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C 279



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Information and Notices

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EN
Price:
EUR 3
⁽¹⁾ Text with EEA relevance

⁽²⁾ Text of relevance to the EEA and to the EC/Switzerland Agreement

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⁽¹⁾ Text of relevance to the EEA and to the EC/Switzerland Agreement

II

*(Information)*INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

Authorisation for State aid pursuant to Articles 107 and 108 of the TFEU**Cases where the Commission raises no objections****(Text with EEA relevance)**

(2013/C 279/01)

Date of adoption of the decision	31.7.2013	
Reference number of State Aid	SA.24895 (11/NN)	
Member State	United Kingdom	
Region	—	—
Title (and/or name of the beneficiary)	Public investment in wind power development projects	
Legal basis	—	
Type of measure	Ad hoc aid	Carbon Trust — CTEL
Objective	Environmental protection	
Form of aid	Provision of risk capital	
Budget	Overall budget: GBP 10 million	
Intensity	51 % (and partly does not constitute aid)	
Duration (period)	From 17.3.2008	
Economic sectors	Production of electricity	
Name and address of the granting authority	UK Department for Environment, Food and Rural Affairs (DEFRA)	
Other information	—	

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Date of adoption of the decision	2.5.2013	
Reference number of State Aid	SA.31006 (13/N)	
Member State	Belgium	
Region	—	—
Title (and/or name of the beneficiary)	State compensations to bpost for the delivery of public services over 2013-2015	
Legal basis	—	
Type of measure	Ad hoc aid	bpost
Objective	Services of general economic interest	
Form of aid	Direct grant	
Budget	Overall budget: EUR 900 million Annual budget: EUR 300 million	
Intensity	—	
Duration (period)	1.1.2013-31.12.2015	
Economic sectors	Other postal and courier activities	
Name and address of the granting authority	—	
Other information	—	

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Date of adoption of the decision	6.3.2013	
Reference number of State Aid	SA.34650 (12/N)	
Member State	Spain	
Region	Galicia	Article 107(3)(a)
Title (and/or name of the beneficiary)	Ayuda a Alcoa para ahorro energético	
Legal basis	Estatuto de Autonomía of Galicia and the cooperation agreement to be concluded between the Government of Galicia and Alcoa Inespal, SA	
Type of measure	Individual aid	Alcoa Inespal, SA
Objective	Energy saving, Environmental protection	
Form of aid	Direct grant	
Budget	Overall budget: EUR 0,85 million	
Intensity	60 %	
Duration (period)	—	
Economic sectors	Aluminium production	
Name and address of the granting authority	Consellería de Economía e Industria de la Xunta de Galicia Edificio Administrativo San Caetano, s/n, bloque 5 — planta 4ª 15781 Santiago de Compostela ESPAÑA	
Other information	—	

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Date of adoption of the decision	31.7.2013	
Reference number of State Aid	SA.35205 (13/N)	
Member State	Italy	
Region	Sardegna	Article 107(3)(c)
Title (and/or name of the beneficiary)	Aiuto alla ristrutturazione concesso ad Abbanoa SpA	
Legal basis	Legge Regionale n. 3/2009, articolo 7, comma 12, lettera b; Legge Regionale n. 12/2011, articolo 6; Legge Regionale n. 6/2012, articolo 4, comma 32; Delibera della Giunta Regionale n. 32/91 del 24 luglio 2012	
Type of measure	Individual aid	Società di gestione del servizio idrico Integrato della Sardegna Abbanoa SpA
Objective	Restructuring firms in difficulty	
Form of aid	Provision of risk capital, Guarantee	
Budget	Overall budget: EUR 229 million	
Intensity	83 %	
Duration (period)	1.10.2013-1.12.2017	
Economic sectors	Water supply; sewerage, waste management and remediation activities	
Name and address of the granting authority	Direzione generale dei lavori pubblici V.le Trento 69 09123 Cagliari CA ITALIA Direzione generale agenzia regionale del distretto idrografico della Sardegna Via Mameli 88 (1° piano) 09123 Cagliari CA ITALIA	
Other information	—	

