

Fourth meeting of the Specialised Committee on Social Security Coordination

Brussels/online | EU host | 05 June 2024 | 10:00-12:00 BST / 11:00-13:00 CEST

Minutes

1. Opening remarks and adoption of the agenda

The Co-Chairs welcomed all participants to the hybrid meeting. They highlighted their appreciation for the cooperation under the Trade and Cooperation Agreement (TCA) in the area of social security, which aims to safeguard the rights of citizens while minimising the administrative burden involved. The agenda was adopted without any modification compared to the provisional version.

2. Actions taken since the last Specialised Committee

- Publication of notifications pursuant to Article SSC.59

The Co-Chairs recalled that the first batch of notifications of national social security legislation of all Member States and the UK for the reference year 2021 had been published since the last Specialised Committee meeting. They explained that the exercise concerning 2022 was being finalised and notifications would be published in the same space.

The Co-Chairs also underlined their willingness to reflect further on how the notification process could be simplified going forward, avoiding any double administrative burden, given the similar declarations in the context of the EU Social Security Coordination Regulations, while complying with obligations under the TCA Protocol on Social Security Coordination. The collection of notifications for the reference year 2023 had not yet started, pending the outcome of those discussions.

3. Further Guidance:

- Adoption of Recommendation 1/2024 concerning Article SSC.11, transposing Decision A2 of the Administrative Commission

Recommendation 1/2024 of the Specialised Committee was formally adopted. That recommendation contains further guidance on the implementation of Article SSC.11, which concerns the social security legislation applicable to detached workers. It transposes Decision A2 and the relevant part of Decision H14 of the Administrative Commission for the Coordination of Social Security Systems (AC) regarding the corresponding provision of the EU Regulations.

The Co-Chairs highlighted that, while not legally binding, this recommendation would provide important guidance for social security institutions, as well as detached workers moving between the EU and the UK and their employers. It would clarify that the conditions under which detached workers remain subject to the social security legislation of the State in which they normally work should be understood in the same way in the context of the TCA Protocol and the EU Regulations, and thus ensure consistency.

4. Update of Annexes to the Protocol on Social Security Coordination

The EU informed the Specialised Committee of the state of play of EU internal preparations for a decision of the Specialised Committee amending the Annexes to the TCA Protocol. These require updates at appropriate intervals as they reflect national legislation and policy choices

of States, which are subject to changes. Hence, the Specialised Committee Secretariat had collected amendments concerning Member States as well as the UK which had become necessary since the last update (Specialised Committee Decision 1/2021).

The UK welcomed this, in particular the proposed listing of certain Scottish benefits in Annex SSC-1 and the proposed inclusion of the UK in Annex SSC-3. Regarding the latter, the UK confirmed that national legislation to exempt all UK S1 holders from NHS charging, regardless of whether they fall under the TCA Protocol or the Withdrawal Agreement, had been in place since the beginning of 2024 and that the Specialised Committee on Citizens' Rights established by the Withdrawal Agreement would also be informed accordingly.

The Co-Chairs agreed that the Specialised Committee would adopt its decision by written procedure, following the completion of the EU's internal procedures.

5. Financial provisions of the Protocol

- Procedures to be followed in the Specialised Committee

The EU recalled that exchanges regarding the procedures for the reimbursement between Member States and the UK of the cost of sickness benefits in kind provided by a State other than the competent one were based on the EU non-paper from 2022.

One issue in this respect concerned the implications of discrepancies between Annex SSC-3 of the TCA Protocol and Annex IV of Regulation (EC) No 883/2004. Both Annexes list States that allow their pensioners residing in another State to return to the competent State to receive healthcare at this State's expense. These States therefore receive a higher discount if reimbursement of healthcare costs to the State of residence is based on average costs.

Since more Member States are listed in Annex SSC-3 than in Annex IV of the EU Regulation, the solution proposed in the non-paper was for the UK to grant the higher discount with regard to all pensioners of the States listed only in Annex SSC-3 who reside in the UK. The EU pointed out that with the envisaged update of Annex SSC-3, two additional States, Slovakia and the UK, would be listed and should thus be afforded the same treatment by the UK and by Member States applying average costs respectively.

