

EXPLANATORY MEMORANDUM ON A PROPOSAL FOR A DECISION OF THE COUNCIL ESTABLISHING AN EU POSITION AHEAD OF A WITHDRAWAL AGREEMENT OR TRADE AND COOPERATION AGREEMENT GOVERNANCE COMMITTEE

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Proposal for a Council Decision on the position to be taken on behalf of the European Union in the Specialised Committee on Social Security Coordination established by the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, as regards the use of the Electronic Exchange of Social Security Information for the transmission of data between institutions or liaison bodies

Submitted by the Department for Work and Pensions [20/12/2022]

SUBJECT MATTER

The Electronic Exchange of Social Security Information (EESSI) is a European Commission system which allows secure transfer of data between institutions involved in the coordination of social security. It connects electronically around 5,000 social security institutions of the 27 European Union (EU) Member States plus Iceland, Liechtenstein, Norway, Switzerland and the United Kingdom. It is used by the Department for Work and Pensions (DWP), His Majesty's Revenue and Customs (HMRC), the Department for Health and Social Care (DHSC), the Department for Communities in Northern Ireland, and the Government of Gibraltar.

Under the terms of the Withdrawal Agreement, the UK is required to take part in EESSI. Under the terms of the Trade and Cooperation Agreement (TCA), the UK may, subject to the approval of Specialised Committee on Social Security Coordination (SSC), take part in EESSI for the purpose of implementing the Protocol on Social Security Coordination (SSC Protocol) in the TCA.

This proposal for a Council Decision is part of the agreed process for the UK and EU to adopt a Specialised Committee decision approving the wider use of EESSI in the TCA. This will in turn allow the UK to participate in the EESSI system for TCA data exchange cases, which is in the interest of all parties.

SCRUTINY HISTORY

The agendas and minutes for the two Specialised Committees on Social Security Coordination that have taken place are publicly available and have been shared with the House of Lords European Union Committee and House of Commons European Scrutiny Committee.

[First Meeting of the Specialised Committee on Social Security Coordination: Minutes \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

[Second meeting of the Specialised Committee on Social Security Coordination: Minutes \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

At both meetings, the UK and EU expressed their commitment to UK participation in EESSI for the purpose of implementing the SSC Protocol to the TCA.

MINISTERIAL RESPONSIBILITY

The Minister for Employment.

INTEREST OF THE DEVOLVED ADMINISTRATIONS

The devolved governments and devolved administrations attended both Specialised Committees where UK participation in EESSI for the purposes of implementing the SSC Protocol to the TCA were discussed.

We have also shared the draft Explanatory Memorandum with devolved governments and devolved administrations where appropriate. No comments were received.

LEGAL AND PROCEDURAL ISSUES

i. Legal Base: Article 48, in conjunction with Article 218(9), of the TFEU. Article 218(9) states that “The Council, on a proposal from the Commission or the High Representative of the Union for Foreign Affairs and Security Policy, shall adopt a decision suspending application of an agreement and establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.”

ii. Voting Procedure. The Council shall act by a qualified majority throughout the procedure.

iii. Timetable for adoption and implementation: A decision will be taken by the Council which is expected to be in the first quarter of 2023. The Government expects the decision to be adopted at the next UK-EU Specialised Committee on SSC, with the possibility that it is adopted sooner by written procedure if appropriate.

POLICY IMPLICATIONS

The UK and EU both agree that the UK should participate in EESSI for the purposes of implementing the SSC Protocol to the TCA. Both parties expressed this commitment at the SSC Specialised Committees. It is acknowledged that EESSI enables faster and more efficient exchanges between social security institutions, which allows them to handle individual cases more quickly, improves the accuracy of such data exchanges owing to the use of standardised electronic documents and procedures, encompasses safeguards against fraud and error, and ensures the secure handling of personal data through a common secure infrastructure. Participation in this for the purpose of implementing the SSC Protocol to the TCA is in the interest of citizens and social security institutions in the UK and EU Member States.

If we do not opt into this system, cases processed under the SSC Protocol will either need to be dealt with clerically (which is not in the spirit of the TCA, where States should look to exchange data electronically wherever possible) or they will need to be exchanged on a new system.

FINANCIAL IMPLICATIONS

The UK will bear the costs related to its participation in the EESSI system for the purpose of implementing the SSC Protocol to the TCA.

Under the terms of the Withdrawal Agreement, the UK is required to take part in EESSI and bear the related costs.

MINISTERIAL NAME AND SIGNATURE

A handwritten signature in blue ink, appearing to read 'Guy Opperman', with a large, stylized flourish underneath.

Guy Opperman MP

Minister for Employment

Department for Work and Pensions