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Date of adoption of the decision	3.6.2013	
Reference number of State Aid	SA.35586 (12/N)	
Member State	Sweden	
Region	—	—
Title (and/or name of the beneficiary)	Skattefrihet för vissa bibränslen vid användning som bränsle för uppvärmning	
Legal basis	7 kap. 3-4 §§ lagen (1994:1776) om skatt på energi	
Type of measure	Scheme	—
Objective	Environmental protection	
Form of aid	Tax rate reduction	
Budget	Overall budget: SEK 990 million Annual budget: SEK 165 million	
Intensity	100 %	
Duration (period)	Until 31.12.2018	
Economic sectors	Electricity, gas, steam and air conditioning supply	
Name and address of the granting authority	Skatteverket SE-771 83 Ludvika SVERIGE	
Other information	—	

The authentic text(s) of the decision, from which all confidential information has been removed, can be found at:

<http://ec.europa.eu/competition/elojade/isef/index.cfm>

Non-opposition to a notified concentration
(Case COMP/M.6607 — US Airways/American Airlines)

(Text with EEA relevance)

(2013/C 279/02)

On 5 August 2013, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32013M6607. EUR-Lex is the online access to the European law.

Non-opposition to a notified concentration
(Case COMP/M.7025 — Oiltanking/Macquarie/Chemoil Storage)

(Text with EEA relevance)

(2013/C 279/03)

On 23 September 2013, the Commission decided not to oppose the above notified concentration and to declare it compatible with the common market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
 - in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/en/index.htm>) under document number 32013M7025. EUR-Lex is the online access to the European law.
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IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

26 September 2013

(2013/C 279/04)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,3499	AUD	Australian dollar	1,4390
JPY	Japanese yen	133,41	CAD	Canadian dollar	1,3909
DKK	Danish krone	7,4577	HKD	Hong Kong dollar	10,4673
GBP	Pound sterling	0,84180	NZD	New Zealand dollar	1,6266
SEK	Swedish krona	8,6554	SGD	Singapore dollar	1,6947
CHF	Swiss franc	1,2288	KRW	South Korean won	1 454,27
ISK	Iceland króna		ZAR	South African rand	13,4725
NOK	Norwegian krone	8,0625	CNY	Chinese yuan renminbi	8,2622
BGN	Bulgarian lev	1,9558	HRK	Croatian kuna	7,6130
CZK	Czech koruna	25,809	IDR	Indonesian rupiah	15 174,79
HUF	Hungarian forint	299,87	MYR	Malaysian ringgit	4,3391
LTL	Lithuanian litas	3,4528	PHP	Philippine peso	58,497
LVL	Latvian lats	0,7028	RUB	Russian rouble	43,4502
PLN	Polish zloty	4,2280	THB	Thai baht	42,130
RON	Romanian leu	4,4660	BRL	Brazilian real	3,0034
TRY	Turkish lira	2,7210	MXN	Mexican peso	17,5347
			INR	Indian rupee	83,8000

⁽¹⁾ Source: reference exchange rate published by the ECB.

ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS

DECISION No S9

of 20 June 2013

concerning refund procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004

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

(2013/C 279/05)

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 ⁽²⁾,

Having regard to Articles 35 and 41 of Regulation (EC) No 883/2004,

Having regard to Articles 66 to 68 of Regulation (EC) No 987/2009,

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

Whereas:

- (1) The cost of the benefits in kind provided by the institution of one Member State on behalf of the institution of another Member State, shall be fully refunded.
- (2) The refunds between institutions, if not otherwise agreed, must be carried out with speed and efficiency in order to prevent a built-up of claims which remain unsettled for longer periods of time.
- (3) An accumulation of claims could endanger the efficient functioning of the Union system and jeopardise the right of individuals.
- (4) The Administrative Commission in Decision No S1 has decided that the institution of the place of stay shall be reimbursed for the cost of health care provided on the basis of a valid European Health Insurance Card.
- (5) Commonly agreed best practices would contribute to a speedy and efficient settlement of refunds between the institutions,

