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Title

ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS (AC)

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References:

- **Recitals :**
- **BR :** Articles **71, 72,76,19,33,34,76**
- **IR:** Articles **4, 5,6, 69, 89, 90, 91, 95,31**
- **AC Decisions :** See decision H1 in particular (June 2009) . Decisions are accessible to public
- **ECJ CASE Law:** ECJ, 13 June 1958, Meroni case 9/56; ECJ, 14 May 1981 Romano, case C-98/80,ECJ 10.02.2000 Fitzwilliam Executive Search Ltd C-202/97, Herbosch Kiere C-02/05

Comments:

- The Administrative Commission on Social Security of Migrant Workers, as this committee is called in Regulation 1408/71 (Articles 80 and 81), will become the Administrative Commission for the Coordination of Social Security Systems under the new modernised coordination (Articles 80 and 81 BR). This change in name not only reflects the simplification and modernisation trends but more substantially the fact that the modernised coordination applies to all categories of persons exercising their rights to free movement, including non-active persons.
- Although it is formally attached to the European Commission, the Administrative Commission (AC) is a sui generis committee. This special status is historically related to the adoption of the first social security Regulation No 3 in 1958 and reflects the particular nature of the coordination of social security systems within the Community legal framework.
- The AC is composed of one government representatives from each Member State and a deputy, assisted where necessary by expert advisers. A representative of the European Commission also attends the meetings of the AC in an advisory capacity. The "Secretariat" of the AC under a Secretary-General is provided by the EU Commission services (DG EMPL).
- Within the coordination system, the AC plays a major role, as it is the place where Member States and the Commission discuss all the different issues with regard to the Regulations and seek practical solutions for any practical difficulties.

- The AC can adopt Decisions and Recommendations, which are published in the Official Journal of the European Communities. So far, the AC has adopted more than 200 Decisions and Recommendations, out of which around 70 are still in force.
- Since its creation, the AC has been given several core tasks by the Regulations:
 1. to interpret and clarify the provisions of the Regulations
 2. to develop the cooperation between Member States
 3. to modernize the exchange of data by the use of new technologies
 4. to adopt the annual accounts between Member States
- Over the past years the role of the AC has constantly been adapted to new developments and challenges. This was, for example, necessary following enlargement in 2004 and, more recently, with regard to the required actions for the preparation of the introduction of the new Regulations. This led, for example, to the establishment of an informal Task Force and a number of Ad hoc groups on electronic data exchange.
- Under the new coordination system, the role of the AC will be enhanced in existing areas; moreover, but AC will also take over new responsibilities for the good functioning of the coordination rules and procedures.
- The main role and tasks for the AC under the new system can therefore be described as follows:

a) To ensure the smooth introduction of the new social security coordination

The preparatory work for the introduction of the new system has been intensive during the last Presidencies and a number of important actions have already been taken, such as on the EESSI architecture and the adoption of the above-mentioned package of revised Decisions and Recommendations. However, further necessary actions still remain to be taken, notably with regard to the dissemination of information and the EESSI project.

b) To clarify questions of interpretation

The clarification of questions of interpretation of the coordination rules has always been one of the main tasks of the AC, which has led to the adoption of a significant number of interpretative Decisions and Recommendations over the last decades. It is, however, highly likely that the demand for clarification of certain provisions of the new Regulations will be very high within the coming years.

c) To foster dialogue and promote re-conciliation

This role has already been given to the AC by the case law of the Court of Justice. However, in several provisions of the IR, such as Articles 5(4), 6 (3), 16 (4) and 60 (4), the AC is now explicitly asked to reconcile the views of Member States in case of different interpretations of coordination provisions.

