RECOMMENDATION No 16

of 12 December 1984

concerning the conclusion of agreements pursuant to Article 17 of Council Regulation (EEC) No 1408/71

(85/C 273/03)

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS,

Having regard to the opinion of the Advisory Committee on Social Security for Migrant Workers, adopted at its 15th meeting on 11 April 1984,

Whereas Article 17 of Regulation (EEC) No 1408/71 lays down that two or more Member States, the competent authorities of those States or the bodies designated by those authorities may, by common agreement, provide for exceptions to the provisions of the aforementioned Regulation concerning the determination of the legislation applicable in the interests of certain categories of employed or self-employed persons, or of certain such persons;

Whereas certain employed persons, by virtue of their special knowledge and skills or because of specific objectives set by the undertaking or organization with which they are employed, are posted abroad to the territory of a Member State other than the one in which they are normally employed in the interests of, in the name of, or on behalf of that undertaking or organization for a period of more than 12 months;

Whereas it is recommended that in the interests of these employed persons, they should be allowed to choose between being subject to the legislation of the Member State of employment or remaining subject to the legislation of the Member State where they are normally employed for the duration of the posting abroad,

RECOMMENDS

to the competent authorities of the Member States that they conclude, or have concluded by the bodies designated by these competent authorities, agreements pursuant to Article 17 of Regulation (EEC) No 1408/71 applicable to employed persons who, by virtue of their special knowledge and skills or because of specific objectives set by the undertaking or organization with which they are employed are posted abroad to a Member State other than the one in which they are normally employed in the interests of, in the name of, or on behalf of that undertaking or organization for a period exceeding 12 months.

These agreements should lay down that these employed persons remain subject to the legislation of the sending State for the full duration of their assignment provided that the workers concerned agree to this condition.

J. DOWNEY

Chairman
of the Administrative Commission

RECOMMENDATION No 17

of 12 December 1984

concerning the statistical data to be supplied each year for the drawing up of the reports of the Administrative Commission

(85/C 273/04)

THE ADMINISTRATIVE COMMISSION OF THE EUROPEAN COMMUNITIES ON SOCIAL SECURITY FOR MIGRANT WORKERS,

Having regard to Article 103 of Regulation (EEC) No 574/72,

Whereas recommendation No 13 of 24 May 1973 should be amended following the entry into force of Regulations (EEC) No 1390/81 and (EEC) No 3795/81 concerning the extension of Regulations (EEC) No 1408/71 and (EEC) No 574/72 to self-employed persons and to members of their families and whereas this extension requires a certain adjustment of the statistics kept by the social security institutions of the Member States;

Whereas under the provisions of Article 13 (1) of the Rules, adopted in pursuance of Article 80 (3) of Regulation (EEC) No 1408/71, the Administrative Commission should periodically draw up a general

report on its activities and on the implementation of the Regulations on social security for migrant workers;

Whereas the drawing up of this report makes it necessary to collect a certain number of statistical data each year;

Whereas such data are of real interest only if they present a certain degree of homogeneity for all the Member States and if they are supplied shortly after the end of the period to which they relate;

Whereas it is therefore appropriate to simplify the relevant statistical tables and whereas precise instructions should for this purpose be given by the competent authorities to the national institutions,

RECOMMENDS

that the competent institutions of the Member States take the measures necessary to ensure that the following items of information can be collected, if possible, and supplied each year:

1. The number of employed and self-employed persons — nationals of the other Member States, refugees or stateless persons — who are working in the territory of one of the Member States and, in addition, the number of employed and self-employed persons who are nationals of non-member countries.

   This number may be either the average over the period covered or the number on a particular date.

   If possible, the numbers should be broken down according to sex. Moreover, a breakdown should be provided between employed persons and self-employed persons.

   These statistics should primarily be supplied by the social security institutions. If this proves impossible, other sources or estimates may be used.

2. For benefits-in-kind provided under Articles 19, 22, 25, 26, 28, 29, 31, 52 and 55 of Regulation (EEC) No 1408/71:

   (a) for benefits-in-kind to be refunded in accordance with Article 93 of Regulation (EEC) No 574/72, the amount of benefits provided under the aforementioned Articles and the corresponding number of cases;

   (b) for benefits-in-kind to be refunded in accordance with Articles 94 and 95 of Regulation (EEC) No 574/72, the information derived from the compilation of the lists referred to in the abovementioned Articles or from other sources provided for under bilateral and multilateral agreements.

   This information shall be supplied by the country which has provided the benefits (creditor country) for each debtor country separately.

   A distinction should, where appropriate, be made between schemes for employed persons and schemes for self-employed persons.

   Where two Member States reciprocally waive refunds between their institutions, the above data should be supplied in so far as they are available.

   As far as possible the statistics should be related to calendar years.

3. For benefits in respect of invalidity, old age, death, accidents at work and occupational diseases (pensions) granted and paid under Regulations (EEC) No 1408/71 and (EEC) No 574/72 and under bilateral and multilateral agreements or under national legislation:

   (a) the number of pensioners residing in the territory of each of the other Member States. This number may be either the average or the total number of cases during the period covered or the number on a particular date;

   (b) the corresponding amounts of pensions thus granted and paid in the course of the period covered.

   A breakdown should be made between pensioners and their survivors and between schemes for employed persons and schemes for self-employed persons.

4. For death grants provided under Articles 65 and 66 of Regulation (EEC) No 1408/71: the number of cases and the corresponding amounts of death grants transferred to beneficiaries residing in another Member State.

   A breakdown should be provided between schemes for employed persons and schemes for self-employed persons.

5. For unemployment benefits:

   — the number of wholly unemployed persons who were formerly employed or self-employed and who have received unemployment benefits in pursuance of Article 69 (1) of Regulation (EEC) No 1408/71,

   — the number of days of unemployment for which unemployment benefits were paid,

   — the amounts paid.

6. For family allowances:

   (a) the amount of family allowances granted for members of the family of workers and unemployed persons in the course of the period covered in pursuance of:

      (i) Regulations (EEC) No 1408/71 and (EEC) No 574/72;

      (ii) bilateral agreements;

      (iii) national legislation;

      where these members of the family reside in the territory of another Member State;

      where the worker or the unemployed person is subject to French legislation the amount to be stated is that of the family allowances refunded by France to institutions of the country of residence;

   (b) the number of members of the family in respect of whom family allowances were paid, broken down by country of residence;

(c) the number of families for which the family allowances mentioned above were paid.

This number may be either the average over the period covered, the total number over that period, or the number on a particular date.

7. These data should be sent to the secretariat, arranged according to models adopted by the Audit Board, before 31 December of the year following that to which they relate.

8. After they have been analyzed these statistics will be communicated to the Administrative Commission together with comments, and will be published in the Administrative Commission's general report.

9. This recommendation shall apply for the first time to data for the year 1985.

J. DOWNEY

Chairman
of the Administrative
Commission