HAS DECIDED AS FOLLOWS:

A. Reimbursement on the basis of actual expenditure (Article 62 of Regulation (EC) No 987/2009)

Article 1

The institution which claims a refund based on actual expenditure shall introduce the claim at the latest within the deadline

mentioned in Article 67(1) Regulation (EC) No 987/2009 (hereinafter 'Implementing Regulation'). The institution which receives a claim shall ensure the payment of the claim within the time limit provided for in Article 67(5) of the Implementing Regulation but before this deadline as soon as it is in a position to do so.

Article 2

1. Claims for refund of benefits, which have been provided on the basis of a European Health Insurance Card (EHIC), a document replacing the EHIC or any other entitlement document, may be rejected and the claim returned to the creditor institution in case the claim, for example:

- is incomplete and/ or incorrectly filled out,
- concerns benefits which have not been given within the validity period of the EHIC or the entitlement document used by the recipient of the benefits.

2. A claim may not be rejected on the grounds that the person has ceased to be insured with the institution, which has issued the EHIC or the entitlement document, provided that the benefits were given to the beneficiary within the validity period of the document used.

3. An institution which is obliged to refund the cost of benefits provided on the basis of an EHIC may request that the institution with which the person was rightly registered at the time of the award of the benefits shall refund the cost of those benefits to the first institution, or if the person was not entitled to use the EHIC, settle the matter with the person concerned.

Article 3

A claim may not be reviewed by the debtor institution as regards its compliance with Articles 19 and 27(1) of Regulation (EC) No 883/2004, unless there are reasonable grounds to suspect abuse as clarified under the case-law by the European Court of Justice ⁽³⁾. The debtor institution is consequently obliged to accept the information on which the claim is based and to reimburse the claim. In the case there is suspicion of abuse the debtor institution may for relevant reasons reject the claim as provided for under Article 67(5) of the Implementing Regulation.

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

⁽³⁾ Judgement of 12 April 2005 in case C-145/03 'Heirs of Annette Keller v Instituto Nacional de la Seguridad Social (INSS) and Instituto Nacional de Gestión Sanitaria (Ingesa)', ECR 2005 Page I-02529.

Article 4

For the purpose of the application of Articles 2 and 3, if the debtor institution expresses doubts as to the correctness of the facts, on which a claim is based, it is incumbent on the creditor institution to reconsider, whether the claim was properly issued and, if appropriate, to withdraw or recalculate the claim.

Article 5

A claim, which is introduced after the deadline specified in Article 67(1) of the Implementing Regulation, shall not be considered.

B. Reimbursement on the basis of fixed amounts (Article 63 of Implementing Regulation)*Article 6*

The inventory provided for in Article 64(4) of the Implementing Regulation shall be presented to the liaison body of the debtor member State by the end of the year following the reference year, and the claims based on this inventory shall be introduced to the same body as soon as possible following the publication in the *Official Journal of the European Union* of the annual fixed amounts per person, but within the time limit provided for in Article 67(2) of the Implementing Regulation.

Article 7

The creditor institution shall whenever possible present the claims which concern a particular calendar year on the same occasion to the debtor institution.

Article 8

The debtor institution which receives a claim for a refund determined on the basis of fixed amounts shall ensure the payment of the claim within the time limit provided for in Article 67(5) of the Implementing Regulation but before this deadline as soon as it is in a position to do so.

Article 9

A claim, which is introduced after the deadline specified in Article 67(2) of the Implementing Regulation, shall not be considered.

Article 10

A claim for a refund determined on the basis of fixed amounts may be rejected and returned to the creditor institution in case the claim, for example:

- is incomplete and/ or incorrectly filled out,
- refers to a time period which is not covered by registration on the basis of valid entitlement document.

Article 11

If the debtor institution expresses doubts as to the correctness of the facts on which a claim is based, it is incumbent on the creditor institution to reconsider, whether the invoice was properly issued and, if appropriate, to withdraw or recalculate the claim.

