



Fraud and error in the field of EU social security coordination

Reference year: 2016



Written by Yves Jorens, Dirk Gillis and Tiffany De Potter; Quantitative data collected and analysis written by Frederic De Wispelaere and Jozef Pacolet — *November - 2017*



EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion

Directorate D – Labour Mobility

Unit D/2 – Social security coordination

Contact : EMPL-D2-UNIT@ec.europa.eu

European Commission

B-1049 Brussels

Fraud and error in the field of EU social security coordination

Reference year: 2016

Network Statistics FMSSFE

This report was prepared in the framework of Contract No VC/2013/0301 'Network of Experts on intra-EU mobility – social security coordination and free movement of workers / Lot 2: Statistics and compilation of national data'. This contract was awarded to Network Statistics FMSSFE, an independent research network composed of expert teams from HIVA (KU Leuven), Milieu Ltd, IRIS (UGent), Szeged University and Eftheia bvba. Network Statistics FMSSFE is coordinated by HIVA.

Authors:

Prof Dr Yves Jorens, Professor of social security law and European social law, Director of IRIS | international research institute on social fraud, Ghent University

Dirk Gillis, Coordinator of and researcher at IRIS | international research institute on social fraud, Ghent University

Tiffany De Potter, Researcher at IRIS | international research institute on social fraud, Ghent University

Frederic De Wispelaere, Senior research associate at HIVA - Research Institute for Work and Society, KU Leuven

Jozef Pacolet, Emeritus with formal duties at Research Group Social and Economic Policy and Social Inclusion and HIVA - Research Institute for Work and Society, KU Leuven

***Europe Direct is a service to help you find answers
to your questions about the European Union.***

Freephone number (*):

00 800 6 7 8 9 10 11

(*): The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

LEGAL NOTICE

This document has been prepared for the European Commission however it reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

More information on the European Union is available on the Internet (<http://www.europa.eu>).

Luxembourg: Publications Office of the European Union, 2018

ISBN: 978-92-79-80338-3
doi:10.2767/835763

© European Union, 2018

Reproduction is authorised provided the source is acknowledged.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	8
1. INTRODUCTION	10
2. STEPS TAKEN THROUGHOUT THE REFERENCE YEAR (2016) TO PREVENT AND COMBAT FRAUD AND ERROR IN CASES DETERMINED UNDER THE REGULATIONS	14
2.1. Steps taken to prevent fraud and error and the effect of those preventive steps	14
2.1.1. General steps taken to prevent fraud and error	14
2.1.2. Specific steps taken to prevent fraud and error	20
2.2. Steps taken to combat fraud and error and the effect of those steps	35
2.2.1. General steps taken to combat fraud and error.....	35
2.2.2. Specific steps taken to combat fraud and error.....	40
2.3. National legislation relevant to preventing and combating fraud and error.....	52
3. SPECIFIC PROBLEMS IN IMPLEMENTING THE EU COORDINATION RULES WHICH MAY LEAD TO (AT LEAST RISKS OF) FRAUD AND ERROR.....	54
3.1. Problems regarding the (lack of) exchange of data between Member States	54
3.1.1. The lack of/difficult exchange of data or facts that influence the entitlement to a benefit	54
3.1.2. The lack of / unknown / inconsistent legal bases for the international exchange of data.....	55
3.1.3. Constraints of the national laws on the protection of personal data.....	55
3.1.4. Other specific problems	55
3.2. Problems regarding cross-border investigation and cooperation in general	56
3.2.1. The lack of/difficulties regarding cooperation	56
3.2.2. The lack of procedures for the investigation of suspected cases of fraud and error across borders under the coordination rules.....	56
3.2.3. Constraints on national laws.....	57
3.3. Problems regarding the applicable legislation.....	57
3.3.1. The determination of the applicable legislation itself.....	57
3.3.2. The determination of the place of residence / whether an undertaking is carrying out a significant part of its activity in the sending or posting State / of marginal work.....	58
3.3.3. Problems arising from the use of PDs and SEDs.....	58
3.3.4. Problems arising from ignorance of beneficiaries regarding the applicable legislation	59
3.4. Problems regarding the recovery of unduly paid benefits	60
3.5. Problems regarding the EHC	60
3.6. Closing remarks	61
4. AGREEMENTS AND BILATERAL COOPERATION ARRANGEMENTS	62
5. IN THE FIELD OF BENEFITS IN KIND, STEPS TAKEN IN THE REFERENCE YEAR (2016) TO PROMOTE COMPLIANCE BY INSTITUTIONS AND HEALTHCARE	

PROVIDERS WITH THE COORDINATION RULES AND TO PROVIDE INFORMATION TO CITIZENS	63
5.1. General steps taken to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens in the field of benefits in kind	63
5.2. Specific steps taken to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens in the field of benefits in kind	64
5.3. Closing remarks	65
6. BEST PRACTICES, LESSONS LEARNED, ISSUES OR CONCERNS (INCLUDING REGARDING PRIVACY AND DATA PROTECTION) WHEN DEALING WITH CROSS-BORDER COOPERATION AND INFORMATION EXCHANGE WITHIN THE FRAMEWORK OF REGULATIONS (EC) NO 883/2004 AND (EC) NO 987/2009 ON THE COORDINATION OF SOCIAL SECURITY SYSTEMS	66
6.1. Best practices	66
6.1.1. Best practices regarding the cross-border cooperation and data exchange between Member States	66
6.1.2. Best practices regarding data protection in the context of cross-border data exchange.....	67
6.1.3. Best practices regarding internal cooperation and data exchange	68
6.1.4. Best practices regarding the dissemination of information	68
6.1.5. Best practices regarding PDs, SEDs and other forms	69
6.2. Lessons learned	69
6.2.1. Regarding cross-border cooperation	69
6.2.2. Regarding data exchange.....	70
6.2.3. Regarding the EHIC.....	71
6.3. Issues and concerns	72
6.3.1. Issues and concerns regarding cross-border cooperation and data exchange.....	72
6.3.2. Other issues and concerns	73
6.4. Closing remarks	74
7. EXAMPLES OF, OR PROPOSALS OR SUGGESTIONS FOR MEASURES TO IMPROVE THE OVERALL TACKLING OF FRAUD AND ERROR IN THE FIELD OF SOCIAL SECURITY COORDINATION WHICH NATIONAL CONTACT POINTS CAN OPERATIONALISE WITHOUT THE NEED FOR CHANGES TO NATIONAL OR EU LAW	76
7.1. Regarding cooperation and data exchange	76
7.2. Regarding Portable Document A1	77
7.3. Regarding the EHIC	77
8. STATISTICS ON FRAUD AND ERROR IN THE FIELD OF EU SOCIAL SECURITY COORDINATION (REFERENCE YEAR 2016).....	78
8.1. Introduction.....	78
8.2. Applicable legislation.....	78
8.3. Cross-border healthcare	80
8.3.1. Unplanned necessary healthcare	80
8.3.4. Planned cross-border healthcare	82
8.3.5. Entitlement to healthcare by persons residing in a Member State other than the competent Member State	82
8.4. Unemployment benefits.....	82
8.4.1. Export of unemployment benefits.....	82

8.4.2.	Aggregation of periods for unemployment benefits.....	83
8.5.	Old-age, survivors' and invalidity pensions	83
8.6.	Family benefits.....	84
8.7.	Maternity and equivalent paternity benefits	84
8.8.	Recovery of outstanding contributions and unduly paid benefits	85
8.9.	Quantitative data: Conclusions	85
9.	ADDITIONAL REMARKS	87
10.	CONCLUSION.....	90

EXECUTIVE SUMMARY

This study summarises the information provided by the Member States in their annual voluntary reports on their experience and progress concerning cooperation on fraud and error in the reference year 2016, as provided for in Decision H5 of the Administrative Commission for the Coordination of Social Security Systems.¹ The Member States' reports have been analysed with the aim of identifying several elements. First, particular attention goes to the steps taken throughout the year to prevent and combat fraud and error in the field of EU social security coordination. Secondly, the aim of the country reports was to identify specific problems in implementing the EU coordination rules which may lead to, at least risks of, fraud and error. Thirdly, an outline is provided of the steps taken to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens, in the field of benefits in kind. Fourthly, the report notes good practices, lessons learned and remaining issues or concerns when dealing with cross-border cooperation and information exchange within the framework of Regulations (EC) No 883/2004 and (EC) No 987/2009 on the coordination of social security systems. Fifthly, the report summarises the examples of or proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of social security coordination which National Contact Points (NCPs) can operationalise without the need for changes to national or EU law. Also some additional remarks, made by a few Member States, are inserted at the end of this report. Finally, the report contains an Annex I (National legislation relevant to preventing and combating social security fraud and error within the framework of Regulations (EC) No 883/2004 and (EC) No 987/2009 on the coordination of social security systems, including the relevant definitions of fraud and error and penalties and sanctions that apply) and an Annex II (Inventory of bilateral agreements and bilateral cooperation arrangements with other EU or EEA Member States entered into for the purposes of combating fraud and error within the framework of Regulations (EC) No 883/2004 and (EC) No 987/2009 on the coordination of social security systems).

First of all, the reports reveal that fraud and error in the field of social security are still generally recognised as problematic phenomena. The provided data confirm this finding. The increase of national legislation concerning fraud and error is additional proof thereof, although national legislation specifically dealing with fraud and error under the Regulations seems to be lacking.

Concerning the steps taken in dealing with fraud and error, the national reports reveal that Member States focus on prevention of fraud and error as well as combating it. Information dissemination among institutions, healthcare providers and citizens in order to promote compliance with the coordination rules, is vital in the prevention of and fight against fraud and error, as demonstrated by the focus thereupon by the Member States. In addition, information exchange and cooperation between internal competent authorities as well as the competent authorities in other Member States are just as important. Various bilateral agreements on data exchange were concluded and working groups concerning fraud and error in the field of social security were set up.

¹ Decision No H5 of 18 March 2010 concerning cooperation on combating fraud and error within the framework of Council Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems (Text of relevance to the EEA and to the EC/Switzerland Agreement) (2010/C 149/05), *OJ* C149 of 8.6.2010, 5-7.

Still, a number of difficulties remain problematic in a majority of Member States when attempting to combat fraud and error in the field of social security coordination. These shared issues include, amongst others, the delayed or absent cooperation between the competent authorities in the respective Member States, the determination of residence and the applicable legislation, and issues concerning (data protection in the context of) the exchange of data.

Overall, the report reveals two broad conclusions. First and foremost, all reporting Member States have undertaken efforts to fight fraud and error, albeit on different levels or with varying intensity. These efforts repeatedly concentrate on strengthening the information exchange and cooperation between internal competent authorities as well as the competent authorities in other Member States. Secondly, one of the predominant concerns amongst all Member States relates to the delay in or absence of cooperation or exchange of data between the competent institutions of the respective Member States. In turn this results in scenarios where – amongst others – illegitimate double affiliation and/or undue payments occur. Improvement thus remains possible and necessary – both with regard to the prevention and early detection of fraud and error in cross-border situations as well as concerning cross-border administrative cooperation and information exchange between Member States.

Figures on fraud and error in the field of EU social security coordination were collected through the thematic questionnaires launched by HIVA within the framework of the Administrative Commission and integrated in the report written by IRIS. According to these data, most of the reporting Member States did not detect cases of fraud and error with regard to the EU provisions on planned cross-border healthcare, healthcare provided to persons residing in a Member State other than the competent Member State, the export of unemployment benefits and finally maternity and equivalent paternity benefits. This is in contrast to the EU provisions on applicable legislation, unplanned necessary healthcare, family benefits and old-age pensions.

1. INTRODUCTION

Restrictions to the free movement of persons can and do appear in many different respects, not in the least in the field of social security, where both fraudulent and erroneous situations can put a strain on the free movement of persons. With respect to social security coordination, fraud is defined as *"any act or omission to act, in order to obtain or receive social security benefits or to avoid obligations to pay social security contributions, contrary to the law of a Member State"* while error is defined as *"an unintentional mistake or omission by officials or citizens"*.² Although both fraud and error often end up having the same effects, the capital difference between them is the fact that fraud cases require proof of intent, whereas error is unintentional.

