ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS

Rules of the Administrative Commission for the Coordination of Social Security Systems attached to the European Commission

of 16 June 2010

(2010/C 213/11)


Having regard to Article 71 of Regulation (EC) No 883/2004,


Acting in accordance with the conditions laid down in Article 71(2)(1) of Regulation (EC) No 883/2004,

Whereas:

(1) The Court of Justice, in its case law, refers to the Administrative Commission as the body to reconcile different interpretations of the provisions of the Regulations.

(2) Article 5(4) of Regulation (EC) No 987/2009 concerning the legal value of documents and supporting evidence issued in another Member State provides that ‘Where no agreement is reached between the institutions concerned, the matter may be brought before the Administrative Commission by the competent authorities no earlier than one month following the date on which the institution that received the document submitted its request. The Administrative Commission shall endeavour to reconcile the points of view within six months of the date on which the matter was brought before it’.

(3) Article 6(3) of Regulation (EC) No 987/2009 concerning the provisional application of legislation and provisional granting of benefits provides that ‘Where no agreement is reached between the institutions or authorities concerned, the matter may be brought before the Administrative Commission by the competent authorities no earlier than one month after the date on which the difference of views, as referred to in paragraph 1 or 2, arose. The Administrative Commission shall seek to reconcile the points of view within six months of the date on which the matter was brought before it’.

(4) A written procedure confirms a prior agreement reached amongst delegations in one of the committees referred to in Articles 71, 73 and 74 of Regulation (EC) No 883/2004,

HAVE UNANIMOUSLY ADOPTED THE FOLLOWING RULES OF THE ADMINISTRATIVE COMMISSION:

Article 1

The Administrative Commission is a specialised body of the European Commission and has the same seat.

Article 2

1. When a member of the Administrative Commission is prevented from attending, he/she shall be replaced by the alternate designated for this purpose by his/her government.

2. Alternate members may accompany members at the meetings of the Administrative Commission.

3. Where this is necessary in view of the subjects to be dealt with or the measures to be taken at national level, each member may furthermore be accompanied by one or several expert advisers.

4. Each delegation may, as a rule, consist of not more than four persons.

5. The representative of the European Commission may be accompanied by his/her alternate.

The meetings may furthermore be attended by a representative of the Legal Service and, where this is relevant to the question to be dealt with, a representative of another department of the European Commission.

6. The Secretary-General of the Administrative Commission shall attend all meetings of the Administrative Commission and its working parties; he/she shall be accompanied by members of the Secretariat designated by him/her.

If he/she is prevented from attending, he/she shall be replaced by the Deputy Secretary-General or members of the Secretariat designated by him/her.
Article 3

1. The office of Chair of the Administrative Commission shall be held by the member belonging to the State whose representative to the Council of the European Union holds, for the same period, the office of President of the Council of the European Union in accordance with Article 16(9) of the Treaty on European Union and Article 236(b) of the Treaty on the Functioning of the European Union.

The Chair shall represent the Administrative Commission within the Advisory Committee for the Coordination of Social Security Systems set up under Article 75 of Regulation (EC) No 883/2004, and on any other occasion.

2. If the Chair in office is prevented from attending, the alternate shall act as Chair.

3. When a member of the Administrative Commission holds the office of Chair, the alternate may vote in the Chair’s place.

4. The Administrative Commission shall be convened by a letter of convocation sent at least, 10 days before the meeting, by the Secretary-General in consultation with the Chair to members and to the persons mentioned in Article 2(5) above.

5. The Administrative Commission documents shall be signed by the Chair.

6. The Chair may give the Secretary-General of the Administrative Commission any instructions for meetings to be held and for the performance of activities that are within the scope of the tasks of the Administrative Commission.

Article 4

1. The Administrative Commission may set up an Operational Board to assist and facilitate its work.

The details of the composition, term, tasks, working methods as well as the system of Chairmanship of the Operational Board shall be contained in a mandate decided upon by the Administrative Commission.

2. The functioning of the Operational Board shall be reviewed on a regular basis.

Article 5


The details of the composition, term, tasks, working methods as well as the system of Chairmanship of the Conciliation Board shall be contained in a mandate decided upon by the Administrative Commission.

2. The functioning of the Conciliation Board shall be reviewed on a regular basis.

Article 6

1. The Administrative Commission may set up working parties and study groups for special problems.

The meetings of the working parties and study groups may be attended by the persons mentioned in Article 2(5) above.