C. Settlement of claims (Article 67 of Implementing Regulation)*Article 12*

1. In line with Article 67(5) of the Implementing Regulation, no claims can be contested after 18 months of the end of the month during which they were introduced to the liaison body of the debtor Member State.

2. Where the liaison body of the creditor Member State has not replied and submitted the requested evidence within 12 months of the end of the month during which the contestation was received by the liaison body of the creditor Member State, the contestation shall be deemed to be accepted by the creditor Member State and the claim or its relevant parts shall be definitively rejected.

D. Down payments and interest on late payments (Article 68 of Implementing Regulation)*Article 13*

In the case of a down payment under Article 68 of the Implementing Regulation be made, the amount of the down payment shall be determined separately for claims based on actual expenditure (Article 67(1) of the Implementing Regulation) and claims based on fixed amounts (Article 67(2) of the Implementing Regulation).

Article 14

1. A down payment pursuant to Article 68(1) of the Implementing Regulation shall represent at least 90 % of the total amount of the initial claim by the liaison body of the creditor Member State.

2. If the creditor Member State has made a general statement that it accepts down payments such payments will be automatically considered to be accepted. The Audit Board shall draw up a list of Member States that have stated they accept down payments.

3. The Member States that have not stated that they accept down payments generally shall reply to specific offers of down payment within six months of the end of the month during which the claim is introduced. In the absence of a reply within the given timeframe the down payment shall be considered as accepted and shall be executed.

Article 15

1. In the settlement of a claim for which a down payment was made, the debtor shall only be bound to settle the difference between the final amount of the claim and the down payment.

2. If the amount of the claim is less than the down payment determined on the basis of the original amount of the claim, the creditor Member State shall either:

- (a) Repay the amount in excess to the debtor Member State. Such settlement transaction shall be carried out by the liaison body of the creditor Member State without any delay and no later than six months after the end of the month during which the amount of the claim was determined; or

- (b) Agree with the debtor Member State to recover the excess amount by offsetting a later claim. The settlement act shall clearly identify the excess amount recovered through the later claim.
3. Interest generated by a down payment does not reduce the debt of the debtor Member State and shall remain as an asset of the creditor Member State.

Article 16

1. Interest on late payments charged pursuant to Article 68(1) of the Implementing Regulation shall be calculated on the basis of months according to the following formula:

$$I = \left[PV \left(1 + \frac{i}{12} \right)^n \right] - PV$$

Where:

- I represents the interest on late payment.
- PV ('present value') represents the value of the late payment; the value being determined as the amount of the outstanding claim which has not been settled within the time limits set out in Articles 67(5) and 67(6) of the Implementing Regulation and which has not been covered by a down payment in accordance with Article 68(1) of the Implementing Regulation. The present value shall include only the claim or its parts, which have been mutually recognised by the debtor and creditor Member States as valid, even if all or part of the claim was subject to a contestation procedure.
- i represents annual interest rate established by the European Central Bank to its main refinancing operations, which was in force on the first day of the month on which the payment was due.
- n represents the period (months) starting with the first month after the deadlines specified in Article 68(1) of the Implementing Regulation has passed and continuing until and including the month before the month during which the payment is received. The period shall not be interrupted in the course of the procedure pursuant to Article 67(7) of the Implementing Regulation.

2. The claim for interest on late payment shall be introduced by the liaison body of the creditor Member State to the liaison body of the debtor Member State within six months following the month during which the late payment was made.

3. The claim for interest on late payments introduced after the deadline set out in paragraph 2 shall not be considered.

Article 17

1. The interest on late payment shall be paid to the liaison body of the creditor Member State within 12 months of the end of the month during which the claim was introduced to the liaison body of the debtor Member State.

2. The Audit Board shall facilitate the final closing of accounts where a settlement of the claim for interest on late payment was not reached within the periods set out in paragraph 1, upon a reasoned request by one of the parties. The reasoned opinion of the Audit Board shall be delivered within six months following the month in which the matter was referred to it.