Strong cooperation between Member States is crucial in order to prevent and combat fraudulent and erroneous situations in the realm of social security coordination. In order to boost and strengthen this cooperation, Regulation (EC) No 883/2004 on the coordination of social security systems³ has provided for the establishment of several mechanisms (e.g. Decision A1; Decision H5). Nevertheless, it has to be noted that only a few specific references to fraud and error are made in Regulation (EC) No 883/2004.⁴ The Administrative Commission is, in accordance with said Regulation, responsible for handling questions of interpretation concerning the Regulation's provisions or concerning agreements or accords concluded in the framework of the Regulation. In addition to the Administrative Commission, there is a Technical Commission, which among other things assembles technical documents and studies; an Audit Board, which establishes the average costs for the reimbursement of healthcare costs in Member States; and an Advisory Committee, which is responsible for preparing opinions and proposals for the Administrative Commission.

At the 307th meeting of the Administrative Commission, the Member States decided to create an Ad Hoc Group in order to assist the Administrative Commission in its efforts to strengthen the cooperation between competent institutions, particularly concerning the fight against social security fraud and error. This Ad Hoc Group has produced two reports on this type of fraud and error issues and has identified some major problem areas. The conclusions and recommendations led to Decision H5 in March 2010. As stated in that Decision, the Administrative Commission discusses cooperation on fraud and error issues once a year, based on the voluntary reporting by the Member States of experiences and progress in the field.

² See the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Free movement of EU citizens and their families: Five actions to make a difference (COM(2013) 837 final).

³ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ L 314, 7.6.2004, p. 1).

⁴ The coordinating Regulations do not contain a general prohibition of fraud or abuse of rights. The Regulations mention fraud and abuse only once, in Recital 19 of Regulation (EC) No 987/2009: *"Procedures between institutions for mutual assistance in recovery of social security claims should be strengthened in order to ensure more effective recovery and smooth functioning of the coordination rules. Effective recovery is also a means of preventing and tackling abuses and fraud and a way of ensuring the sustainability of social security schemes"*.

In this year's report, dealing with reference year 2016, the following matters are covered:

- first, the steps taken throughout the year to prevent and combat fraud and error in cases determined under the Regulations;
- second, specific problems in implementing the coordination rules which may lead at least to risks of fraud and error;
- third, agreements and bilateral cooperation agreements with other EU Member States entered into for the purposes of combating fraud and error;
- fourth, the steps taken, in the field of benefits in kind, to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens;
- fifth, best practices, lessons learned, issues or concerns (including with regard to privacy and data protection) when dealing with cross-border cooperation and information exchange within the framework of Regulations (EC) No 883/2004 and (EC) No 987/2009 on the coordination of social security systems;
- sixth, examples of or proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of social security coordination which National Contact Points (NCPs) can operationalise without the need for changes to national or EU law.
- and finally, the quantitative data collected by HIVA by means of specific questions introduced in the thematic questionnaires.

At the request of several Member States, the European Commission and the experts of the European Platform to combat cross-border social security fraud and error,⁵ the questionnaire which was revised in 2015 and 2016 was again revised for the 2017 report after consultation with the European Commission and the Steering Committee of the European Platform to combat social security fraud and error. On the one hand, a question was added, namely question 6 on examples of or proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of social security coordination which NCPs can operationalise without the need for changes to national or EU law. On the other hand, Member States were asked to update Annexes I and II of the report of 2016 and not to (re)draw country sheets on national legislation and bi or multilateral agreements between Member States. Last but not least, the question regarding quantitative data was dropped.

Before 2015, figures on fraud and error in the field of EU social security coordination were collected only for the EU provisions on unplanned necessary healthcare (by the so-called 'EHIC Questionnaire') as well as figures on the export of unemployment benefits (by the so-called 'PD U2 Questionnaire'). The questionnaire on fraud and error launched in 2015 not only asked Member States to give an overview of steps taken at national level to combat fraud and error in the field of EU social security coordination (by identifying existing good practices, problems or challenges and potential solutions) but also to provide quantitative data on fraud and error. Despite the low response rate among the Member States the same approach was applied last year.

⁵ The former H5NCP network.

For this year, a new approach to the collection of statistical information was agreed, as quantitative data were collected by the thematic questionnaires launched by HIVA within the framework of the Administrative Commission. The results were then integrated in the report by IRIS.

This report summarises the information received for 2017 through the voluntary reporting by 25 Member States of the European Union, i.e. Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, the Netherlands, Malta, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United Kingdom; by three Member States of the European Economic Area, i.e. Iceland, Liechtenstein and Norway; and by Switzerland (hereinafter: the Member States). At the request of the European Commission, the authors of this report took a horizontal approach while writing this report and used their own judgment to identify interesting or innovative actions emerging from all replies to the questionnaire. Cross-cutting issues were identified and some conclusions and recommendations were drawn.

Like previous years, a still growing interest in the subject of fraud and error can be recorded. Unfortunately, in general, it is at times still hard to tell whether the steps taken, reported in the country replies, refer to fraud and error in a cross-border context or in a strictly national context. Often, strictly internal measures, which are not targeted specifically at fraud and error in the framework of the coordination regulations or in a cross-border context in general, were reported. The authors of the national reports should be aware of the fact that it is the aim of this report to only report on fraud and error in the field of EU social security coordination.

Besides the aforementioned Ad-Hoc Group on fraud and error another Ad-Hoc Group on the exchange of personal data on fraud and error was set up at the 334th meeting of the AC on 19-20 June 2013. In accordance with its mandate this Ad-Hoc Group presented its report to the Administrative Commission on 18 December 2013. Certain legislative changes were recommended which, if adopted, would provide a clearer legal base for the exchange of data on fraud and error. In this respect it should be underlined that in the proposal for the revision of Regulation (EC) No 987/2009 the Administrative Commission agreed to the creation of a legal base for data exchange which must be in line with the General Data Protection Regulation.⁶ In addition, in its proposal to modify Regulations (EC) No 883/2004 and (EC) No 987/2009, published on 13 December 2016, the European Commission proposed to insert a legal base for data exchange, which shall be in line with the General Data Protection Regulation.⁷

On 24 May 2016 the General Data Protection Regulation entered into force. The new rules, however, will apply in the Member States only as from 25 May 2018, by which time the Member States will have to adapt their national legislation and raise awareness among public authorities and companies of the new aspects introduced. The regulation constitutes an attempt to harmonise the privacy rules of the various States by defining a new common framework for all Member States of the European Union, on the processing of personal data.

⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1 4.5.2016.

<http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>.

⁷ Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004, 13 December 2016, COM(2016)815 final – 2016/0397 (COD),

<http://ec.europa.eu/social/main.jsp?langId=en&catId=849&newsId=2699&furtherNews=yes>. See in particular Articles 2.6 and 2.11.

2. STEPS TAKEN THROUGHOUT THE REFERENCE YEAR (2016) TO PREVENT AND COMBAT FRAUD AND ERROR IN CASES DETERMINED UNDER THE REGULATIONS

Respondents were advised that for the purpose of this report “prevent” refers to pre-emptive steps to reduce the risk of fraud or error occurring whereas “combat” refers to reactive steps taken to respond to concrete cases of fraud and error that have already materialised.

The country reports by the Member States show that most of the Member States do not make a distinction between steps taken to combat/prevent fraud and steps taken to combat/prevent error. One of the reasons for the foregoing can be found in the fact that various Member States' national legislations do not make a distinction between fraud and error (see Annex I). Furthermore, it is often impossible to make a distinction between those steps in practice. When a Member State did make the distinction, it will be explicitly mentioned.

Although Member States often reported that similar instruments, tools and processes are being used for preventing, as well as for combating fraud and error (**CH, IS**), hereinafter a distinction is made between steps taken to prevent and steps taken to combat fraud and error on the basis of logical reasoning. Please keep in mind that steps included in the combating section, can also have a preventive effect and *vice versa*.

2.1. Steps taken to prevent fraud and error and the effect of those preventive steps

The country replies to the questionnaire reveal that in 2016 the Member States of the European Union, Iceland, Norway and Switzerland have taken a diversity of steps in order to prevent fraud and error in cases determined under the Regulation. What follows is an overview of the reported measures. A distinction is made between **general steps**, which are affecting all branches of social security horizontally, and **specific steps** per branch. A summary table of these general and specific steps can be found at the end of this section (p. 33).

2.1.1. General steps taken to prevent fraud and error

Regarding the reported general steps taken to prevent fraud and error, a distinction can be made between (1) general steps regarding information dissemination, (2) general steps regarding controlling and monitoring actions, (3) general steps regarding cooperation and data exchange, (4) general steps regarding Portable Documents (PDs), Structural Electronic Documents (SEDs) and other (E-)forms, and (5) other general steps.⁸

2.1.1.1. General steps regarding information dissemination

Various Member States (**BG, CH, CZ, DK, ES, FI, LT, NL, PL**) reported they took some general steps in the reference year 2016 to promote compliance by social security institutions and other parties involved with the coordination rules and to provide information to citizens, in order to prevent fraud and error.

⁸ For more information on official documents please visit the European Commission's website: <http://ec.europa.eu/social/main.jsp?catId=868><http://ec.europa.eu/social/main.jsp?catId=868>

Concerning the information dissemination towards social security institutions and other parties involved, **Spain** stated that different channels of access to relevant information are established and are constantly updated, so that the Spanish institutions (Provincial Directorates) have the necessary information on the issues that give rise to most cases of uncertainty in terms of processing and resolution: instructions are produced for the Provincial Directorates, administrators are provided with constant support to enable them to clear up doubts on the application of Community law and information is published on the National Social Security Institute's intranet site. Furthermore, an online messaging service has been incorporated in the ASIA computer application to report on all new additions and updates to the application, and it is available to all of the Institute's provincial and local offices for cross-border management of outgoing and incoming healthcare documents.

Even more specific, in November 2016 the "Conference on the grounds for EU citizens' stay in Denmark – A Tool for Control?" was held for all 98 municipalities in **Denmark**. The purpose of the conference was to i) increase focus on the grounds for EU citizens' stay in Denmark and to ensure correct earnings and payments of social benefits, ii) create a forum for dialogue on EU citizens' stay and access to Danish social benefits and iii) to strengthen the cooperation among Danish authorities. The municipalities benefited greatly from the conference and felt better equipped to deal with EU citizens and their right to social benefits.

A specific form of information dissemination towards institutions and other parties involved consists of training of the employers and employees as well as the clerks handling the cases (**BG, CH, CZ, FI, NL, PL, UK**). According to the **Finnish** Centre for pensions, due to those trainings, the employers are more aware of the coordination rules and try to abide by them in time. This makes the application of the rules easier for the administrations. The Central Compensation Office (*Centrale de Compensation – CdC - CCO*) of **Switzerland** reported that all staff members of the 'benefits' divisions of the CdC and medical staff working for the OAIE – almost 160 members of staff – attended awareness-raising workshops on insurance fraud. Administrations across the **United Kingdom** run a number of on-going initiatives to train front-line staff in healthcare to identify patients who should have an EHIC, S2, S1 or A1 and to correctly recognise and record these where appropriate. For example, they conduct presentations to National Health Service (NHS) staff, practitioner groups and circulate newsletters, posters and leaflets to raise awareness of potential NHS fraud risks, including overseas visitors. They also produced a video and developed a suite of e-learning modules to train overseas visitors managers, finance and frontline staff (including administrators, clinicians and nurses). They also organised a series of workshop sessions aimed at improving staff understanding of the impact of fraud, whilst also informing them about legislation changes that may impact them.

In **Poland**, the Agricultural Social Insurance Fund (*KRUS*) participated in the "Counselling Days", which are regular meetings with the Polish community living in the EU/EFTA Member States and in countries with which Poland concluded an international agreement on social security – during the meetings experts from the Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ*) provided advice in individual cases and shared information about both the social security system in Poland and the rules of (EU or bilateral) social security coordination.