2. The working parties and study groups shall be presided over by a person designated by the Chair of the Administrative Commission in consultation with the representative of the European Commission.

3. The Chair of the working party shall be summoned to the meeting of the Administrative Commission in the course of which the report of that working party is discussed.

4. The Administrative Commission may when setting up a working party, mandate the working party to carry out its tasks in such a way that its findings can be accepted by the Administrative Commission, without further deliberations.

5. The Administrative Commission may set up ad-hoc groups consisting of a limited number of persons to prepare and present the Administrative Commission with proposals for adoption on specific issues.

The Administrative Commission shall for each ad-hoc group decide who is to be the rapporteur, the tasks to be carried out and the time limit within which the group has to present the result of its work to the Administrative Commission.

Article 7

1. The Administrative Commission shall meet at least four times a year.

2. Every year one of its meetings shall be devoted to the examination of the statement of claims provided for in Article 69 of Regulation (EC) No 987/2009 in the presence of the Chair in office of the Audit Board who shall, at the same time, report to the Administrative Commission in accordance with Article 74 of Regulation (EC) No 883/2004.

3. The Administrative Commission shall convene for an extraordinary meeting if at least five members or the representative of the European Commission so request. The request should specify the purpose of the meeting.
4. By way of exception, the Administrative Commission may hold meetings away from its seat, in one of the Member States of the European Union or on the premises of an international organisation.

Article 8

1. The provisional agenda of each meeting shall be drawn up by the Secretary-General in consultation with the Chair of the Administrative Commission and the representative of the European Commission.

Before proposing to include an item in the agenda, the Secretary-General may, where this appears necessary, ask the delegations concerned to make their views on this question known in writing.

The provisional agenda shall be sent, at least 10 days before the beginning of each meeting, to the members and to the persons mentioned in Article 2(5) above.

The documents relating to the items on the agenda shall be sent to them as soon as they are available.

2. The provisional agenda shall, in principle, comprise items for which a request submitted by a member or by the representative of the European Commission and, where appropriate, notes relating to it have been received by the Secretariat at least 20 days before the beginning of the meeting.

3. The agenda shall be approved by the Administrative Commission at the beginning of each meeting.

A unanimous vote of the Administrative Commission is required for the inclusion in the agenda of any items other than those appearing on the provisional agenda.

4. Unless the Administrative Commission expressly decides to fix a different period, the notes requested from the delegations should be sent to the Secretariat within a period of not longer than two months. If, at the expiry of this period, the Secretariat has not received all the notes, the question concerned must be discussed at the first meeting of the Administrative Commission following the expiry of the said period.

5. Any member of the Administrative Commission and the representative of the European Commission shall have the right to submit specific questions to the Administrative Commission on the interpretation of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 where differing interpretations by the Member States or by one or more Member States and the European Commission may prejudice the rights of persons. The Administrative Commission may decide to transfer such a question to the Conciliation Board.

The minutes of the meeting shall record the views of the Member States and the representative of the European Commission on the questions submitted.

Article 9

1. Subject to the provisions of Article 10, decisions shall be adopted under the voting rules established by the Treaties.

2. The Administrative Commission may decide to adopt a decision by the use of written procedure if such a procedure was agreed at a prior meeting of the Administrative Commission.

To this end the Chair shall communicate the text to be adopted to the members of the Administrative Commission. The members shall be given a set time limit of at least 10 working days, within which members shall have the possibility to state that they reject the proposed text or abstain from the voting. No response within the set time limit shall be considered as an affirmative vote.

The Chair may also decide to launch a written procedure in case no prior agreement had been obtained in a meeting of the Administrative Commission. In such a case, only written agreements to the proposed text shall be counted as affirmative votes and the set time limit of at least 15 working days shall be given.

The Chair shall, at the expiry of the set time limit, inform the members of the result of the voting. A decision having received the required majority of affirmative votes shall be considered adopted on the last day set for the period within which members were asked to respond.

3. If a member of the Administrative Commission in the course of the written procedure proposes that the text shall be amended, the Chair shall either:

(a) recommence the written procedure by communicating the proposed amendment to the members in accordance with the procedure in paragraph 2; or

(b) cancel the written procedure in order to have the matter discussed at the next meeting,

depending on which procedure the Chair considers appropriate for the matter in question.