E. Miscellaneous provisions

Article 18

1. For the purpose of payments referred to in the Decision, the date of payment is the value date of the transaction as introduced by the banking institution of the liaison body of the creditor Member State.

2. The liaison body of the debtor Member State shall acknowledge receipt of an introduced claim within two months from the date of receipt of the claim. The acknowledgment shall specify the date when the claimed was received.

3. Two or more Member States, or their competent authorities or liaison bodies, may waive or provide for other methods of settlement for items covered by this Decision.

4. The opinion of the Audit Board delivered under Article 67(7) of the Implementing Regulation may waive or provide for other methods of settlement for items covered by this Decision, taking into account the principle of a good cooperation between the authorities and institutions of the Member States.

F. Final provisions

Article 19

1. The institutions should ensure there is good cooperation between them and act as if they were implementing their own legislation.

2. This Decision will be published in the *Official Journal of the European Union*. It will apply from the first day following the publication to all claims for reimbursement on the basis of actual expenditure recorded in the accounts for the creditor Member State after the entry into force of Regulation (EC) No 987/2009 and to all claims for reimbursement on the basis of fixed amounts published in the *Official Journal of the European Union* after the entry into force of Regulation (EC) No 987/2009.

3. This Decision replaces Decision No S4 of 2 October 2009.

4. By derogation from paragraph 2, Articles 12(2) and 18(2) apply to claims referred to in paragraph 2 which were introduced to the liaison body of the debtor Member State after the publication of this Decision in the *Official Journal of the European Union*.

The Chair of the Administrative Commission

Anne McMANUS

DECISION No R1
of 20 June 2013
concerning the interpretation of Article 85 of Regulation (EC) No 987/2009
(Text of relevance to the EEA and to the EC/Switzerland Agreement)
(2013/C 279/06)

THE ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS,

Having regard to Article 72(a) of Regulation (EC) No 883/2004 ⁽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 ⁽²⁾,

Having regard to Article 84(2) and (4) of Regulation (EC) No 883/2004,

Having regard to Articles 80(1) and 85(1) and (2) of Regulation (EC) No 987/2009,

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

Whereas:

- (1) Chapter III of Title IV of Regulation (EC) No 987/2009 on recovery of benefits and contributions was originally based on the EU provisions relating to recovery applicable in the tax field, namely Directive 76/308/EEC ⁽³⁾, subsequently replaced by Directive 2008/55/EC ⁽⁴⁾.
- (2) During the discussions in the Administrative Commission the question arose whether the costs related to recovery by the requested party, which could not be recovered from the person concerned, should be reimbursed by the applicant party.
- (3) Pursuant to Article 84(2) of Regulation (EC) No 883/2004, enforceable decisions of the judicial and administrative authorities relating to the collection of contributions, interest and any other charges, or to the recovery of benefits provided but not due under the legislation of one Member State, shall be recognised and enforced at the request of the competent institution in another Member State within the limits and in accordance with the procedures laid down by the legislation and any other procedures applicable to similar decisions of the latter Member State.
- (4) Following the recently adopted Directive 2010/24/EU ⁽⁵⁾ (concerning mutual assistance for the recovery of claims

relating to taxes, duties and other measures) which replaces the former Directive 2008/55/EC on that matter, the approach in the tax field concerning the recovery of requested party costs which cannot be recovered from the person concerned has been reassessed and clarified.