In addition to the information dissemination towards institutions and other parties involved, Member States also took steps concerning information dissemination towards citizens in order to prevent fraud and error. Information concerning the implementation of the coordination Regulations can e.g. be found on websites of competent institutions (**FI, LT**), in brochures (**FI, PL**) and in articles in local press (**PL**). When applying for a social security benefit, applicants are properly informed about their rights and obligations (**LT, NL**). Also mass communication measures like mass media campaigns are held in order to promote the general public's awareness of the rules adherent to benefits (**DK, LT, NL, PL**).

2.1.1.2. General steps regarding controlling and monitoring actions

Ireland stated to have a broad-ranging and comprehensive control strategy where fraud control measures are implemented as part of the normal claims processing procedures, since to them there is no contradiction between exercising fraud control and delivering good customer service. The fraud control process is an integral part of their Department's day-to-day operations. The various control measures ensure that the objectives of prevention, detection, deterrence and debt recovery are achieved.

An extensive part of the reported steps taken to prevent fraud and error refers to controlling and monitoring actions. Various Member States (**AT, IE, IT, NL, UK**) mentioned they perform regular checks and monitoring activities, which can lead in individual cases to an investigation. The way these checks and monitoring activities are performed differ from Member State to Member State (e.g. concerning intensity, quantity, used sources/data and used systems).

The National Institute of Social Security (*Istituto Nazionale della Previdenza Sociale, INPS*) of **Italy** implements data matching and data mining on its own databases by means of its own IT system which manages instances of fraud and error and the associated risk analysis. During 2016, further entries were made in the corresponding database, which increased the number of cases under examination. Also during 2016 further implementations of the Unified Payments Control System (SCUP) were made by Italy. Specifically, as already reported in last year's report, the SCUP blocks payments, on the basis of blacklists supplied by different sources (communication from the judicial authorities and the Central Directorate for Revenue and Contributions, risk scenarios from an anti-fraud platform, data checking at headquarters, communication from the Ministry of Justice) through matching with payments to be made. The system does not automatically block the tax number but selects relevant benefits and excludes non-relevant movements, e.g. social security contributions.

The *Uitvoeringsinstituut Werknemersverzekeringen (UWV)* (**NL**) stated they use a thematic approach to fraud detection. In addition to the back-office administrative (and electronic) controls and checks on forms, applications and personal client data by means of data matching, data mining and data exchange activities, during which a number of authentic electronic registers is used (e.g. registers on labour contracts, wages, income, benefits (Polis), in combination with the national citizenship database (*BRP*) with addresses, civil service numbers, data of birth, and so forth), they also use statistical means of risk profiling, risk management and risk targeting in combination with checklists for front-office officials such as work coaches, doctors and intermediaries. Furthermore, they perform electronic payment controls and they made available a central fraud (anonymous) hotline and facilities to report via internet, call-centre or mail.

Concerning the investigations and inspections in individual cases, **Italy** and **Finland** mentioned the need for intra-national cooperation between institutions for social security and other national institutions, like tax authorities and police authorities (see infra). The *Uitvoeringsinstituut Werknemersverzekeringen (UWV) (NL)* reported that in addition to investigations and inspections, also home visits of clients are performed.

2.1.1.3. General steps regarding cooperation and data exchange

Ireland mentioned correctly that the prevention and detection of fraud and error is and will remain resource intensive (referring to available manpower and data). Intranational and international cooperation, as well as intranational and international data exchange can resolve this resource problem and help the Member States to prevent and detect fraud and error.

Starting with the intranational cooperation and data exchange, various Member States reported on steps taken during the reference year 2016:

Cooperation between national authorities directly involved in combating and preventing fraud and error continued to be a priority in **Denmark**. The formalised, organised as well as ad hoc cooperation with municipalities, governmental agencies and ministries is prioritised because it has been observed that coordination and cooperation vastly enlarges the possibility of identifying patterns of fraudulent or erroneous behaviour in individual cases or in bigger cohorts of beneficiaries. In particular, *Udbetaling Danmark* is enjoying a close cooperation in several forums with Local Government Denmark (KL), who represents all 98 municipalities.

In **Finland**, the cooperation between Finnish authorities, mainly between the Finnish Tax Administration (taxes), the Regional State Administrative Agency (occupational safety and the Act on the Contractor's Obligations and Liability when Work is Contracted Out) and the Finnish Centre for Pensions (ETK, pension insurance, A1 certificates) has been found to have a preventive effect during the reference year 2016. The institutions have worked together and made inspections, e.g. at construction sites in Finland.

The *Uitvoeringsinstituut Werknemersverzekeringen (UWV) (NL)* participated in joined, multidisciplinary intervention teams, together with Tax and Customs Administration, municipalities, Social Insurance Bank, National Police and other institutions. They also performed internet research on fraud phenomena and fraud-related cases, in cooperation with National Police, Tax and Customs Administrations, universities, and other institutions.

Belgium reported that as regards cooperation between Public Social Security Institutions (*IPSS*), a system of electronic data flows from authentic sources coordinated by the Crossroads Bank for Social Security was developed so that each *IPSS* that grants social security benefits depending on the social and professional situation of the insured can automatically obtain the information they require to manage the file correctly. Each *IPSS* may thus be authorised by the Social Security Sectoral Committee to benefit from access, free of charge, to the data which are relevant to it and are legally justified.

The Croatian Employment Service (**HR**) has established systems of data exchange with several other relevant institutions (e.g. the Croatian Pension Insurance Institute, the Central Registry of Affiliates).

The **United Kingdom** reported that specialist intelligence and statistics teams collaborate on a range of initiatives that centre on the analysis, prioritisation and progression of fraud-related allegations. The purpose is to develop an intelligence-led capability, working together across the public sector and external organisations to share information, identify risks and develop proactive, joined-up approaches to countering fraud. That work includes:

- Fraud Risk Assessment – Where information from customers is systematically gathered and analysed and a statistically based risk assessment of their vulnerability to fraud.
- Intelligence Alerts – Where received information about the latest methods being used by organised groups to commit fraud-related crime is shared with partners and provides counter fraud avoidance advice and guidance, where appropriate.

In **Lithuania**, meetings with competent institution specialists were organised to discuss individual cases and share best practise, e.g. to ensure uniform application and interpretation of coordination rules between territorial divisions of the competent institutions. On 1 October 2015 the National Health Insurance Fund (NHIF) introduced a new IT system for the issuance of entitlement documents and invoices in order to improve and facilitate the revision of the data and to speed up the process of exchanging information between the competent authorities. In 2016 some variations and developments were performed to improve the operation of that IT system and avoid human errors.

The Member States also took some steps to improve the international cooperation and data exchange:

To prevent fraud, the National Agency for Payments and Social Benefits (NAPSB) of **Romania** cooperated with institutions from France and Ireland that reported suspected cases. In order to prevent error, the NAPSB requested necessary information from the institutions from other Member States before approving the payment.

Some Member States even created a specialised unit/team to further develop the international cooperation and data exchange. In Denmark, the unit for "International Fraud and Error Information", established under the auspices of *Udbetaling Danmark (DK)* in 2015, kept working to establish close relations both to other Member States as well as to countries outside the EU/EEA area, aiming at enhancing cooperation and information exchange. The *Uitvoeringsinstituut Werknemersverzekeringen (UWV) (NL)* carried out international data sharing and controls of clients who live abroad by a cross-border enforcement team.

Finland reported that the cooperation between different authorities and institutions in Finland and outside Finland is ongoing and functioning well. The Finnish Centre for Pensions is active in the meetings organised between the Nordic institutions as well as other neighbouring countries. This gives a chance to exchange information about the Finnish system and interpretations as well as meet colleagues.

Belgium cited that in 2016, the government has promoted the conclusion of partnership agreements (for prevention) with social partners in specific sectors. Under these partnership agreements, the signatories may in particular undertake to raise awareness among their European sister organisations of the issue of unfair competition linked to employment and remuneration conditions. Partnership agreements have already been signed in the construction, meat, taxi and funeral undertaking sectors. The aim is to also sign partnership agreements in other sectors susceptible to fraud (agriculture and horticulture).

To prevent payment of social pensions, benefits etc to deceased persons, **Latvia** has signed bilateral agreements with other EU Member States on the exchange of information on pension receivers electronically. For example the Agreement between the National Social Insurance Board of the Republic of Estonia and State Social Insurance Agency of the Republic of Latvia on exchange of information on pension receivers in electronic form was signed on 14 January 2016.

Poland reported that the outcome of monthly electronic exchange of information about deaths of Social Insurance Institution (Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ) beneficiaries in the year 2016 is as follows:

- concerning *ZUS* beneficiaries residing in Germany (24,083), the electronic exchange of information resulted in savings worth over € 560,000, which is an amount of benefits which were not overpaid because of 310 identified deaths in the reference year;
- concerning *ZUS* beneficiaries residing in Sweden (4,781), the electronic exchange of information resulted in savings worth over € 19,000, which is an amount of benefits which were not overpaid because of 45 identified deaths in the reference year;
- concerning *ZUS* beneficiaries residing in Croatia (113), the electronic exchange of information was introduced and there was no reported death in the reference year;
- concerning *ZUS* beneficiaries residing in the United Kingdom (2,600), the electronic exchange of information resulted in savings worth over € 2,100, which is an amount of benefits which were not overpaid because of 17 identified deaths in the reference year.

Lastly, **Poland** reported on its positive experiences with the European Platform to combat cross-border social security fraud and error and noted its own activity within the Platform, as well as the activities of the Platform in general, e.g. the sharing of good practices which may limit the volume of cases of non-effective recovery of overpayments.

2.1.1.4. General steps regarding PDs, SEDs and other (E-)forms

Related to international cooperation and information exchange, as well as to checks and monitoring activities, some Member States also took steps concerning Portable Documents (PDs), Structured Electronic Documents (SEDs), E-forms and other documents:

Austria reported that in some cases, when inter-State forms are issued, they have a serial reference number and/or the official signature of the institution concerned.

In order to prevent error, the Unemployment Insurance Fund (UIF) (**EE**) makes sure that documents are drawn up properly and contain the necessary information. In case of suspicion, the UIF contacts the source for a double check. To prevent fraud, the UIF makes sure that every document is properly signed and stamped (if needed). In case of suspicion, the UIF checks the document and contacts the source. The steps taken are effective, since no fraud or error cases were identified.

Also in **Lithuania**, specialists of the competent institutions verify information provided in SEDs, PDs, E-forms or other documents. It is always checked if documents are properly filled and signed. In case of suspicion as to the credibility of the presented information, the EU Member State's relevant competent institution is contacted. Lithuanian competent institutions also check information about the employer or person concerned available from different registers and other institutions' databases (e.g. tax authority, register of Lithuanian residents). For the issuing of some PDs and SEDs, the Lithuanian competent institutions use an electronic application. When the information in the document is partly filled out by computerised procedure from electronic databases, missing data are completed by hand.

Finland reported that the processes in handling the A1 applications have been scrutinised and improvements have been made in order to decrease the number of errors and to issue the certificates more efficiently. The Finnish Centre for Pensions has many electronic databases which can be used when processing the applications. The Finnish Centre for Pensions also registers the A1 certificates issued abroad and assists when other Finnish authorities have questions concerning foreign workers, their A1 certificates or the lack of certificates.

2.1.1.5. Other general steps taken to prevent fraud and error

In order to improve the prevention of fraud and error, **Italy** has set up a new electronic application for social benefits in the course of 2016. From now on, it is necessary to amend and supplement the electronic application for social benefits by including the applicant's declarations of civil status and of income abroad. The following sworn statements for EU citizens were included in the application for social benefits:

- residence entry in the population register;
- the requirements laid down in Article 7 of Legislative Decree 30/2007, namely to be in paid employment or self-employment in Italy and to have sufficient financial means for themselves and their family in order not to become a burden on the social security system of the host Member State during their stay.

The *Uitvoeringsinstituut Werknemersverzekeringen (UWV)* (**NL**) has simplified its procedures and regulations in order to reduce the administrative burden for clients and thereby prevent error.