The UK agreed with this interpretation and confirmed they were content to apply the higher discount to the Member States concerned, i.e. Latvia, Lithuania, Portugal and Romania, on the understanding that this would be reciprocated.

- Transposition of Decision S11 of the Administrative Commission

The EU reported on work on a draft decision of the Specialised Committee to transpose Decision S11 of the AC, which lays down further details regarding the refund procedures among the States. The purpose of this decision would be for the procedures under the TCA Protocol to be fully aligned with those in place in the context of the EU Regulations. The UK welcomed this intention and the Co-Chairs agreed to aim to adopt this decision before the next meeting of the Specialised Committee.

6. Use of forms and documents

- Modification of Portable Documents

The Co-Chairs recalled their previous understanding that no separate set of Portable Documents (PDs) for the TCA-context should be created. However, minimal adaptations to existing PDs, used in the context of the EU Regulations, might be needed, notably to allow a distinction between those issued under the EU Regulations / Withdrawal Agreement and those issued under the TCA Protocol.

The EU pointed out that only PDs A1, DA1, P1, S1, S2 and U1 were relevant in the context of the TCA Protocol and thus potentially concerned by modifications. The AC would need to be involved in any discussion about amending PDs. This topic would likely be raised there in the coming months. Procedures within the Specialised Committee would need to be completed in addition to those in the AC.

The UK confirmed their agreement with this procedure. They explained they were in favour of allowing a differentiation of the legal basis on PDs A1, DA1, S1 and S2, but saw no need to do so with respect to PDs P1 and U1.

- Minimum changes to Structured Electronic Documents

The EU referred to the previous agreement within the Specialised Committee to keep any potential changes to Structured Electronic Documents (SEDs) minimal, but to consider whether there was a need to allow for a distinction between those exchanged on the basis of the EU Regulations / Withdrawal Agreement and those exchanged on the basis of the TCA Protocol. In this respect, established procedures in the AC and its relevant ad hoc groups should be followed, before those in the Specialised Committee.

The UK concurred in terms of the process to be followed. They reported that, since the last Specialised Committee meeting, they had initiated a first exchange about this question in the ad hoc group on applicable legislation, to be continued later in the year, and that they would also approach the ad hoc group on family benefits about it in the coming months.

7. Implementation and application of the Protocol: Update

The Co-Chairs referenced their shared assessment that the implementation of the TCA Protocol was going well overall and had no systemic or structural issues to bring to the attention of the Specialised Committee at that stage. They highlighted the importance of regular dialogue and close cooperation, as had been the practice thus far, in order to continue to progress the various agenda items and to resolve any questions before they could become problems. They also reiterated the importance of protecting citizens' rights, while minimising administrative burdens, as the underlying rationale for this technical work.

8. Any Other Business

The Co-Chairs acknowledged ongoing discussions at technical level following the EU's suggestion to explore the possibility of including a new provision in the implementing rules in Annex SSC-7 to the TCA Protocol, allowing States to derogate from the rules on applicable legislation by common agreement in well-defined situations and in the interest of the persons concerned. The UK welcomed this initiative and both sides agreed to pursue the discussions further in due course, following the UK election period.

In terms of the upcoming work to be undertaken by the Specialised Committee, the Co-Chairs referred to the amendment of the Annexes to the TCA Protocol, the implementation of the financial provisions, the simplification of the procedure for the notification of national legislation, further analysis of potential changes to PDs and SEDs and the transposition of further decisions / recommendations of the AC, prioritising Decision S11. They agreed to make use of the written procedure where necessary.

9. Concluding remarks

The Co-Chairs reiterated their joint commitment to keeping up the good collaboration in the Specialised Committee and to ensuring the smooth implementation of the TCA Protocol in the future as well. The UK announced it would be hosting the next Specialised Committee meeting around the same time the following year.

*Approved by the Joint Secretariat of the
Specialised Committee on Social Security
Coordination*

Annex: Participants of the fourth meeting of the Specialised Committee on Social Security Coordination

EU Delegation (33)

- EU Co-Chair of the Specialised Committee
- European Commission Officials
- Representatives of EU Member States

UK Delegation (19)

- UK Co-Chair of the Specialised Committee
- UK Government Officials from DWP, DHSC, HMRC, FCDO
- Scottish Government Officials
- Northern Ireland Executive Officials
- Welsh Government Officials