- (5) In accordance with Article 85(1) of Regulation (EC) No 987/2009 the requested party shall recover from the natural or legal person concerned, and subsequently retain, any costs it incurs, linked to the recovery, in accordance with the laws and regulations of the Member State of the requested party that apply to similar claims.
- (6) In accordance with Article 85(2) of Regulation (EC) No 987/2009 mutual assistance shall, as a rule, be free of charge, reconfirming the general rule laid down in Article 76(2) of Regulation (EC) No 883/2004. It is therefore necessary to determine the scope of mutual assistance for the purposes of cross-border recovery of claims.
- (7) It is desirable, wherever possible, to align the interpretation of Chapter III of Title IV of Regulation (EC) No 987/2009 with the rules and principles concerning the mutual assistance for the recovery of claims relating to taxes and duties,

HAS DECIDED AS FOLLOWS:

1. Mutual assistance shall, as a rule, be free of charge. This means that institutions of the Member States shall provide administrative assistance to each other free of charge. This applies only to the costs of activities undertaken by the requested party itself.
2. The costs related to recovery shall be charged in accordance with the laws and regulations of the requested party and, as a rule, be refunded by the debtor in addition to the amount of the claim.
3. The costs related to recovery shall be settled first, and only after these costs are settled shall the claim of the applicant party be satisfied (priority rule for the costs).
4. In cases where costs related to recovery cannot be recovered directly from the debtor by the requested party as a consequence of the national legislation of the requested party, or because the amount recovered from the debtor does not permit the satisfaction of the entire claim including costs related to recovery, such costs can be deducted from the recovered amount and only the balance shall be remitted by

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

⁽³⁾ OJ L 73, 19.3.1976, p. 18.

⁽⁴⁾ OJ L 150, 10.6.2008, p. 28.

⁽⁵⁾ OJ L 84, 31.3.2010, p. 1.

the requested party to the applicant party. Evidence that these costs were incurred by the requested party during the recovery procedure shall be provided by the requested party to the applicant party.

5. In cases where recovery action does not result in the recovery of an amount which at least covers the costs related to recovery, or where recovery action was completely unsuccessful but costs related to recovery other than those referred to in paragraph 1 were incurred by the requested party, the applicant party shall reimburse these costs, unless the parties agree on a reimbursement arrangement specific to the case, or a waiver of reimbursement of such costs is concluded between the applicant party and the requested party.

6. Where it is obvious that recovery poses a specific problem or concerns a very large amount in costs which are not likely to be recovered from the debtor, the applicant and requested parties may agree, preferably in advance, on reimbursement arrangements specific to the case in question.

7. This decision shall be published in the *Official Journal of the European Union*. It shall apply from the date of its publication.

The Chair of the Administrative Commission

Anne McMANUS

RECOMMENDATION No H1

of 19 June 2013

concerning the Gottardo judgment, according to which the advantages enjoyed by a State's own nationals under a bilateral convention on social security with a non-member country must also be granted to workers who are nationals of other Member States

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

(2013/C 279/07)

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⁽²⁾,

Having regard to Article 72(c) of Regulation (EC) No 883/2004, under which it shall foster and develop cooperation between Member States and their institutions in social security matters,

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

Whereas:

- (1) The principle of non-discrimination on the grounds of nationality is an essential safeguard for the freedom of movement of persons, as provided for in Article 21(1) and 45(1) TFEU. This implies the abolition of all discrimination between nationals of Member States.
- (2) In the Gottardo⁽³⁾ judgment, the Court of Justice acted on the principle as set out in Article 45 of the Treaty on the Functioning of the European Union (TFEU) in relation to a person resident in the European Union who had worked in France, Italy and Switzerland. This person did not have sufficient entitlement for a pension in Italy and asked for her periods of insurance completed in Switzerland and Italy to be aggregated, as provided for under the bilateral convention between Italy and Switzerland for the benefit of their nationals.
- (3) The Court ruled in this case that when a Member State concludes a bilateral international convention on social security with a third country which provides for account to be taken of periods of insurance completed in that third country for the acquisition of an entitlement to old-age benefits, the fundamental principle of equal treatment requires that that Member State grant nationals of other Member States the same advantages as those which its

own nationals enjoy under that convention unless it can provide objective justification for refusing to do so⁽⁴⁾.