Lastly, the **United Kingdom** reported on a system of continuous review of practices, monitoring and evaluating outcomes to enhance and develop pre-emptive and re-active processes.

2.1.2. Specific steps taken to prevent fraud and error

In addition to the abovementioned general steps, specific measures were taken in particular branches of social security.

2.1.2.1. Applicable legislation

(a) Specific information dissemination

In the field of applicable legislation, in order to prevent fraud and error, a few Member States (**CY, HU, PL**) took some steps concerning information dissemination.

In 2016 the Social Insurance Services of **Cyprus** continued the practice of arranging meetings with prospective employers, as well as with lawyers and accountants in order to inform them of the provisions of the regulations in respect of applicable legislation. In **Poland**, within the scope of the competencies of the Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ*), information leaflets are available on the website and in the customer service rooms of ZUS. Moreover, training is provided for clients and ZUS employees. To prevent fraud, the NIHIF in **Hungary** reported that related to applicable legislation two information/campaign days were organised to present best practices (for the representatives, clerks of county government offices). To prevent error, the NIHIF dedicated two technical workshops to provide information about newest IT developments and to provide assistance for using the new IT system applications (target organisations: competent institutions) in connection with applicable legislation.

(b) Specific controlling and monitoring actions

A couple of Member States reported some specific controlling and monitoring actions regarding applicable legislation with the aim of preventing fraud and error.

Italy first explained their procedure for combating fictitious employment in order to obtain social security benefits. The close cooperation between the services of the INPS has made it possible to effectively combat fraud involving fictitious jobs created solely in order to receive undue social security benefits to the detriment of the INPS's revenue. Contributions are paid for positions with no economic activity where no work is carried out, with the sole intention to obtain social security/welfare benefits for those fictitious workers. Alerts by the territorial structures and the intelligence activities carried out at central level in the course of 2016 have found some 19,000 fictitious workers, leading to 440 companies, with estimated savings for the INPS of about € 150 million in benefits not granted. For these positions, checks carried out centrally aimed primarily at keeping on stand-by the contribution statements of fictitious workers and thus limiting the access to benefits and at immediately reporting cases of fraud to inspection services for subsequent inquiries in order to cancel the fictitious employment. Experience and methodical data analysis made it possible to seamlessly structure and update risk indicators to take account of developments in the phenomenon, intended to promote the identification of the jobs/employers concerned and standardise the administrative controls in order to enable the adoption of measures for the suspension of contributions to the individual insurance account.

Secondly, **Italy** reported on the control of contribution statements. The recent emergence of offences of fictitious employment revealed a pathological process involving information flows that are retroactive and in any event after the cessation of the employment relationship, designed to obtain the contributions necessary for the payment of the benefits. In order to facilitate the development of schemes to maximise the potential for finding misconduct involving manifest fraud, it was considered necessary to deploy procedural systems with a maximum level of automation for control of information flows designed to create *ex post* individual positions or to cancel others that have been transmitted previously. In the first case, the risk to be avoided is the massive flow of information that is fraudulently designed to create, in a person's statement of account, the necessary contribution for the payment of benefits. In the second case, the obvious risk is that, after proper

payment of benefits, the company sends a cancellation, thus creating a credit, without any form of alert being sent for the recovery of undue payments. The new control system and monitoring is based on automated measures taking account of the specific characteristics of the individual case:

- 1) The deployment of a procedural system which permits regularisation only after the online transmission of all relevant supporting documents (e.g. copy of the *Libro Unico del Lavoro* (employee logbook) and a copy of the employment contract concluded with the employee), in order to prevent statements of account for workers from being updated without a reply from the Institute.
- 2) Introduction of a procedural system designed to intercept contribution statements concerning potentially time-barred periods, preventing the update of the individual position of workers: updating of the statement of account can only be made after the INPS recognises the applicability of necessary acts interrupting the time bar.
- 3) A procedural system is being deployed to refer each contribution statement to the INPS for specific substantive review, based on a simulated calculation to attribute the contributions required to meet the requirement for NASPI: the statement will be updated only after that control.
- 4) Ex post controls: given that *UniEmens* regularisation may also refer to reductions or eliminations of taxable contributions previously reported, and that such contributions may have led to payment of benefits, a procedural system is being finalised which examines the impact of such regularisation as regards the right to, or the measurement of, income support benefits already paid, in order to initiate the recovery of undue payments.

Furthermore, given that the social insurance relationship is a three-party relationship involving the employee/insured person, the employer and the social security institution/insurer, or a two-party relationship in case of self-employment, and that, under the current system, changes made by the enterprise and sent to the Institute are not communicated directly to the person concerned, it was considered necessary, given the changes reducing taxable contributions, to inform the worker of the effect that such a change has on their insurance account. This will result in greater transparency and potential indirect control on the part of the employee/self-employed/insured person as a party to the social insurance relationship. These features will be present in the next version.

Lastly, the Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ*) of **Poland** reported that in relation to prevent both fraud and error in cases determined under the Regulations, the central register of issued PDs A1 has been launched in the year 2016.

(c) Specific cooperation and concrete data exchange

In order to prevent fraud and error in the field of applicable legislation, a close link has been made between the central offices and the district offices of **Cyprus** and an exchange of information on registration of new employers with employees in other Member States has been set up.

Romania reported that the Directorate for International Relations within the National House of Public Pensions (*Casa Nationala de Pensii Publici, CNPP*), as the competent institution, continued the collaboration with similar institutions from other Member States in order to combat undeclared work, through the exchange of relevant

information (e.g. with Belgium, Germany, France, the Netherlands), as well as with the Romanian National Tax Administration Agency, within the Ministry of Public Finance and with the Labour Inspection/Territorial Labour Inspectorates, through the exchange of concrete information/annual databases, in order to verify the compliance by the Romanian companies which provide temporary personnel on the territory of other Member States with the conditions imposed by the relevant European legislation. These steps led to uniformity of applying the provisions of European Regulations and a faster solving of the beneficiaries' request.

(d) Other specific steps

Hungary specifically reported that in order to prevent fraud and error in the field of applicable legislation, the NIHIF was involved in the legislative work related to changes in national legislation concerning the issuance of A1 certificates (applicable from 1 January 2017, to strengthen rules for avoiding replacement of posted workers and for examining the substantial activity of the sending company).

2.1.2.2. Old-age and survivor's benefits

(a) Specific controlling and monitoring actions

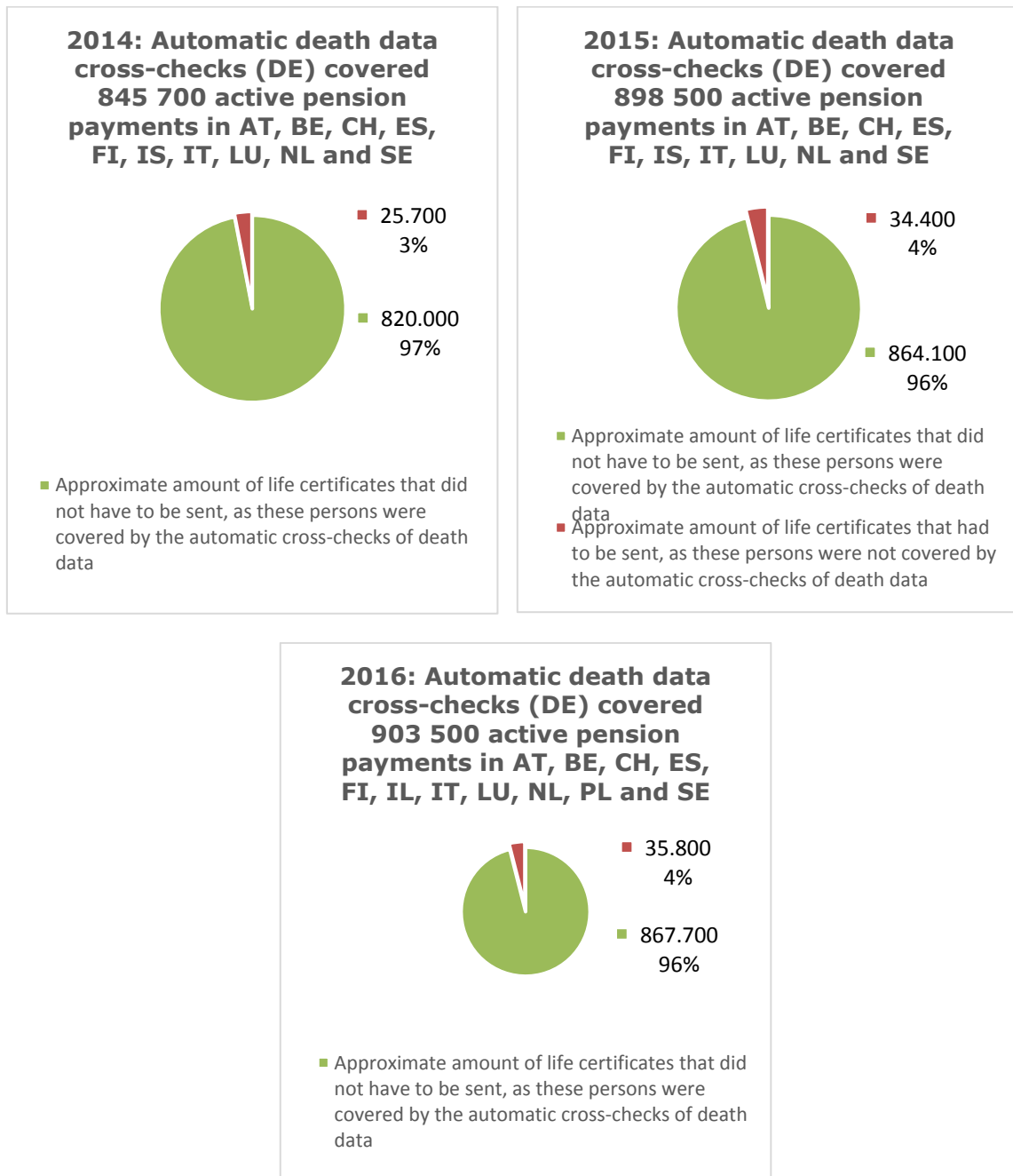
Concerning old-age and survivor's benefits, an extensive part of the reported steps taken to prevent fraud and error relates to specific controlling and monitoring actions.

In 2016, a lot of Member States continued the practice of requiring an annual life certificate from recipients of old-age or survivor's benefits living in another (Member) State in order to verify whether these persons are still alive and thus entitled to those benefits. (**AT, CH, CY, DE, DK, LT, MT, NO, PL, RO, SK**). **Romania** reported that on top of such a life certificate, also a declaration of honour, provided for in the internal implementation of instructions of European regulations provisions, has to be filled in and returned to the territorial pension houses, in order to prevent the creation of different pension dossiers relating to the same beneficiary. In the **Czech Republic**, where it is currently necessary to submit a life certificate as often as the benefit shall be paid, a debate to amend the relevant national legislation was started in 2016. According to this amendment it should be possible to submit a life certificate only once a year if the social security institutions agreed on the electronic exchange of necessary information to verify whether the entitled person living abroad is still alive.

During 2016, the **Suisse** Central Compensation Office (*Centrale de Compensation – CdC - CCO*) performed different kinds of control procedures in order to verify the life status and civil status of pensioners and their family members residing abroad who are receiving benefits. The standard control procedure involved sending a standard letter with a barcode and reply envelope (CERVIE) inviting some 700,000 pensioners to certify their life status with a qualified authority. If there was no reaction within 90 days, the payment of benefits was immediately suspended until the case had been clarified. One-off controls were also carried out on pre-determined 'risk groups' (such as old-age and survivor's insurance (OASI) pensioners over the age of 100) or at random (e.g. risk mitigation along the lines of the internal control system). The assistance of foreign insurance systems and of representatives of the DFAE in the countries concerned was thus required for this purpose. Among the usable results of the different checks carried out during the reference year, ordinary checks on life certificates uncovered attempts to defraud the OASI in Spain (approx. CHF 90,000 misappropriated), Italy (approx. CHF 70,000 misappropriated), in the USA (approx. CHF 25,000 misappropriated) and in Malaysia (attempts thwarted), which gave rise to the start of legal proceedings involving the authorities and financial partners.

