



## Explanatory notes

# Modernised coordination of national social security

Regulations 883/2004 (as amended by Regulation 988/2009) and implementing Regulation 987/2009.

<b>Created</b> 20.10.2009	<b>Modified</b> 02/02/2010
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- **Why publish explanatory notes?**

At this stage – that is, before the Regulations enter into application – we can not rely on the experience of how the modernised rules work, nor indeed predict the sort of practical problems that will arise or persist.

Furthermore, the new cooperation procedures between Member States provided by the Regulations have to be looked at together with EESSI (Electronic Exchange of Social Security Information) As a matter of fact, electronic data exchange is a key element in the implementation of the modernised coordination system but this new cooperation tool is still being worked on.

However, discussions at the 312<sup>th</sup> meeting of the Administrative Commission on Social Security for Migrant Workers revealed that many delegations felt the need to have **some kind of tool which would facilitate the use of the modernised coordination rules by all stakeholders and in the first instance by the institutions**. Explanatory notes are a first answer to this demand. They will be drafted by the Commission services, in order to complement, but not to replace, national guidance on applying the new Regulations.

The new regulations also reinforced the duty of institutions to provide citizens with information about their rights . These notes may fulfil a part of this role by clarifying the meaning of the modernized coordination rules for the citizens and their advisers.

- **What will you find in the explanatory notes?**

Explanatory notes incorporate two distinct but interrelated elements.

First, it is highly unusual that a legislative work runs over 10 years, involving 21 presidencies and two parliamentary mandates. Therefore, the idea is to draft notes that will "preserve the memory" of this long legislative process and provide some insight for those who are going to apply the modernised coordination rules that will be useful in practice. In particular, the notes record the common understanding achieved in the Council's Social Questions Working Party when various provisions were discussed. Thus, where a record of discussion exists, the notes

incorporate the clarification given at that time, putting it into context in order to present the information in a user-friendly way.

Secondly, the notes are designed to set out some **key concepts** of the system of modernised coordination in a concise way. These are concepts that institutions might find difficult to grasp at a first glance but which are essential to understanding how the modernised system of rules will work (for example, EESSI and Portable Documents).

Wherever it has been possible, the notes follow a historical approach, which sets out the background or the development of the new or amended provisions. The aim is to help the user identify the purpose of the provision.

The end-product – the so-called "Explanatory Notes" - are intended to provide a guidance tool. They may be used in information and training activities for the institutions, to clarify the application of the new rules and also as an information tool accessible to citizens and their advisers

- **Characteristics of the explanatory note**

- **A work in progress:** these notes are not a final product but reflect the state of play at a certain point in time in accordance with the knowledge and experience available.

- **They supplement guidance given by the Administrative Commission:** some notes have been prepared according to Member States' requests to have clarification on certain issues. Where clarification from the Administrative Commission (in the form of a decision or a recommendation) already exists, this information has been incorporated into the note. On a number of issues covered by the notes, it is likely that the Administrative Commission will give further clarification.

- **They are a collaborative and interactive work:** it is important that the authors receive feedback from the users, in particular concerning the choice of topics.

- **They are not legally binding** and only provide information, and practical and informal guidance, about how Community law is to be applied.

- **The Notes will not be comprehensive** and it is expected that Member States will prepare their own national guides on the application of the new Regulations. The first series of explanatory notes will be made available at the Stockholm Conference in November 2009. The work on these notes will continue, depending on future needs and suggestions to make changes. Notes will be updated in accordance with progress made in implementing the modernised system (for example, the note on transitional periods).

- The TRESS e-learning tool is also a valuable source of clarification of certain key notions in particular with regard to ECJ Judgments. It is currently being updated to present a comparative table between the "old" coordination under Regulation 1407/71 and the "new" system in accordance with Regulation 883/2004.

<http://www.tress-network.org/TRESSNEW/>

- The notes will be made available on DG EMPL Website.

<http://ec.europa.eu/social/main.jsp?langId=en&catId=26>