

DECISION No H1

of 12 June 2009

concerning the framework for the transition from Council Regulations (EEC) No 1408/71 and (EEC) No 574/72 to Regulations (EC) No 883/2004 and (EC) No 987/2009 of the European Parliament and of the Council and the application of Decisions and Recommendations of the Administrative Commission for the coordination of social security systems

(Text of relevance to the EEA and to the EC/Switzerland Agreement)

(2010/C 106/05)

THE ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS,

Having regard to Article 72(a) of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems ⁽¹⁾, under which the Administrative Commission is responsible for dealing with all administrative questions or questions of interpretation arising from the provisions of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems ⁽²⁾,

Having regard to Articles 87 to 91 of Regulation (EC) No 883/2004,

Having regard to Article 64(7) and Articles 93 to 97 of Regulation (EC) No 987/2009,

Whereas:

- (1) Regulations (EC) No 883/2004 and (EC) No 987/2009 enter into force on 1 May 2010 and Regulations (EEC) No 1408/71 ⁽³⁾ and (EEC) No 574/72 ⁽⁴⁾ shall be repealed on the same date, except for the situations governed by Article 90(1) of Regulation (EC) No 883/2004 and Article 96(1) of Regulation (EC) No 987/2009.
- (2) Subject to Article 87(8) of Regulation (EC) No 883/2004 and Article 94 of Regulation (EC) No 987/2009, in principle claims submitted before the date of entry into force of the said Regulations shall continue to be governed by the law which was applicable to them at the time they were submitted and the provisions of the said Regulations shall apply only to claims opened after their entry into force.
- (3) Decisions No 74 to 208 and Recommendations No 14 to 23 of the Administrative Commission on Social Security for Migrant Workers, still in force, become obsolete on the date on which Regulations (EEC) No 1408/71 and (EEC) No 574/72 are repealed and Regulations (EC) No 883/2004 and (EC) No 987/2009 enter into force.
- (4) There is a need to adapt certain Decisions and Recommendations applicable under Regulations (EEC) No 1408/71 and (EEC) No 574/72 in order to correspond to the provisions of Regulations (EC) No 883/2004 and (EC) No 987/2009.
- (5) There is a need for transparency and guidance for the institutions in applying Decisions and Recommendations of the Administrative Commission under Regulation (EEC) No 1408/71 and (EEC) No 574/72 after the date of entry into force of Regulations (EC) No 883/2004 and (EC) No 987/2009.
- (6) Due to legal and technical complexity, a tight timeframe and a need to prioritise certain tasks of the Administrative Commission, some of the Decisions will not be ready for the publication in time before the entry into force of Regulations (EC) No 883/2004 and (EC) No 987/2009 but only at a later stage.
- (7) Certain provisions of Decisions and Recommendations applicable under Regulations (EEC) No 1408/71 and (EEC) No 574/72 are incorporated directly into the provisions of Regulations (EC) No 883/2004 and (EC) No 987/2009.
- (8) Acting in accordance with the conditions laid down in Article 71(2) of Regulation (EC) No 883/2004,

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

⁽³⁾ OJ L 149, 5.7.1971, p. 2.

⁽⁴⁾ OJ L 74, 27.3.1972, p. 1.

HAS DECIDED AS FOLLOWS:

1. The Decisions and Recommendations referring to Regulations (EEC) No 1408/71 and (EEC) No 574/72 shall not apply for cases governed by Regulations (EC) No 883/2004 and (EC) No 987/2009.

Nevertheless, the said Decisions and Recommendations remain applicable where Regulations (EEC) No 1408/71 and (EEC) No 574/72 remain in force and continue to have legal effect, in particular in situations under Article 90(1), second indent, of Regulation (EC) No 883/2004 and Article 96(1), second indent, of Regulation (EC) No 987/2009.

2. Decisions and Recommendations which are listed in Part A of the Annex shall not be substituted by any Decisions or Recommendations in respect of Regulations (EC) No 883/2004 and (EC) No 987/2009.
3. Decisions and Recommendations listed in Part B of the Annex shall be substituted by the indicated new Decisions and Recommendations in respect of Regulations (EC) No 883/2004 and (EC) No 987/2009.
4. Decisions listed in Part C of the Annex shall be adapted by the Administrative Commission at the earliest possible time

so that they correspond to the provisions of Regulations (EC) No 883/2004 and (EC) No 987/2009 because the principles in these Decisions need to be applied also with regard to the said Regulations.