Extraordinary controls on Swiss nationals resident abroad and over the age of 100 uncovered one act of fraud in Argentina (approx. CHF 100,000 misappropriated) while a one-off check of 338 beneficiaries born before 1916 resulted in investigations which, in two cases, led to criminal charges being brought. Lastly, a random check involving 7,791 life certificates uncovered only 39 instances of non-compliance. To conclude, it can be noted that the Anti-Fraud Department of the DI (OAIE) reduced or stopped 27 pensions (source: 7 checklists, 14 complaints and 6 doubtful cases). This saved the insurance fund 6.2 million in pension costs.

Germany combines the life certificate method with automated cross-checking of registered deaths. The German pensions authority (*Deutsche Rentenversicherung*) has given the pensions service of *Deutsche Post AG* the task of carrying out regular automated cross-checking of registered deaths with various EU Member States and third countries.



In **Italy**, it is up to the provider of payment services to verify whether pensioners residing abroad are still alive. The current service provider is Citibank, NA. Under the contract governing the service, the bank, in fulfilment of the obligation to ensure the regularity of payments, is required to verify that the pensioner is still alive when the first pension payment is made and, annually, to conduct a general verification that all pension recipients are still alive.

The general verification is based on:

1. a request from the bank for confirmation from a 'credible witness', i.e. from a member of staff of a diplomatic representation of Italy or a public authority of the country of residence of pensioners to verify that they are still alive (for pensioners admitted to nursing or retirement homes the confirmation may be issued by the person responsible for the structure, for prisoners by the director of the prison, for persons who are house-bound due to health problems by the patient's doctor). The original copy of this certificate must be sent to Citibank by post, or electronically via a specially designed web portal where:
 - a) officials of diplomatic representations of Italy and representatives of workers' social assistance bodies that in some countries, including the UK, also have the status of a civil servant can prove that a person is alive using the online platform made available by Citibank;
 - b) operators authorised by workers' social assistance bodies may upload electronic copies of the forms or confirmations that a person is alive and supporting documents, duly completed and signed, as appropriate, directly to the Citibank IT system, avoiding sending them by post.
2. the payment of one or more pension instalments via a local operator ('support partner'), for personal collection by the pensioner: the payment is usually made via a Western Union outlet.

The various confirmation systems are used in conjunction with each other so as to limit the inconvenience for pensioners and guarantee the effectiveness of the procedure. In order to avoid uncertainty about how to provide proof of life, pensioners are sent a letter which clearly sets out in detail what they need to do and the authorities to contact.

This verification system has made it possible to limit, to a certain extent, the risk of payments being made to parties other than the proper beneficiary: the payment of 52,318 pensions abroad in the last five years has been suspended. In 2016 the payment of 10,227 pensions abroad of an average of € 405 was suspended, amounting to estimated savings worth € 2,070,968. However, this form of verification is restricted by the fact that this control is only carried out once a year. For this reason, the *Istituto Nazionale della Previdenza Sociale (INPS)* is always seeking additional control tools.

Also in **Italy**, the Ministry of Foreign Affairs has been implementing a procedure for the transmission of information about the death of pensioners residing abroad since the end of 2012. Pending the development of IT applications allowing the transmission of data in real time, all death notices regarding pensioners registered by consulates abroad are being collected on a two-monthly basis. This allowed the INPS to remove around 2,800 pensions from the books in 2016 on the grounds of the death of the recipient. Furthermore, a specific agreement has been concluded between the *Istituto Nazionale della Previdenza Sociale (INPS, National Institute of Social Security, NISS)* and the Ministry of the Interior to regulate the former's real-time access – by way of a system of application integration – to information in the national population registers.

Also further initiatives based on partnerships with public institutions and workers' social assistance bodies have been developed in order to facilitate the acquisition of information on deaths by the *INPS*.

In addition to procedures in order to verify whether a beneficiary residing abroad is still alive, Member States also reported on control systems with other objectives.

Denmark reported that random checks of old-age pensioners and early retirement pensioners living in two Member States in 2016. They were asked to document residence, marital status and income by providing their annual tax return of 2015 from their respective tax authority. The inspection is still ongoing, so conclusions are expected later this year. A significant step in the prevention of errors was achieved when a new procedure was implemented by law in *Udbetaling Danmark* back in 2015 within the areas of old-age pension and anticipatory pension. With this legislative change, the procedure of adjusting pension rates to match the level of income for the beneficiary was restructured from a yearly check-up to an automatic monthly check-up on the basis of the Danish National Income Registry (eIndkomst). Thus, the pension rates are adjusted automatically each month rather than yearly to the advantage of both the claimants as well as *Udbetaling Danmark*. With this procedure, the built-up of large amounts due for recovery is to a significant extent avoided. It should be emphasised that the cases of recovery in this respect are not to be understood as an evidence of fraud, but rather illustrate errors made by the claimants who may not have been aware of their obligations to inform about changes in circumstances on a continuous basis. With the new procedure, the rates are adjusted automatically on a monthly basis, hence eliminating a significant source of error. However, the new procedure also results in cases of fraud being detected at an earlier stage.

The **Czech Republic** stated that for the purpose of checking facts or data which have impact on the entitlement to benefits and continuation of payments, central databases of the Ministry of the Interior are used.

In order to prevent fraud and error, the CANPI of **Hungary** relies on its special decision-making procedure. It is a double decision-making procedure (on separate clerk and revision levels) which is complemented – when necessary – with additional (supervisor and leader) levels. This multiple level system in most cases is sufficient to filter false statements, also to avoid fraud and error.

In order to prevent fraud and error, in 2016 the Social Insurance Agency (SIA) of **Slovakia** checked the legitimacy of pension proceedings. Based on the results of the checks, shortcomings were resolved and consequences followed against case handlers in charge. Aiming at the prevention of fraud and error, the international pension agenda is secured by two civil servants (the case handler and the senior case handler who checks and approves the correctness of actions), the pension amount is determined by automated equipment which has various built-in control mechanisms and the transfer of foreign pensions is computerised (payment orders are created and checked monthly after verifying the correctness of the details about the bank account holder abroad and after verifying SWIFT and BIC codes). Pensions in cash are remitted via cheques of the Deutsche Bank, of which the validity is unlimited, and they are paid only to authorised persons.

Lastly, in order to prevent fraud and error, in the field of competencies of the Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ*) of **Poland** identified cases of error or fraud were analysed to avoid them in the future, but no figures with breakdown into cases of fraud and error are available for the year 2016.

(b) Specific cooperation and concrete data exchange

In the field of old-age and survivor's benefits, also specific steps regarding cooperation and data exchange in order to prevent fraud and error were taken by different Member States.

Concerning cooperation, several Member States reported on requests of verification sent to the competent institutions of other Member States (**CY**).

Some Member States concluded agreements on the exchange of data on deaths (and in some cases on pension amounts) with other Member States (**AT, IT, PL**). The *Istituto Nazionale della Previdenza Sociale (INPS, National Institute of Social Security, NISS)* of **Italy** has concluded agreements with the social security institutions of Austria, Germany and Switzerland, and currently regularly exchanges data electronically through the mutual transmission of requests and responses. Agreements with Great Britain and the Netherlands have already been signed and preliminary tests for the exchange of data are currently underway. The *INPS* is also conducting negotiations with institutions in various countries such as France, Luxembourg and Poland with a view to concluding similar agreements. The aim of these technical and procedural agreements is for the institutions involved to endeavour to harmonise their files relating to common clients and, in order to avoid undue benefit payments due to the possible death of recipients, to exchange the personal data of recipients in order to compare and harmonise the data on deaths available in their archives and take the necessary action. Through exchanges of information with other EU countries, it was possible in 2016 to discontinue some 878 pensions paid to persons resident in Germany on the grounds of the death of the recipient, and around 858 pensions paid to persons resident in Switzerland.

The Netherlands reported that the Social Insurance Bank (*Socialeverzekeringsbank – SVB*) gives high priority to creating electronic data exchanges with regard to deaths of its clients in other countries, since this kind of data exchange prevents fraud and error and also reduces the administrative burden on clients to supply annual life certificates. In their view, the process of creating electronic data exchanges is advancing slowly.

Poland stated that in 2016, the Agricultural Social Insurance Fund (*KRUS*) continued its work related to making an agreement with the German institution *Deutsche Post AG Renten Service*, on obtaining data from this institution on deaths of old-age and disability pensioners of *KRUS* residing in Germany. Currently, works aimed at making this agreement are being completed. Since 2014 *KRUS* has been using the European Online Information System of German Old-Age and Disability Insurance (EOA), which makes it possible to verify the correctness of payment. Moreover, it is also applied to conduct audits in order to check the correctness of granting the already paid old-age and disability benefits, verify beneficiaries' address details, check life and residence of beneficiaries residing in Germany and obtain information on persons registered in the German system who are at the same time subject to farmers' social insurance. Thus, it is possible to avoid overpayment of farmers' old-age and disability benefits. The Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ*) also continued the exchange with Sweden, signed an

agreement with the UK and started the exchange with Croatia and the UK. Works are ongoing to conclude agreements with the Netherlands, Denmark, Spain and Italy and initial talks were undertaken with other countries.

Portugal mentioned that their Institute of Social Security is conducting a study on the possibility of electronic data exchange to prevent undue payments of benefits, following contacts with other Member States (**DE**, **FR** and **LU**). Lastly, **Romania** explicitly stated that it did not conclude agreements and arrangements with other Member States for the purpose of communicating information related to the death of pensioners.

In addition, agreements concerning the exchange of data on deaths, **Italy** reported that for many years, the *Istituto Nazionale della Previdenza Sociale (INPS, National Institute of Social Security, NISS)* has been managing pension claims based on the accumulation of periods abroad by means of an application known as *Stazione di lavoro CI (CI Workstation)*. The new version of this application allows for more efficient information exchanges between the various applications and archives of the Institute, leads to a reduction in data entry activity, historical processing of information and a significant reduction in the use of paper communication between offices, enhancing the transparency, security and traceability of work processes. In order to make the examination of forms received from foreign States or other actors more traceable, a procedure has been developed which allows for the monitoring of operational activities with respect to flows of international exchanges of information in the sector of pensions and income support benefits, known as *MOFE (Monitoring of Forms from Abroad)*, via the computerised registration and scanning of documents. The procedural and administrative analyses of the implementation of the procedure were launched in 2016. In particular, of the possibility is provided for to perform data matching of personal data of applicants for income support benefits, including family members of the household for the relevant benefits, with the information in the INPS population register (ARCA). The project, which is currently being developed, will make it possible to establish whether an applicant for these benefits is insured at the INPS and to check their correct address and family members in order to recognise their legitimate right to receive those benefits.

Lastly, **Poland** reported direct meetings with the representatives of liaison institutions from other EU/EFTA Member States to exchange information concerning changes in national legislation or institutional structure, contact details of persons indicated in each institution for the purpose of direct contact in questionable cases, as well as to resolve legal or procedural (bilateral) issues.

2.1.2.3. Healthcare and sickness benefits in kind

(a) Specific information dissemination

Also in the area of healthcare and sickness benefits in kind, a number of Member States (**CH**, **DE**, **ES**, **LT**) took steps concerning information dissemination in order to prevent fraud and error.

The first part of these steps consists of training the staff of health insurance institutions and other parties involved (**CH**, **DE**). In **Germany**, the information provided to healthcare providers on the DVKA's website and elsewhere has also been expanded.

