

ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS**DECISION No H4****of 22 December 2009****concerning the composition and working methods of the Audit Board 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 107/03)

THE ADMINISTRATIVE COMMISSION FOR THE COORDINATION OF SOCIAL SECURITY SYSTEMS,

Having regard to Article 72 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 shall establish the factors to be taken into account for drawing up accounts relating to the costs to be borne by the institutions of the Member States under this Regulation and to adopt the annual accounts between those institutions, based on the report of the Audit Board referred to in Article 74,

Having regard to Article 74 of Regulation (EC) No 883/2004, under which the Administrative Commission shall determine the composition and working methods of the Audit Board, which shall deliver reports and a reasoned opinion for decisions to be taken by the Administrative Commission pursuant to Article 72(g),

HAS DECIDED AS FOLLOWS:

Article 1

1. The Audit Board provided for in Article 74 of Regulation (EC) No 883/2004 on the coordination of social security schemes is attached to the Administrative Commission for the Coordination of Social Security Systems.

2. The Audit Board shall, when carrying out its functions as laid down in Article 74(a) to (f) of Regulation (EC) No 883/2004, operate under the authority of the Administrative Commission, from which it shall receive directives. Within this framework the Audit Board shall present a long-term work programme to the Administrative Commission for approval.

Article 2

1. The Audit Board shall, in principle, reach its decisions on the basis of documentary evidence. It can request from the competent authorities any information or enquiries it deems necessary for the investigation of the matters submitted for its examination. Where necessary, subject to the prior approval of

the Chair of the Administrative Commission, the Audit Board may delegate a member of the Secretariat or certain members of the Audit Board to carry out, on the spot, any investigation required for the pursuit of its work. The Chair of the Administrative Commission shall notify the representative on the Administrative Commission of the Member State concerned that this investigation is being made.

2. The Audit Board shall facilitate the final closing of accounts in cases where a settlement cannot be reached within the period set out in 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⁾. The reasoned request for the Audit Board opinion on a dispute under Article 67(7) of Regulation (EC) No 987/2009 shall be referred to the Audit Board by one of the parties not less than 25 working days before the start of a meeting.

3. The Audit Board may set up a Conciliation Panel to assist its work in dealing with the reasoned request for the Audit Board opinion, submitted by one of the parties, in accordance with point 2 of this Article.

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

Article 3

1. The Audit Board shall be composed of two representatives of each of the Member States of the European Union appointed by the competent authorities of those States.

Any member of the Audit Board unable to attend may be replaced by a deputy appointed for that purpose by the competent authorities.

2. The representative of the European Commission or his alternate on the Administrative Commission shall act in a consultative capacity within the Audit Board.

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

3. The Audit Board shall be assisted by an independent expert or expert team with professional training and experience in matters concerning the functions of the Audit Board, in particular as regards its tasks under Articles 64, 65 and 69 of Regulation (EC) No 987/2009.

Article 4

1. The office of Chair of the Audit Board shall be held by a member belonging to the Member State whose representative on the Administrative Commission holds the office of Chair of that Commission.

2. The Chair of the Audit Board may, in conjunction with the Secretariat, take all steps required to solve without delay all problems within the competence of the Audit Board.

3. As a rule, the Chair of the Audit Board shall chair meetings of working parties set up to examine problems for which the Audit Board is competent; if, however, he/she is incapacitated or if certain specific problems are being examined, the Chair may be represented by another person designated by him/her.

Article 5

1. Decisions shall be taken by simple majority, each Member State having only one vote.

The opinions of the Audit Board must indicate whether they were reached unanimously or by majority. They must, where appropriate, set out the conclusions or reservations of the minority.

Whenever an opinion is not reached unanimously, the Audit Board shall submit it to the Administrative Commission together with a report containing in particular a statement of and the reasons for the opposing views.

It shall also appoint a rapporteur responsible for supplying the Administrative Commission with all the information the latter deems appropriate in order to enable it to settle the dispute in question.

The rapporteur shall not be selected from the representatives of countries involved in the dispute.

2. The Audit Board may decide to adopt decisions and reasoned opinions by the use of written procedure if such a procedure was agreed at a prior meeting of the Audit Board.

To this end the Chair shall communicate the text to be adopted to the members of the Audit Board. The Members shall be given a set time limit of at least ten 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 Audit Board. 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 number 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 Audit Board 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 Audit Board before the expiry of the time limit set for responding, requests that the proposed text shall be examined at a meeting of the Audit Board, the written procedure shall be cancelled.

The matter shall then be examined at the following meeting of the Audit Board.

Article 6

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

The Audit Board 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 Audit Board. These shall be laid down in a written mandate decided upon by the Audit Board.

Article 7

1. The Secretariat of the Administrative Commission shall prepare and organise the meetings of the Audit Board and draw up the minutes thereof. It shall carry out the work required for the functioning of the Audit Board. The agenda, date and duration of the Audit Board meetings shall be agreed with the Chair.

2. The agenda shall be forwarded by the Secretariat of the Administrative Commission to the members of the Audit Board and the members of the Administrative Commission not less than 15 working days before the start of each meeting. The documents relating to the items on the agenda should be made available at least 10 working days before the start of the meeting. This does not apply for documents providing general information which do not need to be approved.

3. Notes relating to the upcoming meeting of the Audit Board should be sent to the Secretariat of the Administrative Commission at least 20 working days before the start of the

meeting. This does not apply for documents providing general information which do not need to be approved.

Notes containing the input for the Statement of annual accounts stipulated in Article 69(1) of Regulation (EC) No 987/2009 shall follow the format and include the details specified by the independent expert or expert team referred to in Article 3(3) of this Decision. Each delegation shall send this note to the Secretariat by 31 July of a year following the year in question.

Article 8

In so far as is necessary, the rules of the Administrative Commission shall apply to the Audit Board.

Article 9

This Decision shall be published in the *Official Journal of the European Union*. It shall apply from the date of entry into force of the Implementing Regulation.

The Chair of the Administrative Commission

Lena MALMBERG