5. The documents necessary for application of Regulations (EEC) No 1408/71 and (EEC) No 574/72 (that is, E-forms, European Health Insurance Cards and Provisional Replacement Certificates) issued by the competent institutions, authorities and other bodies of Member States before the entry into force of Regulations (EC) No 883/2004 and (EC) No 987/2009 shall continue to be valid (despite the fact that the references relate to Regulations (EEC) No 1408/71 and (EEC) No 574/72) and shall be taken into account by the institutions, authorities and other bodies of other Member States even after that date, until their date of validity has expired or until they are withdrawn or replaced by the documents issued or communicated under Regulations (EC) No 883/2004 and (EC) No 987/2009.
6. This Decision shall be published in the *Official Journal of the European Union*. It shall apply from the date of entry into force of Regulation (EC) No 987/2009.

The Chair of the Administrative Commission
Gabriela PIKOROVÁ

ANNEX

PART A

(Decisions and Recommendations referring to Regulations (EEC) No 1408/71 and (EEC) No 574/72 without successor in respect of Regulations (EC) No 883/2004 and (EC) No 987/2009)

Decisions:

| | |
|--------------|--------------|
| Decision 74 | Decision 146 |
| Decision 76 | Decision 148 |
| Decision 79 | Decision 151 |
| Decision 81 | Decision 152 |
| Decision 85 | Decision 156 |
| Decision 89 | Decision 167 |
| Decision 91 | Decision 171 |
| Decision 115 | Decision 173 |
| Decision 117 | Decision 174 |
| Decision 118 | Decision 176 |
| Decision 121 | Decision 178 |
| Decision 126 | Decision 180 |
| Decision 132 | Decision 192 |
| Decision 133 | Decision 193 |
| Decision 134 | Decision 197 |
| Decision 135 | Decision 198 |
| Decision 136 | Decision 199 |
| Decision 137 | Decision 201 |
| Decision 142 | Decision 202 |
| Decision 143 | Decision 204 |
| Decision 145 | |

Recommendations:

| | |
|-------------------|-------------------|
| Recommendation 15 | Recommendation 19 |
| Recommendation 16 | Recommendation 20 |
| Recommendation 17 | Recommendation 23 |

PART B

(Substituted Decisions and Recommendations referring to Regulations (EEC) No 1408/71 and (EEC) No 574/72 and their successors in respect of Regulations (EC) No 883/2004 and (EC) No 987/2009)

| Decisions under Regulations (EEC) No 1408/71 and (EEC) No 574/72 | Corresponding Decisions under Regulations (EC) No 883/2004 and (EC) No 987/2009 |
|--|---|
| Decision 75 | DECISION P1 |
| Decision 83 | DECISION U1 |
| Decision 96 | DECISION P1 |

| Decisions under Regulations (EEC) No 1408/71 and (EEC) No 574/72 | Corresponding Decisions under Regulations (EC) No 883/2004 and (EC) No 987/2009 |
|--|---|
| Decision 99 | DECISION H1 |
| Decision 100 | DECISION H1 |
| Decision 101 | DECISION H1 |
| Decision 105 | DECISION P1 |
| Decision 139 | DECISION H1 |
| Decision 140 | DECISION H1 |
| Decision 160 | DECISION U2 |
| Decision 181 | DECISION A2 |
| Decision 189 | DECISION S1 |
| Decision 190 | DECISION S2 |
| Decision 191 | DECISION S1 |
| Decision 194 | DECISION S3 |
| Decision 195 | DECISION S3 |
| Decision 196 | DECISION S3 |
| Decision 200 | DECISION H3 |
| Decision 203 | DECISION S1 |
| Decision 205 | DECISION U3 |
| Decision 207 | DECISION F1 |
| Recommendations under Regulations (EEC) No 1408/71 and (EEC) No 574/72 | Corresponding Recommendations under Regulations (EC) No 883/2004 and (EC) No 987/2009 |
| Recommendation 18 | RECOMMENDATION U1 |
| Recommendation 21 | RECOMMENDATION U2 |
| Recommendation 22 | RECOMMENDATION P1 |

PART C

(Decisions referring to Regulations (EEC) No 1408/71 and (EEC) No 574/72 still to be adapted by the Administrative Commission)

Decision 138

Decision 175

Decisions 147 and 150

Decision 206

Decision 170 (including 185)

Decision 208