Other reported steps relate to information dissemination towards the citizens. In **Germany**, information sheets for those seeking treatment in Germany are available on the internet, free of charge, in the most widely used languages. In order to prevent cases of the inappropriate use of the EHIC, the National Health Insurance Fund (NHIF)

of **Lithuania** informs its citizens about the sanctions related to such inappropriate use. In **Spain**, to prevent fraud in cases determined under the Regulations, citizens are still informed about the use of the EHIC through information campaigns on the EHIC, which were disseminated and updated via the Spanish social security website (www.seg-social.es) and through information sheets issued to insured parties alongside the EHIC. Spain has observed an increase in the number of insured persons who, after a change to their personal or employment situation, are seeking information on the continued validity of the EHIC obtained before the change to their circumstances to avoid any potential economic liability for undue use of the EHIC. They have also noted greater autonomy on the part of the Spanish institutions in terms of management and processing of healthcare under EU regulations, resulting from the dissemination of updated information in this regard.

(b) Specific controlling and monitoring actions

Various Member States (**BE, CH, EE, HU, MT, NL, PL**) reported specific controlling and monitoring actions to prevent fraud and error in the field of healthcare and sickness benefits in kind.

The data of electronically transmitted invoices from the healthcare providers are for example automatically, electronically checked (CH, EE). **Estonia** thereby emphasised that while implementing Regulation (EC) No 883/2004 the insured person's personal data is processed in accordance with the Data Protection Act. There are certain restrictions to accessing and processing a person's personal data in the EHIF. Only specialists who are engaged in dealing with e-forms and implementing Regulation (EC) No 883/2004 have access to the information and not even all of them have the same data available, only the part they need for their work.

Another example can be found in **Malta**, where the competent (health) institution has increased its payments verification process sample to 100% with the ultimate aim of preventing fraud and error. The increase in the payments verification process, from a sample based on a 100% verification effectively meant a substantial increase in the payment process; such a procedure promoted better management and led to bilateral agreement of queried claims.

A last example can be found in **Belgium**, where Belgian sickness funds are responsible for preventive actions, like annual questionnaires on the changes in the situation of persons that can have an impact on social benefits.

Some Member States (**DE, MT, SK**) mentioned that in cases of difficulties, an improved cooperation with institutions and other parties involved of other Member States led to the prevention of fraud and/or error.

(c) Specific preventive measures

Lastly, Member States (**CH, EE, LT**) reported on specific preventive measures in the field of healthcare and sickness benefits in kind.

Switzerland stated that in order to prevent fraud and error, about 90% of their invoices are directly paid to the medical institutions, physicians etc and only 10% to the patient. In addition, payments are never done by cheque or in cash. They pay only – without exceptions – via bank or post accounts.

In order to prevent error, the EHIF of **Estonia** sends its clients a notification via postal address when their health insurance has ended in case they have applied for the EHIC. They can also request an e-mail notification, when their EHIC has expired.

In **Lithuania**, the Minister of Health of the Republic of Lithuania has approved the Sectoral Programme for Prevention of Corruption in the Health System for 2015-2019 by the order of the Minister of Health No V-1433 of 10 December 2015. Seeking to reduce the level of corruption in the health sector it was intended to improve the anticorruption evaluation of the drafts of the legal acts, the publicity of public and administrative services and decision-making, and the publicity of procedures at the healthcare institutions.

The **Czech Republic** stated that no preventive measures were introduced in 2016 since no cases of fraud and/or error were observed in the field of healthcare and sickness benefits in kind.

2.1.2.4. Social and invalidity benefits

Only Hungary and Italy reported on steps taken in order to prevent fraud and/or error in the field of social and invalidity benefits.

In **Hungary**, to prevent fraud, the NORSA maintained its practice of asking information about the benefits paid by other Member States. In case of need for further clarification or verification, the NORSA reaches the competent institution of the other Member State requiring the clarification of the individual and particular situation as well as the verification of any facts and/or events relevant to applying national legislation.

In every single case relevant information was double-checked. Additionally, in the course of the granting procedure, all claimants are informed in writing by the NORSA of the consequences set forth by law, if any information relevant to the award of the benefit – which the claimant is aware of – is not reported to the competent institution. The final decision taken on the claim clearly describes the roles and responsibilities of the beneficiaries in combating and preventing errors, as well as the legal and financial consequences they have to face in case of failing to comply with their obligation of cooperating with the authorities. The NORSA (invalidity benefits) stated that the number of overpaid and undue benefits could be further diminished.

2.1.2.5. Family benefits

In the area of family benefits, to prevent fraud, the CANPI of **Hungary** maintained its enhanced measures to appropriately inform persons concerned about their reporting duties (especially on the actual Member State of residence for minor children, and also on any changes related to the employment status of the person concerned, or that of his or her consort/partner). **Slovakia** reported that its national legislation establishes the reporting obligation on the facts and circumstances that are relevant for payment of family allowances. On the basis of forms and letters from foreign institutions, specific cases are investigated in accordance with the coordination Regulations. Payment of family allowances in case of Member State citizens immigrating to or residing in Slovakia is investigated in EU Member States. In duly justified cases, specific information is verified in cooperation with competent institutions within Member States.

Belgium again reported on the family benefits register, which is a database that allows family benefit funds to systematically receive qualified data from authentic sources. Through permanent cross-checking of granting data against new qualified data, family benefit funds can update their files and make the necessary changes, which allows potential social security fraud to be prevented. In addition, the family benefits register automatically rejects any double payments in respect of the same child for the same period, which allows potential social security fraud to be prevented.

Germany stated that in order to prevent fraud and error in the family benefits sector, it organised bilateral meetings with the liaison bodies of Austria, Poland, Switzerland and the United Kingdom; informed all child benefits institutions about the new SED forms version 3.2; and organised a meeting with clerks working on cross-border cases in order to exchange experiences.

The **Czech Republic** stated that they did not discover any case of fraud and/or error in the field of family benefits.

2.1.2.6. *Unemployment benefits*

In the field of unemployment benefits, only a couple of Member States (**CY, DK, PT**) reported steps taken to prevent fraud and error.

Regarding controlling and monitoring actions, **Cyprus** mentioned that all unemployed persons are required to register both with the Public Employment Services and the Social Insurance Services in person on average every 6 weeks. However, random checks are made whereby the persons are contacted over the phone to go and register the same day. If it is discovered that unemployed persons have been abroad between registrations (without being eligible or having requested the export of unemployment benefits) the benefit is terminated.

To prevent error, the IEFP (Institute of Employment and Vocational Training) of **Portugal**:

- performs quality checks, with an annual periodicity, of the registered information in the IEFP relating to the unemployed person in another Member State (export of unemployment benefits) who are seeking employment in Portugal. These quality checks have raised the awareness of IEFP staff and improved the quality of registrations.
- organised trainings of the IEFP staff on European Coordination of Social Security Systems, more specifically mobility and unemployment benefits (including exporting of unemployment benefits: registrations, information to the unemployed, documents and exchange of information between the IEFP and the competent institution in the other Member State). The impact assessment of these trainings has not yet been carried out, since the training took place between September and October 2016.

To prevent fraud, the Danish Parliament (**DK**) adopted a new Unemployment Benefit Reform. The purpose of the unemployment benefit reform is to establish a modern unemployment benefit system which enhances both mobility and security of the Danish labour market for the benefit of both employees and employers. Furthermore, increased digitisation will reduce administrative burden and red tape. The three main objectives of the unemployment benefit reform are to increase flexibility in the unemployment benefits, to improve security for the individually insured unemployed person and to modernise and update the unemployment benefit system so as to make it simpler, more transparent and easier to administer.

The administration of the unemployment benefit system will as far as possible be carried out digitally, register-based and automatically. A basis for reporting the results of the control efforts is planned to be established. As part of the reform, unemployment benefits are no longer calculated and paid out on a weekly basis upon hours without work. Instead the benefit is paid out on a monthly basis, and payment must be made digitally. This allows for a digitally, register-based and automatic control where member information about work hours are compared with real-time employer information (in the National Income Registry – eIndkomst). The check will be carried out on a monthly basis and any erroneous payment will be corrected the following month. Furthermore, the digitalisation allows for developing further control and reporting systems. This development will take place during 2017/2018. The first phase of the unemployment benefit reform entered into force in January 2017 and the second phase in July 2017.

In order to confirm continuous availability, all jobseekers must register for employment every 7 days at the Public Employment Service (PES), record information about jobseeking in an electronic solution, and during the time of unemployment regularly attend personal interviews at the PES. Insured unemployed persons must record information about jobseeking in an electronic solution and during the interview account for their jobseeking and other activities to get a job in the intermediate period. In 2016 a new digital solution was introduced to ensure transparency in jobseeking and increase digital control. The new solution will be rolled out during 2017/2018.

As of 2016 Denmark has also stepped up the control of jobseekers' availability when exporting unemployment benefits within the EU by making use of SED U012 asking for mandatory monthly follow-up reports. This is in line with the latest proposal concerning Regulation (EC) No 883/2004 to strengthen the control procedure when exporting unemployment benefits.

Lastly, the **Czech Republic** stated that no special steps in order to prevent fraud and/or error were taken in the field of unemployment.

2.1.2.7. Closing remarks

Steps taken to prevent fraud and error	Member States
In general:	
Information dissemination	AT, BG, CZ, DK, ES, FI, LT, NL, PL, UK
Controlling and monitoring actions	AT, FI, IE, IT, NL
Cooperation and data exchange	BE, DK, FI, HR, IE, LT, LV, NL, PL, RO, UK
Documents and e-forms	AT, EE, FI, LT
Other	IT, NL, UK
In the area of:	
Applicable legislation:	
Specific information dissemination	CY, HU, PL
Specific controlling and monitoring actions	IT, MT, PL
Specific cooperation and concrete data exchange	CY, RO
Other	HU
Old-age and survivor's benefits:	
Specific controlling and monitoring actions	AT, CH, CY, CZ, DE, DK, HU, IT, LT, NO, PL, RO, SK
Specific cooperation and concrete data exchange	AT, CY, IT, PL, PT
Healthcare and sickness benefits in kind:	
Specific information dissemination	CH, DE, ES, LT
Specific controlling and monitoring actions	BE, CH, DE, EE, HU, MT, NL, PL, SK
Specific preventive measures	CH, EE, LT
Social and invalidity benefits	HU, IT
Family benefits	BE, CZ, DE, HU, SK
Unemployment benefits:	CY, DK, PT

Member States who replied to Q 1.2	Member States who refrained from replying to Q 1.2
AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, HU, IE, IS, IT, LT, LV, MT, NL, NO, PL, PT, RO, SK, UK	EL, HR, LI, LU
Member States who replied to Q 1.3	Member States who refrained from replying to Q 1.3
AT, BE, BG, CH, CZ, DE, DK, EE, ES, FI, HU, IE, IS, IT, LT, LV, MT, NL, NO, PL, PT, RO, SK, UK	CY, EL, HR, LI, LU

2.2. Steps taken to combat fraud and error and the effect of those steps

Not only did the Member States take various steps towards preventing fraud and error (cf. supra), they also took several measures with the aim of combating them. Again, a distinction can be made between general steps and specific steps in particular branches of social security. A summary table of these general and specific steps can be found at the end of this section (p. 50).

2.2.1. General steps taken to combat fraud and error

Regarding the general steps taken to combat fraud and error by the Member States, a difference can be made between general steps regarding controlling and monitoring actions, general steps regarding cooperation and data exchange, general steps regarding the recovery of unduly paid benefits and other general steps.

2.2.1.1. General steps regarding controlling and monitoring actions

One category of general steps taken to combat fraud and error relates to controlling and monitoring actions. With the aim of combating fraud and/or error, Member States reported on regular checks and monitoring actions (**AT, DK**), as well as investigations in individual cases (**AT, PL, RO**). Related to the foregoing, the Central Compensation Office (*Centrale de Compensation – CdC - CCO*) of **Switzerland** implemented an administrative procedure for handling doubtful cases detected by or reported to them. Mentioning the reporting of fraud and error towards competent institutions, in 2016, a couple of Member States (**BG, CH**) refined their reporting tools for fraud and error. Like previous years, in 2016, **Belgium** implemented a new strategic and operational plan in order to tackle contribution fraud, social security benefit fraud and illegal employment.