- (4) In this connection, it follows from the Court's ruling that its interpretation of the term 'legislation' in Article 1(l) of Regulation (EC) No 883/2004 cannot affect the obligation of every Member State to comply with the principle of equal treatment laid down in Article 45(2) TFEU.
- (5) The Court considered that disturbing the balance and reciprocity of a bilateral international convention concluded between a Member State and a third country did not constitute an objective justification for the refusal by the Member State party to that convention to extend to nationals of other Member States the advantages which its own nationals derive from that convention.
- (6) Nor did the Court accept the objections to the effect that a possible increase in the financial burden and administrative difficulties in liaising with the competent authorities of the non-member country in question could justify the Member State which is party to the bilateral convention failing to comply with its Treaty obligations.
- (7) It is important that all appropriate conclusions be drawn from this judgment, which is crucial for EU nationals who have exercised their right to move freely to another Member State.
- (8) For this reason, it should be made clear that bilateral conventions on social security between a Member State and a third country must be interpreted to the effect that the advantages enjoyed by nationals of the Member State which is party to the convention should in principle also be granted to nationals of another Member State who are in the same situation in objective terms.
- (9) Irrespective of the uniform application of the Gottardo ruling to individual cases, the existing bilateral conventions should in principle be reviewed. With regard to agreements concluded previously, Article 351 TFEU states: 'the Member State or States concerned shall take all appropriate steps to eliminate the incompatibilities established', and Article 4(3), of the

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

⁽³⁾ Judgment of 15 January 2002 in Case C-55/00, *Elide Gottardo v Istituto nazionale della previdenza sociale (INPS)* (ECR 2002, p. I-00413 et seq.).

⁽⁴⁾ Judgment of 15 January 2002 in Case C-55/00, *Elide Gottardo v Istituto nazionale della previdenza sociale (INPS)* (ECR 2002, p. I-00413, paragraph 34).

Treaty on European Union requires that 'The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union.'

- (10) With regard to new bilateral conventions on social security concluded between a Member State and a third country, it is important to bear in mind that these should include a specific reference to the principle of non-discrimination on the grounds of nationality in relation to nationals of other Member States who have exercised their right to move freely in the Member State which is a party to the convention concerned.
- (11) The application of the Gottardo judgment to individual cases depends largely on the cooperation of third countries, especially since they must certify the periods of insurance completed there by the person concerned.
- (12) The Administrative Commission should deal with this question, given that the ruling in Gottardo is concerned with the application of the principle of equal treatment in the field of social security,

HEREBY RECOMMENDS to the competent services and institutions that:

1. In accordance with the principle of non-discrimination between a State's own nationals and the nationals of other Member States who have exercised their right to move freely pursuant to Article 21(1) and Article 45(1) of the Treaty on the Functioning of the European Union, the provisions under a

convention on social security with a third country shall in principle also apply to nationals of the other Member States who find themselves in the same situation as the State's own nationals.

2. New bilateral conventions on social security concluded between a Member State and a third country should in principle make specific reference to the principle of non-discrimination, on the grounds of nationality, against nationals of another Member State who have exercised their right of free movement to or from the Member State which is a party to the convention concerned.
3. The Member States should inform the institutions in the countries with which they have signed social security conventions, whose provisions apply only to their respective nationals, about the implications of this Recommendation. Member States which have concluded bilateral conventions with the same third countries may act jointly in requesting such cooperation. This cooperation is clearly essential if EU law is to be complied with.
4. Recommendation P1 shall be repealed from the day of application of this Recommendation.
5. This Recommendation shall be published in the *Official Journal of the European Union*. It shall apply from the first day of the second month after its publication.

The Chair of the Administrative Commission
Anne McMANUS

NOTICES FROM MEMBER STATES

**Publication of the list of national standardisation bodies pursuant to Article 27 of Regulation (EU)
No 1025/2012 of the European Parliament and of the Council on European standardisation**

(2013/C 279/08)

1. Belgium

NBN

Bureau de normalisation
Bureau voor Normalisatie**2. Bulgaria**

БИС

Български институт за стандартизация

3. Czech Republic

ÚNMZ

Úřad pro technickou normalizaci, metrologii a státní zkušebnictví

4. Denmark

DS

Fonden Dansk Standard

5. Germany

DIN

Deutsches Institut für Normung e.V.

