance to respect the deadline of the 30 June for the next 7 statistical questionnaires.

The Secretariat informed about a mistake in paragraph 2 of Article 9 of Decision H13 approved at the last meeting and that the correct date would be inserted in all language versions.

The Secretariat provided an update about Article 9 declarations: a contribution is still pending for the 2021 exercise; a reminder for contributions concerning the 2022 exercise.

Regarding the Ad-hoc Group on the Digitalisation of the EHIC, the Administration Commission was informed about the progress of its work and in particular that the members had split into two sub-groups: the legal and business sub-group and the technical and architectural sub-group.

The Administrative Commission was also informed about the consortium that was being created and led by Austria and Germany and whose aim was to pilot two use cases related to social security coordination (PD A1 and the EHIC).

Concerning planned medical treatment for mass casualty disasters, the Secretariat informed about David-Pascal Dion's intervention on 9 June at the Civil Protection Committee (DG ECHO) on this topic. The Secretariat invited the members of the Working Group to provide information about their status of work.

The Commission provided an information on the upcoming activities in the framework of the Business Process Improvement (BPI) and explained that a coordination mechanism would be put in place with existing roles: rapporteurs and deputy rapporteurs of the ad hoc groups, DMEG rapporteur, CAB rapporteurs, EB chair. A workshop would be organised on 28 June on this topic.

I. Approval/notice without discussion

The Administrative Commission approved without discussion the following items:

- a) Nominations for membership to the Ad-Hoc Groups established for the definition of data to be exchanged electronically
- b) Nomination for membership to the Ad-Hoc Group on the digitalisation of the European Health Insurance Card
- c) Notifications on the maximum amount under Article 70 of Regulation (EC) No 987/2009
- d) Average costs 2019
- e) Change Requests referring to business aspects (BUCs and SEDs)
- f) Specific Identification Parameters submitted to date by the Participating Countries
- g) Nominations for membership and chairmanship in the CCB.

II. Submissions to and decisions of the Conciliation Board

a) Opinion of the Conciliation Board on the Decision A1 in a dispute over the competent state for cash sickness benefits upon the request from the United Kingdom and Belgian delegations:

The Administrative Commission approved the opinion expressed by the Conciliation Board that Article 21 of Regulation (EC) No 883/2004 providing inter alia for the grant of cash sickness benefits by the competent institution to members of the family of the insured person residing in another Member State, must be interpreted in the light of Article 45 TFEU and does not deprive the members of the family of the person concerned from entitlement to a sickness benefit such as the care component of the Disability Living Allowance, where such an entitlement exists under the legislation of the Member State of residence. The Administrative Commission took note of fact that, in this specific case, there is no entitlement in Belgium to a benefit equivalent to the United Kingdom Disability Living Allowance care component. It also took note of the fact that the United Kingdom Social Security legislation precludes the payment of Disability Living Allowance care component to persons for whom the United Kingdom is not the competent state for payment of cash sickness benefits.

b) Opinion of the Conciliation Board on the Decision A1 in a dispute over the legislation applicable to specific categories of persons upon the request from the Czech and Slovak delegations:

The Administrative Commission approved the opinion expressed by the Conciliation Board that Article 11(2) of Regulation (EC) No 883/2004 contains a legal fiction by providing, for the purposes of Title II, that persons receiving benefits because/or as a consequence of their occupational activity shall be considered to be pursuing the said activity. This legal fiction applies irrespective of whether the employment-related benefit in question has been claimed or awarded immediately after the afore-mentioned activity or at some point later, and irrespective of whether the beneficiary, in the meantime, has become subject to the legislation of another Member State by virtue of Article 11(3)(e) of Regulation (EC) No 883/2004.

III. Ukrainian nationals - social security coordination coverage

The Administrative Commission took note of the discussion concerning Social Security Coordination coverage of the Ukrainian citizens and invited the interested delegations to send notes to the Secretariat regarding the problems which might be relevant in the context of a migration crisis.

IV. Report on the outcome of the Working Party of the Administrative Commission of 1 June 2022

The Chair reported on the outcome of the Working Party relating to telework. There was a common ground to identify the definition of telework and some possible flexible interpretation of social security coordination rules. An option to extend for a limited period of time the flexibility allowed during the pandemic by identifying another basis for the derogation other than force majeure was raised.

V. Telework and the possible impact on the determination of the applicable legislation and transition with the application of Note 074/20REV3

The Administrative Commission approved by majority of delegations the new Guidance note on telework which is recommended to be applied by Member States for telework in a post-pandemic period.

The Administrative Commission agreed that the creation of the Ad-hoc Group is necessary for further analysis of the telework in the context of social security coordination rules and to provide further long-term recommendations.

VI. Family benefits: application of priority rules for the payment of family benefits

The Administrative Commission agreed that in the case described in joint note from the Luxembourgish, French and Belgian delegations (AC 136/22), concerning the application of the priority rules contained in Article 68 of Regulation 883/2004 when the legislations of two

Member States are secondary applicable, option 1 shall apply. Delegations are invited to send written comments in view of a discussion at the next meeting of the AC.

VII. EESSI

The Administrative Commission took note of the reports from the 70th meeting of the EESSI Executive Board and from the 96th meeting of the Technical Commission.

The Administrative Commission took note of the status of EESSI and the state of play of the EESSI implementation status in the participating countries and that the Administrative Commission was made aware of the issue of non-compliance with Decision E7 and of the report provided by the concerned delegations.

The Administrative Commission concluded that if an institution that is EESSI ready for a BUC is still exchanging on paper without a proper justification, the recommendation is to reject the paper document and request the use of EESSI.

The Administrative Commission took note of the qualitative analysis of exchanges and the identified issues in production.

The Administrative Commission encouraged participating countries to set up and share business continuity plans to avoid downtime of their access points and national applications.

The Administrative Commission has been informed about the progress in the preparation of the joint call for tender.

The Administrative Commission took note of the progress of the work on the national applications and taking over of RINA by the concerned countries / Access Points and of the updated planning for the preparation of the joint call by countries in the centralised scenario.

The Administrative Commission urged countries to finalise the roll-out of Release 2020, considering the absence of Commission support for the Release 2019 and the presence of critical security vulnerabilities which make the Release 2019 risky to be used in Production.

The Administrative Commission took note of the deployment status of the Release 2021 (AP/CSN/ CDM) and obtained information on the next EESSI Release.

The Administrative Commission took note of the ongoing activities linked to Institution repository and competence lifecycle improvement.

The Administrative Commission approved the revised note on the procedure for acceptance and removal of identification parameters (AC 115/18REV).

The Administrative Commission took note of the on-going activities of both security and data protection streams of SEDAPEG.

The Administrative Commission took note of the listing of processing activities prepared by the Commission and the DP rapporteur and insisted on having processor and controller's roles and responsibilities clearly defined and documented, as required by EU data protection legislation.

The Administrative Commission took note of the call of the European Commission for member states to clarify between themselves their role as joint-controllers in EESSI.

The Administrative Commission took note of the preliminary results of the survey on EESSI resources.

VIII. Changes in Member States legislation

The Administrative Commission took note of the changes in the Slovak legislation concerning the support of substitute childcare, entering into force on 1 July 2022.

IX. Draft agendas of the meetings of the Administrative Commission in the second half of 2022

The Administrative Commission took note of the draft agenda of the 372nd meeting of the Administrative Commission.