

**Title**

Transitional Period for Electronic Data Exchange

Created 11/11/2009**Modified** 23/11/2009**References:**

- **Recitals :**
- **BR :**
- **IR:** Articles 4 (2) and 95 (1)
- **AC decision :** E.1
- **ECJ CASE Law:** N/A

Comments:

- The introduction of obligatory electronic exchange of information into the EU social security coordination system will bring benefits to the citizens and the clerks alike. This is a major undertaking and as such it will not be introduced in one day. Rather there will be a gradual transition over two years, starting as from 1 May 2010.
- The new Regulations contain a number of transitional provisions, such as for the recalculation of pensions (Articles 87 (5) and (6) BR and 94 IR), or in relation to applicable legislation (Art. 87 (8) BR), as well as a specific transitional period for the introduction of electronic data exchange (Art. 95 IR).
- The transitional period for electronic data exchange concerns only the introduction of electronic data exchange between institutions, but not, for example, the use of Portable Documents. The implementation of the electronic data exchange is done by the Commission funded EESSI (Electronic European Social Security Information) project (see EN).
- This transitional period will run for 24 months from the date of entry into force of the new Regulations on 1 May 2010 until 30 April 2012.

The practical arrangements for the transitional period for electronic data exchange are laid down in a Decision of the Administrative Commission (No E1), which contains 10 guiding principles to be applied by institutions during this period.

Guiding principles for the transitional period for electronic data exchange

1) Good cooperation

During the transitional period the most important principles are good cooperation between institutions, pragmatism and flexibility. These principles are essential, as it is impossible to envisage in advance all possible scenarios during this period. It also reflects the over-all requirement of an enhanced cooperation between institutions introduced by the new Regulations.

2) Replacement of E-forms by SEDs

As from 1 May 2010, paper Structured Electronic Documents (SEDs) will, in principle, replace all E-forms. Paper SEDs are produced from the electronic SEDs in an automatic way with a standardised layout for use by those institutions which are not yet EESSI-enabled (see below definition of EESSI-enabled). The authorised version of these paper SEDs can be found on the CIRCA server and will also be available on the Commission website <http://ec.europa.eu/social/main.jsp?langId=en&catId=26> as from April 2010.

However, E-forms will still be used for cases:

- with regard to the EEA countries Iceland, Liechtenstein and Norway and the EFTA-country Switzerland as long as these agreements are not adapted to the new Regulations, as well as with regard to 3rd country nationals as long as Regulation 859/2003 is not replaced by a new Regulation extending Regulation 883/2004 to this group of persons.
- where Regulation 1408/71 continues to apply, because the entitlements arose before 1 May 2010.

3) Exception for existing national electronic applications

Countries and institutions which have existing national electronic applications based on E-forms may continue to use E-forms during the Transitional Period. This concerns national electronic systems already in place which produce E-forms in an automatic way or existing bilateral electronic systems, such as under the Built Project.

The idea behind this exception is not to require Member States with existing electronic applications to change for a short period of time back to paper exchange. This exception, however, can only be applied, if the national system cannot be reasonably changed in the time framework. It is within the full responsibility of the institution, which still continues with the use of E-forms, to ensure that it is clear that these forms are used for the purpose of the new Regulations and that all rights of citizens under these new Regulations are fully guaranteed.

4) No refusal of relevant information

During the transition period "...an institution shall accept relevant information on any document issued by an institution, even if it is based on an outdated format, content or structure." This clause reflects the principle that the rights of a citizen are based on the provisions of the Regulations and not on a particular document or form. These are only information tools. The use of a wrong tool cannot diminish in any way the underlying rights of the person concerned.

If the receiving institution has any doubts about the content of the documents, it should contact the issuing institution in the spirit of good cooperation.

In practice, there is no danger that institutions will be flooded with non-standardised documents, as they have to be both relevant and issued by another social security institution.

5) Continued validity of documents

E-forms and European Health Insurance Cards (including the Provisional Replacement Certificates) issued before the date of entry into force of the new Regulations on 1 May 2010 will continue to be valid. These documents must be taken into account by institutions until the date of validity expires, or they are withdrawn or replaced (see also general principal of Article 5 IR about legal value of documents and supporting evidence issued in another Member state) .

This principle is also recalled in the horizontal Framework Decision H1 adopted by the Administrative Commission on 12 June 2009.

6) Flexible approach for phasing-in EESSI

Member States will introduce EESSI not all on the same day (« Big Bang » scenario), but will phase-in gradually sector-by-sector as they become EESSI-enabled via their Access Point (see below explanation). Member States may also choose to join EESSI only when all sectors are enabled.

However, this means that individual institutions can only join EESSI once their whole sector is EESSI-enabled. This decision is taken at the level of Member States

7) Clear criteria for being EESSI-enabled

“Being “EESSI-enabled” means that the sector/Access Point concerned can *both* send and receive all messages in that sector to/from other Member States' Access Points. This notion of " Access point" is defined in Article 1 IR 1. (a) as an entity providing an electronic contact point , automatic routing based on the address; and intelligent routing based on software that enables automatic checking and routing (for example an artificial intelligence) and/or human intervention .

It is important to stress that, as EESSI only concerns the exchange of information *between* Member States via their Access Points, being EESSI-enabled does not mean that all information at national level has also to be exchanged electronically. While this is highly recommended, the distribution of information from the Access Points to institutions and vice-versa is entirely within the competence of Member States.

8) Notification of EESSI-enabled sectors

The details of how Member States will inform each other about which sector of which Member State is EESSI enabled still has to be laid down by the Administrative Commission. It is highly likely that a prior written notification procedure to the Administrative Commission will be introduced.

The information will subsequently be introduced into the Master Directory and an additional list accessible to institutions (probably on CIRCA server).

9) No “Mix and Match”

During the Transitional Period the exchange of information between institutions can only either be inside or outside of EESSI (no “Mix and Match”). This means in practice that an exchange of information via EESSI can only take place, if *both* institutions are EESSI enabled via their Access Points.

If only one institution is EESSI enabled, the exchange of information will have to take place outside EESSI, as no institution/sector can be forced to become EESSI-enabled until the end of the transitional period on 30 April 2012.

This is, of course, without prejudice to bilateral arrangements (e.g. joint testing, training, etc.)

10) Standardised layout for paper SEDs

The paper SEDs to be used during the transitional period have a standardised layout agreed by the Administrative Commission. The authorised version of these paper SEDs can be found at the CIRCA server and will also be available at Commission website <http://ec.europa.eu/social/main.jsp?langId=en&catId=26> in April 2010.

To go further:

1. DG Employment website: <http://ec.europa.eu/social/main.jsp?langId=en&catId=26>
2. A further source of information about the social security coordination rules is provided by the TRESS network: see www.tress-network.org