In order to fulfil this role in practice, the recently adopted Decision on a Dialogue and Conciliation Procedure (Decision No A2) will be of great value (see also fiche on dispute settlement and conciliation). Moreover, the revised Rules of Procedure provide the AC with the possibility to establish a Conciliation Board to assist the AC in this task.

d) To promote exchange of experience and best administrative practices as well as to foster and develop cooperation between Member States and their institutions

One of the key features of the new social security coordination is the enhanced cooperation between Member States and their institutions. This cooperation is crucial to ensure the proper functioning of the system with regard to 31 countries. This already existing task of the AC has been supplemented by the new Article 72 (b) BR which requires the AC to "facilitate the uniform application of Community law, especially by promoting exchange of experience and best administrative practices".

The above-mentioned Decision on a Dialogue and Conciliation Procedure and the proposed Conciliation Board could facilitate the work of the AC also in this field.

e) To collect statistics and review certain coordination provisions

The collections of statistics (Article 91 IR) and the review clauses (Article 86 IR) require proper planning. Although Article 86 of the IR provides for a review of certain provisions only by the fourth full calendar year (Article 86 (1)) and for others before the date five years after the entry into force of this Regulation (Article 86 (2)), the AC has to prepare in time for the application of these review clauses.

f) To address Strategic Questions

As the decision making process in the social security field will still be quite lengthy and complex even after the entry into force of the Lisbon Treaty, it is important that the AC plans with a long-term perspective how to deal with strategic questions arising from the constantly changing social and employment environment. Only an open and dynamic approach to such changes can ensure that the Regulations reflect the real needs of the stakeholders and consequently the proper functioning of the system as a whole.

As strategic questions, those issues could be identified which have a long-term importance and impact on the coordination system, such as the new pattern of mobility. These are questions which could affect the system as whole and might in the future lead to an amendment of the current provisions or new proposals as referred to in Article 72 (f) BR.

Conclusion

Under the new Regulations the AC will therefore have a wider scope of action and a more comprehensive set of tools to monitor the coordination of social security systems in a more effective way. It will become the central part in the application of the coordination provisions.

To this end, the AC is currently finalising a new long-term programme, outlining all the above tasks

Decisions of the AC

The AC has already reviewed all Decisions and Recommendations currently in force. On 12 June 2009 it adopted a package of 17 Decisions and 3 Recommendations for the application of the new Regulations.

Legal Value of the AC decisions

- AC decision are in principle not binding as, according to the case-law of the Court of Justice they cannot require institutions to follow certain methods or to adopt certain interpretations when they come to apply the rules of Community law (see Case 98/80 *Romano* [1981] ECR 1241, paragraph 20, and Case C-102/91 *Knoch* [1992] ECR I-4341, paragraph 52). However, it does not prevent ECJ to take them into account as useful tools of guidance to social security institutions responsible for applying Community law in this sphere see in particular Judgement Fitzwilliam 202/97 points 24 and 32.
- In any case, as AC decisions are taken by all MS which are bound by the principles of cooperation in good faith it is generally acknowledged that AC decision have an authoritative effect and represent an important aid to the interpretation and practical common application of the Regulations which should be taken into account by the competent authorities of the MS, institutions and stakeholders (for instance see AC decisions on the European health insurance card are also for health services providers)

Where can they be found?

- Administration commission decisions are published in the OJ <http://eur-lex.europa.eu/en/index.htm>
- For experts, they are accessible via the CIRCA server. http://circa.europa.eu/Members/irc/empl/casstm/library?!=/recommendations_1&vm=detailed&sb=Title
- The decisions are also posted in the social security coordination DG EMPL dedicated website. <http://ec.europa.eu/social/main.jsp?catId=516&langId=en>
- The decisions are now indexed with a letter and a number:

A + Number	Applicable Legislation
H + Number	Horizontal, meaning decision concerning general issues and rules of procedure, and also Financial provisions
F + Number	Family Benefits
I + Number	Electronic Data Exchange
S + Number	Sickness Benefits
U + Number	Unemployment Benefits
P + Number	Pensions

**Community Committees
in the field of the coordination of social security systems
under the new system (as from 1 May 2010)**

