

RECOMMENDATION No U1**of 12 June 2009****concerning the legislation applicable to unemployed persons engaging in part-time professional or trade activity in a Member State other than the State of residence****(Text of relevance to the EEA and to the EC/Switzerland Agreement)**

(2010/C 106/15)

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 11(3)(a) and 16(1) of Regulation (EC) No 883/2004 and Article 18 of Regulation (EC) No 987/2009,

Whereas:

- (1) Where persons residing in the territory of a Member State are eligible, under the legislation applicable to them, to receive unemployment benefits, they should be allowed to pursue a part-time professional or trade activity in the territory of another Member State, while retaining entitlement to unemployment benefits provided by the State in which they reside.
- (2) It is necessary in this situation to determine the legislation applicable to such persons under Article 11 of Regulation (EC) No 883/2004, in order to avert possible conflicts of laws.
- (3) Under Article 11(2) of the said Regulation, persons receiving cash benefits because of, or as a consequence of, their activity as an employed or self-employed person shall be considered to be pursuing the said activity.
- (4) Under Article 11(3)(a) of the said Regulation, persons pursuing an activity as an employed or self-employed person in a Member State shall be subject to the legislation of that Member State.

- (5) In the interests of the persons referred to in recital 1 above, it is desirable that such persons should continue to be subject to the legislation of their country of residence as regards both the payment of contributions due by virtue of their professional or trade activity and the granting of benefits.
- (6) Article 16(1) of Regulation (EC) No 883/2004 permits Member States to provide for exceptions to Articles 11 to 15 of the said Regulation.

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

HEREBY RECOMMENDS TO THE COMPETENT SERVICES AND INSTITUTIONS THAT:

1. The competent authorities of the Member States concerned conclude, or instruct the bodies designated by these competent authorities to conclude, agreements pursuant to Article 16(1) of Regulation (EC) No 883/2004 on the following conditions:

The agreements should provide that persons receiving unemployment benefit in their State of residence and simultaneously pursuing part-time professional or trade activity in another Member State shall be subject exclusively to the legislation of the former State as regards both the payment of contributions and the granting of benefits.

The institution providing the unemployment benefit in the State of residence of the person concerned shall inform the institution designated by the competent authority of that State of any part-time professional or trade activity in which the person concerned engages in another Member State.

The latter institution shall immediately inform the institution designated by the competent authority of the Member State in whose territory the person concerned is engaging in part-time activity that the person remains subject to the legislation of the Member State of residence.

⁽¹⁾ OJ L 166, 30.4.2004, p. 1.

⁽²⁾ OJ L 284, 30.10.2009, p. 1.

2. Under these agreements, the administrative procedures set out in Articles 19 to 21 of Regulation (EC) No 987/2009 shall apply.
3. The agreement concluded by Member States pursuant to Recommendation No 18 of 28 February 1986, which is annexed hereto, shall remain valid under Regulations (EC) No 883/2004 and (EC) No 987/2009, subject to point 2 of this Recommendation.
4. This Recommendation 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

Agreement of 28 October 1986 between Belgium and Luxembourg on the determination of the legislation applicable to unemployed persons residing in one of the two States, in which State they receive unemployment benefits, while working part-time in the other State.