Denmark reported on two specific steps taken in 2016 to combat fraud and error. Firstly, the Data Mining Unit together with the Control Unit in *Udbetaling Danmark* developed a new initiative in relation to housing benefits. Based on the Danish National Income Registry the initiative identified beneficiaries having a zero household income in a period of at least six months. In some cases, this pattern is due to the beneficiary having an unregistered income. In other cases, the reason is that another person lives unregistered on the address concerned, thus contributing to the household income. Both scenarios can lead to incorrect payments. Well over a hundred cases were identified for further examination by the initiative, resulting in end of payment and claim of recovery in 1 out of 5 cases.

Secondly, the Data Mining Unit focused on setting up an environment enabling the application of Machine Learning and Predictive Analysis in the effort against social fraud. Five Data Scientists are now employed in the Data Mining Unit, several new data sources are underway and the IT infrastructure is being upgraded to support Machine Learning tools (Python and R programming languages). Based on this effort, the Data Mining Unit aims to improve precision (less False Positives) when identifying potentially fraudulent cases and be able to find fraud cases that would otherwise not have been found (new True Positives). The Unit has put together a 2017 roadmap for Machine Learning initiatives and expects to be able to assess the effect of these initiatives in 2018.

The **United Kingdom** mentioned that Each UK territory has its own counter-fraud organisations or teams that investigate fraud and error in healthcare. Their role is to prevent, deter and detect any potential fraudulent activity by overseas visitors. The main counter-fraud bodies are the NHS Protect in England; the Criminal Intelligence Unit in Gibraltar; the Counter Fraud Services in Scotland; the Local Counter Fraud Specialists in Wales; and the Counter Fraud and Probity Services team in Northern Ireland.

As mentioned above, in accordance with Article 2 of the Belgian Social Criminal Code, **Belgium** draws up a strategic plan each year and sends this to the Council of Ministers before 30 April. The plan relates mainly to the approach used to tackle contribution fraud, social security benefit fraud and illegal employment. Following the approval of the Council of Ministers, an operational plan is drawn up by 15 September. This plan comprises two sections: one on the evasion of social security contributions and one on social security benefit fraud. Both sections establish the actions to be taken, IT projects to be developed, resources to be implemented, objectives to be reached according to measurable indicators and budgetary income to be generated by missions of the *Bureau fédéral d'orientation* (Federal Orientation Office). The action plan for the reference year 2016 did not attempt to monitor all sectors but rather aimed to combat social security fraud using a targeted approach. The strategic plan, therefore, included a schedule of risk-based checks. To this end, specialised services were called upon. Social dumping and cross-border social security fraud are the biggest challenges faced by social security inspectorates.

As regards the fight against social dumping, the objective set by the Belgian government was to put an end to fraudulent postings. Data mining and data matching techniques (especially in Limosa but also in other databases) were therefore stepped up. This involved making a selection on the basis of a risk assessment with scenarios developed and tested by multidisciplinary teams. Feedback from these activities was managed in a structured manner so that data mining activities could be refined in an iterative process.

The Action Plan included the following actions:

- optimising the use of databases and extending existing databases (extension of the Limosa⁹ register (work permits); increased cross-checking in certain sectors (fiscal and social); record of presence on building sites; increased cooperation between inspection bodies and fiscal services);
- defining targets using data mining and feedback of results;
- strengthening front-office and back-office checks;
- developing a mix of strategies to target dumping via the Committee on combating social dumping;

Checks have prioritised the following types of fraud:

- false status declarations (where posted workers are posted under a self-employed status, whereas in reality they work for an employer; this is a very frequent practice in the construction, food and IT industries);
- the posting of workers holding A1 forms where not even a single posting condition is fulfilled;
- posting 'arrangements' where the fraudulent posting is carried out through undertakings and subsidiaries of undertakings established in different European countries;
- firms that 'specialise' in posting workers (e.g. a temporary employment agency located in Country 1 which hires workers from Country 2 and immediately posts them to Belgium; temporary employment agencies established in Country X which hire pilots who provide their services in other Member States); full priority is given to the provision of staff via unauthorised temporary employment agencies (at dumping rates);
- workers who are constantly posted via undertakings (umbrella undertakings that temporarily hire self-employed workers for the duration of a specific mission for a third party) which act as intermediaries between the user undertaking in the host country and the 'posting' undertaking (the undertaking that posted the worker);
- posted workers in Belgium where working conditions are not respected in terms of minimum wage, working hours and rest periods;

⁹ Limosa is the Belgian etool implemented for the declaration of cross-border activities in Belgium (please visit https://www.international.socialsecurity.be/working_in_belgium/en/home.html for more information). The Limosa declaration for cross-border services provided by foreign self-employed service providers in Belgium was the subject of a case before the Court of Justice (Judgment of 19 December 2012, European Commission v Kingdom of Belgium, C-577/10, EU:C:2012:814) after which the system was revised. Subsequently, the Limosa system for posted workers was also brought before the Court of Justice, which ruled the system to be in accordance to the Acquis Communautaire since such a system "is capable of being justified as safeguarding an overriding ground of public interest, such as the protection of workers or the combating of social security fraud" (Judgement of 3 December 2014, De Clercq and Others, C-315/13, EU:C:2014:2408). Since 2014, notification systems such as Limosa are mentioned in Article 1, a) of the Enforcement Directive (Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation'), OJ L 159, 28.5.2014). In the meantime, the vast majority of Member States have some sort of notification system in place.

- carousel posting arrangements set up by foreign undertakings.

In addition, checks were stepped up in certain sectors:

- continuation of checks in the meat, international transport and construction sectors;
- checks in new sectors such as the steel construction, industrial maintenance and industrial cleaning;
- construction sector;
- umbrella companies.

In the area of social security benefits, the government planned various measures for 2016:

- In the area of healthcare, it has decided to focus on:
 - fraud concerning disability allowance and allowance for hospitalisation abroad;
 - the fight against bogus services;
 - implementation of the Anti-Fraud Commission's action plan;
 - identity fraud committed by patients.
- In the area of unemployment: it has prioritised domicile fraud (lying about your registered address to obtain higher benefits) committed by beneficiaries of unemployment benefits.
- In the area of applicable legislation: concerning the scheme applicable to self-employed workers, the government has prioritised the fight against fictitious self-employed workers.

Lastly, Belgium mentioned the social security inspectorates reform, adopted by the government on 10 November 2016, but only operational as of 2017.

2.2.1.2. General steps regarding cooperation and data exchange

The improvement of cooperation and data exchange regarding cases of fraud and error can also be seen as a general step taken to combat fraud and error.

On the international level, Member States reported on contacts with foreign liaison bodies or the National Contact Point (NCP) of another Member State with the aim of detecting cases of fraud or finding solutions in the case of errors (**AT, BG, ES, FI, IE, LV**). Some of these contacts took place in implementation of (bilateral cooperation) agreements, others were not regulated by an agreement. **Ireland's** NCP mentioned that during 2016 the European Platform to combat cross-border social security fraud and error proved to be an extremely useful tool for sharing information on practices, procedures and experiences of Member States in the area of fraud and error. Not only did the Platform assist in acting as the point of entry for incoming enquiries from other NCPs concerning fraud and error, it also enabled countries to report systematic difficulties that are causing delays and errors.

In the context of finding solutions, **Austria** reported that it conducted dialogue procedures in 2016. **Finland** stated that numerous cases were solved by negotiating with the other Member States' institutions and the cases were closed with an Article 16 agreement. This has secured the social security for the persons concerned for the retroactive periods.

Belgium reported that with a view to a better use of the existing European conciliation procedure concerning disputes about PDs A1, the Social Security Federal Public Service has developed Osiris, a monitoring and reporting application used to monitor all files processed by inspection bodies/institutions and to report to the Social Research and Information Service (Service d'Information et de Recherche Sociale – SIRS: a special service reporting directly to the Ministers of Work, Social Affairs and Justice, the Minister competent for self-employed workers and the Secretary of State responsible for coordinating the fight against fraud), in the form of an electronic platform, and to political bodies. Using the data provided by this platform, the government can discuss specific cases and difficulties (cooperation etc) at both bilateral and European level. The Belgian government promoted the conclusion of bilateral cooperation agreements with new Member States in 2016 (Romania, Bulgaria and Portugal). Belgium also reported to be an active member of the Benelux organisation, working to ensure that the Benelux recommendation of 23 September 2015 on the fight against social dumping is implemented. Furthermore, in an effort to combat cross-border social dumping, the government is planning to carry out joint checks and improve structural cooperation between the inspectorates of certain countries in order to step up the fight against cross-border social security fraud

Malta was the only Member State reporting on general intra-national cooperation and data exchange with the aim of combating fraud and error. Its IT infrastructure in the social security field is interconnected with that of other entities, such as the Public Employment Service and the Inland Revenue Department. This feature enables the verification of the actual registration of the employment activity as well as the payment of the relative contributions.

2.2.1.3. General steps regarding the recovery of unduly paid benefits and other sanctions

A filling part of the reported general steps taken to combat fraud and error concerns the recovery of unduly paid benefits and/or other sanctions taken in cases of fraud and/or error.

To remove negative consequences of cases of fraud or error, in addition to the recovery of unduly paid benefits (ES, LV, NL, PL, RO) and/or the application of fines or correction or withdrawal of the benefit (NL), prosecution authorities are notified about the possibility of the commitment of a crime in which cases persons concerned can be subject to criminal prosecution (CH, FI, NL, PL, RO). In supervising the earnings-related pension insurance in **Finland** many cases have been taken to the appeal courts in order to have precedents. Many of these cases concern A1 certificates. The Central Compensation Office (*Centrale de Compensation - CdC - CCO*) of **Switzerland** reported that in 2016 the procedures used to follow up criminal cases were optimised.

2.2.1.4. Other general steps taken to combat fraud and error

The **United Kingdom** reported that they continuously perform a review of practices, monitoring and evaluate outcomes to enhance and develop pre-emptive and re-active processes. In this regard, also **Poland** mentioned that in 2016 their Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS*

DRZ) monitored the effectiveness of the steps taken on a regular basis, that reports were generated monthly or quarterly with regard to different areas (e.g. overpayments), that the compilation of these data, as well as the results of the inspections carried out both by the supervising department or an external body were used to evaluate the work of the territorial offices, to solve problems and to create strategies to avoid them and that analyses of potential risks were drafted in order to combat fraud and error.

2.2.2. Specific steps taken to combat fraud and error

In addition to the foregoing general steps, specific measures were also taken in particular branches of social security.

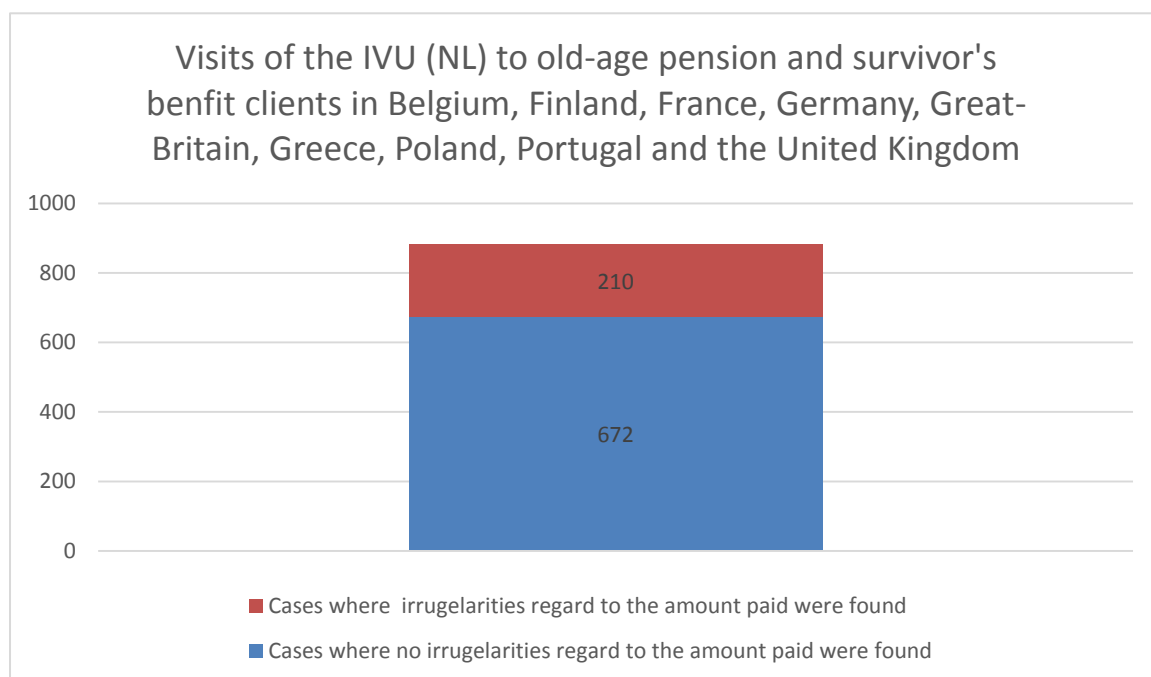
2.2.2.1. Old-age and survivor's benefits

(a) Specific controlling and monitoring actions

In the field of old-age and survivor's benefits, the request to submit life certificates towards beneficiaries was noted by some Member States as a specific controlling measure in order to combat fraud and error. Since the majority of the Member States reported this step under the category of steps taken to prevent fraud and error, the use of life certificates was already discussed in the old-age and survivor's benefits section of the heading of specific steps taken to prevent fraud and error.