DKE

Deutsche Kommission Elektrotechnik Elektronik Informationstechnik im DIN und VDE

6. Estonia

EVS

Eesti Standardikeskus

TJA

Tehnilise Järelevalve Amet

7. Ireland

NSAI

National Standards Authority of Ireland

8. Greece

ΕΣΥΠ/ΕΛΟΤ

Εθνικό Σύστημα Υποδομών Ποιότητας/Αυτοτελής Λειτουργική Μονάδα Τυποποίησης ΕΛΟΤ

9. Spain

AENOR

Asociación Española de Normalización y Certificación

10. France

AFNOR

Association française de normalisation

11. Croatia

HZN

Hrvatski zavod za norme

12. Italy

UNI

Ente nazionale italiano di unificazione

CEI

Comitato elettrotecnico italiano

13. Cyprus

CYS

Κυπριακός Οργανισμός Τυποποίησης (Cyprus Organisation for Standardisation)

14. Latvia

LVS

Latvijas standarts

15. Lithuania

LST

Lietuvos standartizacijos departamentas

16. Luxembourg

ILNAS

Institut luxembourgeois de normalisation, de l'accréditation, de la sécurité et qualité des produits et services

17. Hungary

MSZT

Magyar Szabványügyi Testület

18. Malta

MCCAA

L-Awtorita' ta' Malta għall-Kompetizzjoni u għall-Affarijiet tal-Konsumatur

19. Netherlands

NEN

Stichting Nederlands Normalisatie-instituut

NEC

Stichting Nederlands Elektrotechnisch Comité

20. Austria

ASI

Austrian Standards Institute (Österreichisches Normungsinstitut)

OVE

Österreichischer Verband für Elektrotechnik

21. Poland

PKN

Polski Komitet Normalizacyjny

22. Portugal

IPQ

Instituto Português da Qualidade

23. Romania

ASRO

Asociația de Standardizare din România

24. Slovenia

SIST

Slovenski inštitut za standardizacijo

25. Slovakia

SÚTN

Slovenský ústav technickej normalizácie

26. Finland

SFS

Suomen Standardisoimisliitto SFS ry
Finlands Standardiseringsförbund SFS rf

FICORA

Viestintävirasto
Kommunikationsverket

SESKO

Suomen Sähköteknillinen Standardisoimisyhdistys SESKO ry
Finlands Elektrotekniska Standardiseringsförening SESKO rf**27. Sweden**

SIS

Swedish Standards Institute

SEK

Svensk Elstandard

ITS

Informationstekniska standardiseringen

28. United Kingdom

BSI

British Standards Institution

Information communicated by Member States regarding closure of fisheries

(2013/C 279/09)

In accordance with Article 35(3) of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, a decision has been taken to close the fishery as set down in the following table:

Date and time of closure	29.8.2013
Duration	29.8.2013-31.12.2013
Member State	Portugal
Stock or group of stocks	ALF/3X14-
Species	Alfonsinos (<i>Beryx</i> spp.)
Zone	EU and international waters of III, IV, V, VI, VII, VIII, IX, X, XII and XIV
Type(s) of fishing vessels	—
Reference number	47/DSS

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

Information communicated by Member States regarding closure of fisheries

(2013/C 279/10)

In accordance with Article 35(3) of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy ⁽¹⁾, a decision has been taken to close the fishery as set down in the following table:

Date and time of closure	2.9.2013
Duration	2.9.2013-31.12.2013
Member State	Sweden
Stock or group of stocks	COD/2A3AX4
Species	Cod (<i>Gadus morhua</i>)
Zone	IV; EU waters of IIa; that part of IIIa not covered by the Skagerrak and Kattegat
Type(s) of fishing vessels	—
Reference number	48/TQ40

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

EUR-Lex (<http://new.eur-lex.europa.eu>) offers direct access to European Union legislation free of charge. The *Official Journal of the European Union* can be consulted on this website, as can the Treaties, legislation, case-law and preparatory acts.

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