4. If a member of the Administrative Commission before the expiry of the time limit set for responding, requests that the proposed text shall be examined at a meeting with the Administrative Commission, the written procedure shall be cancelled.

The matter shall then be examined at the following meeting of the Administrative Commission.
Article 10

Decisions concerning the revision of the rules shall be taken either by a unanimous vote of the members forming the Administrative Commission or by a unanimous vote of the members present or by an affirmative vote of at least 21 members of the Administrative Commission.

Article 11

1. Any member present when a vote is taken who abstains from voting shall be invited by the Chair after the roll-call to state his/her reasons for abstaining, should the member so desire.

2. When the majority of members present abstain, the proposal put to the vote shall be considered as not having been taken into consideration.

Article 12

1. Decisions taken to implement Article 72(a) of Regulation (EC) No 883/2004 shall state the reasons on which they are based and shall be published in the Official Journal of the European Union, save where a majority of the members of the Administrative Commission decide otherwise.

2. The Secretary-General shall take the necessary steps for the publication of these decisions in the Official Journal of the European Union.

3. The members of the Administrative Commission shall see to it that appropriate instructions are given at national level to ensure that the published and unpublished decisions of the Administrative Commission are duly implemented.

4. An original copy of each decision of the Administrative Commission, drawn up in the languages of the Union and signed by the Chair, shall be kept in the archives of the Secretariat.

5. Each decision shall apply from the date specified therein or, if no such date is mentioned, from the first day of the second month following its publication in the Official Journal of the European Union.

Article 13

1. For each meeting minutes are recorded which are, in principle, to be approved at the following meeting.

Members who have not received the minutes in their own language may reserve their final approval until they have received the minutes in that language.

2. For decisions of particular urgency, a declaration holding their definitive adoption may be drawn up in the course of the meeting in which they are taken.

Article 14

Each incoming Presidency shall present its programme of work and the plans for its implementation.

Article 15

The Administrative Commission shall periodically draw up a general report on its activities and on the implementation of the regulations on the coordination of social security systems. The report shall be presented to the Advisory Committee for the Coordination of Social Security Systems set up under Article 75 of Regulation (EC) No 883/2004.

Article 16

Where the provisions of these rules require interpretation, such interpretation shall be given by the Court of Justice of the European Union in accordance with Article 267 of the Treaty on the Functioning of the European Union.

Article 17

The languages of the Administrative Commission shall be the same as those determined as official languages of the institutions of the Union in accordance with Article 342 of the Treaty on the Functioning of the European Union.

Article 18

A Code of Conduct which aims to improve the efficiency of the preparation and conduct of the meetings of the Administrative Commission may be agreed on and published separately.

Article 19

These rules shall be communicated to the member of the European Commission responsible for employment, social affairs and inclusion and supplemented with an exchange of letters between him and the Chair of the Administrative Commission.

The rules and the exchange of letters shall be published in the Official Journal of the European Union. They shall enter into force on the day after their publication and replace the analogous documents published in the Official Journal of the European Union of 20 May 2005.

Done at Brussels, 16 June 2010.

The Chairman of the Administrative Commission
José María MARCO GARCÍA
Exchange of letters between the Chairman of the Administrative Commission for the Coordination of Social Security Systems and the member of the European Commission responsible for employment, social affairs and inclusion

COPY

Brussels, 1 July 2010

Mr László ANDOR
Member of the European Commission responsible for employment, social affairs and inclusion

Subject: Revised Rules of Procedure of the Administrative Commission for the Coordination of Social Security Systems

Dear Sir,


These rules, drawn up by mutual agreement among the members of the Administrative Commission pursuant to the provisions of Article 71(2)(1) of the above-mentioned Regulation, lay down the basic internal organisation of the Administrative Commission and its proceedings.


I would appreciate it if you could inform me of any observations you may wish to make.

Yours faithfully,

Keyina MPEYE
Chairman of the Administrative Commission
Brussels, 22 July 2010

Mr Keyina MPEYE
Chairman of the Administrative Commission for the Coordination of Social Security Systems

Subject: Revised Rules of Procedure of the Administrative Commission for the Coordination of Social Security Systems

Dear Sir,

I am in receipt of your letter of 1 July 2010 in which you sent me the revised rules of the Administrative Commission drawn up in accordance with the provisions of Article 71(2)(1) of Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems.

These rules do not give rise to any observations from the European Commission and will be published in the Official Journal of the European Union.

Yours faithfully,

László ANDOR
Member of the European Commission