Only **Austria** and **the Netherlands** explicitly reported on specific controlling and monitoring actions in the field of old-age and survivor's benefits, by mentioning that suspected cases of fraud regarding old-age and survivor's benefits are examined. For this purpose, the Social Insurance Bank (*Socialeverzekeringsbank – SVB*) of the Netherlands has an Enforcement Department with about 100 fraud investigation officers who visit clients at their home.

The SVB also has an International Verification Unit (IVU). In 2016 the IVU visited 882 old-age pension and survivor's benefit clients in Belgium, Finland, France, Germany, Great Britain, Greece, Poland, Portugal and the United Kingdom. Irregularities with regard to the amount paid were found in 210 cases.



The SVB prepared in 2016 an intensification of its efforts to combat fraud with regard to applicable legislation. The 5 new special fraud officers started their activities in April 2017.

(b) Specific cooperation and concrete data exchange

Some Member States (**DK, ES, NL, PL, SK**) reported on specific forms of cooperation and concrete data exchange in the area of old-age and survivor's benefits.

Udbetaling Danmark (DK) for example exchanges data on deaths of pensioners living abroad with specific EU Member States on a regular basis in order to combat fraud and error. *Udbetaling Danmark* makes ongoing efforts to expand the number of countries with whom data on deceased are exchanged. **Spain** also reported on bilateral data sharing agreements with other Member States to detect cases of fraud involving pensions. **The Netherlands** mentioned that the Social Insurance Bank (*Socialeverzekeringsbank - SVB*) performs intra-national data exchanges with the Municipal Population Registration and the Tax Department. The Pension Insurance Section of Social Insurance Agency (SIA) (**SK**) also in 2016 cooperated with social insurance institutions of other (EEA) Member States and the Swiss Confederation, most intensively with the social insurance institutions of Austria and the Czech Republic. This cooperation concerns notifications of pension amounts, deaths of beneficiaries or changes of residence.

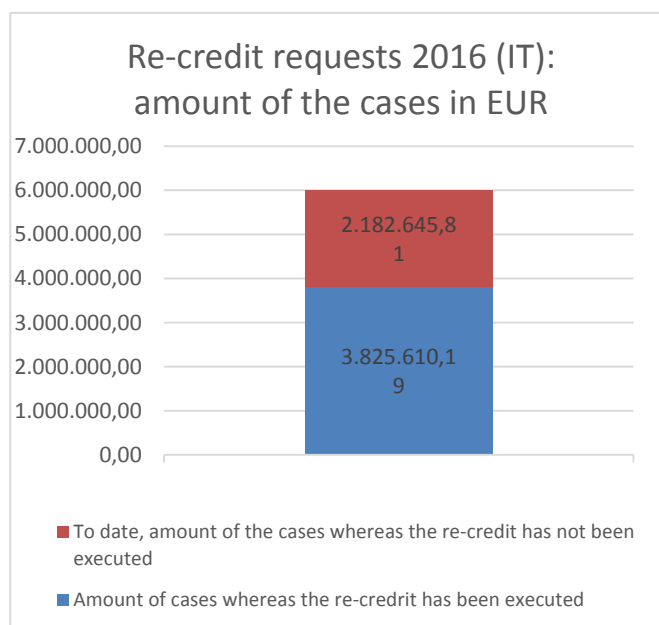
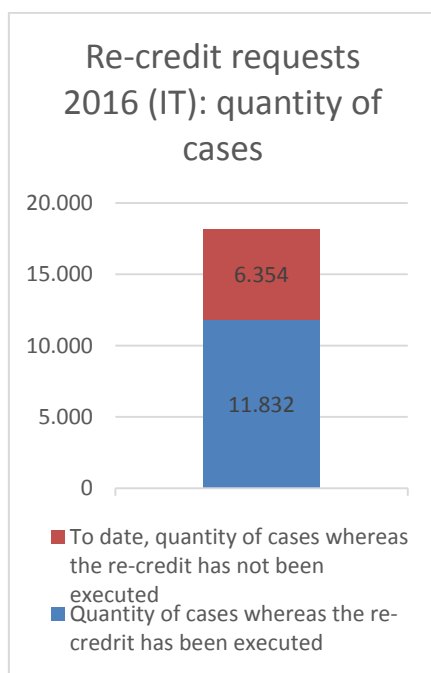
To combat error in cases determined under the Regulations, also in the year 2016 the Agricultural Social Insurance Fund (*KRUS*) of **Poland** used the European Online Information System of German Old-Age and Disability Insurance (EOA, launched in 2014) which makes it possible to verify the correctness of the payment of allowances due based on Article 58 of Regulation (EU) No 883/2004. Moreover, it is also applied to conduct audits in order to check the correctness of granting the already paid old-age and disability benefits, verify beneficiaries' address details, check the life and residence of beneficiaries residing in Germany and obtain information on persons registered in the German system who are at the same time subject to the farmers' social insurance. Thus, it is possible to avoid overpayment of farmers' old-age and disability benefits.

(c) Recovery of unduly paid benefits and other sanctions

A third category of reported steps taken to combat fraud and error in the field of old-age and survivor's benefits is the recovery of unduly paid benefits and other sanctions.

Firstly, several Member States (**AT, CZ, ES, IT, PL**) mentioned the recovery of unduly paid benefits as a specific step to combat fraud and error.

Italy stated that the availability of more channels for gathering information and the systematic checks to establish whether a person is alive have considerably reduced the cases of missing confirmation and, therefore, the number of recovery requests, the number of instalments required for each position and the amounts involved. For the year 2016, there were 18,186 re-credit requests addressed to the paying agencies in all countries for a total amount of € 6,008,256, of which, to date, 6,354 cases, for an amount of € 2,182,645.81, have not been executed:



In all these cases, the local bodies of the Institute launched the procedures for the recovery of any undue amounts and, if appropriate, passed the matter on to the judicial authorities.

For payments abroad, limiting the investigation to instalments not yet recovered, in 2016 a total of 2,904 instalments were paid in Member States of the EU, the EEA or Switzerland even after the beneficiaries had already died, for a total amount of € 1,045,542.52:

RATE NON RIACCREDITATE DA STATI ESTERI - ANNO 2016			
STATO ESTERO UE/SEE	TOTALE RATE	IMPORTO MEDIO PER STATO ESTERO	IMPORTO TOTALE
AUSTRIA	41	€ 580,03	€ 23.781,27
BELGIO	543	€ 310,73	€ 168.729,04
BULGARIA	4	€ 792,55	€ 3.170,19
CIPRO	1	€ 9.121,26	€ 9.121,26
CROAZIA	212	€ 349,88	€ 74.175,27
DANIMARCA	1	€ 131,22	€ 131,22
FRANCIA	725	€ 273,81	€ 198.512,26
GERMANIA	479	€ 318,07	€ 152.354,78
GRECIA	3	€ 616,54	€ 1.849,62
LUSSEMBURGO	8	€ 205,30	€ 1.642,40
MALTA	4	€ 452,50	€ 1.809,99
NORVEGIA	3	€ 83,72	€ 251,16
PAESI BASSI	34	€ 354,50	€ 12.053,03
POLONIA	2	€ 660,47	€ 1.320,94
PORTOGALLO	8	€ 718,31	€ 5.746,49
REGNO UNITO	166	€ 260,92	€ 43.312,62
REPUBBLICA CECA	7	€ 982,61	€ 6.878,24
ROMANIA	27	€ 977,15	€ 26.383,01
SLOVACCHIA	2	€ 1.145,45	€ 2.290,89
SLOVENIA	227	€ 309,33	€ 70.218,40
SPAGNA	104	€ 1.092,69	€ 113.639,80
SVEZIA	16	€ 338,70	€ 5.419,25
SVIZZERA	285	€ 423,34	€ 120.651,74
UNGHERIA	2	€ 1.049,82	€ 2.099,64
TOTALI	2.904	€ 21.549	€ 1.045.542,52

In particular 2,133 instalments were collected post mortem belonging to the group of cases of recovery of one or two instalments (classified as errors), amounting to € 772,059.42. The number of instalments where three or more instalments were collected post mortem (cases classified as fraud) was 771 amounting to € 273.483.10:

STATO ESTERO UE/SEE	RATE NON RIACCREDITATE DA STATI ESTERI - ANNO 2016 CALCOLO SOLO PER I CASI DI <=2 RATE NON RIACCREDITATE			RATE NON RIACCREDITATE DA STATI ESTERI - ANNO 2016 CALCOLO SOLO PER I CASI > 2 RATE NON RIACCREDITATE		
	TOTALE<= 2 RATE	IMPORTO MEDIO PER STATO ESTERO	IMPORTO <= 2 RATE	TOTALE > 2 RATE	IMPORTO MEDIO PER STATO ESTERO	IMPORTO PER > 2 RATE
AUSTRIA	35	€ 580,03	€ 20.301,09	6	€ 580,03	€ 3.480,19
BELGIO	360	€ 310,73	€ 111.864,56	183	€ 310,73	€ 56.864,48
BULGARIA	4	€ 792,55	€ 3.170,19	0	€ 792,55	€ 0,00
CIPRO	1	€ 9.121,26	€ 9.121,26	0	€ 9.121,26	€ 0,00
CROAZIA	110	€ 349,88	€ 38.487,17	102	€ 349,88	€ 35.688,10
DANIMARCA	1	€ 131,22	€ 131,22	0	€ 131,22	€ 0,00
FRANCIA	580	€ 273,81	€ 158.809,81	145	€ 273,81	€ 39.702,45
GERMANIA	394	€ 318,07	€ 125.318,96	85	€ 318,07	€ 27.035,82
GRECIA	3	€ 616,54	€ 1.849,62	0	€ 616,54	€ 0,00
LUSSEMBURGO	8	€ 205,30	€ 1.642,40	0	€ 205,30	€ 0,00
MALTA	1	€ 452,50	€ 452,50	3	€ 452,50	€ 1.357,49
NORVEGIA	0	€ 83,72	€ 0,00	3	€ 83,72	€ 251,16
PAESI BASSI	23	€ 354,50	€ 8.153,52	11	€ 354,50	€ 3.899,51
POLONIA	2	€ 660,47	€ 1.320,94	0	€ 660,47	€ 0,00
PORTOGALLO	5	€ 718,31	€ 3.591,56	3	€ 718,31	€ 2.154,93
REGNO UNITO	122	€ 260,92	€ 31.832,17	44	€ 260,92	€ 11.480,45
REPUBBLICA CECA	7	€ 982,61	€ 6.878,24	0	€ 982,61	€ 0,00
ROMANIA	22	€ 977,15	€ 21.497,27	5	€ 977,15	€ 4.885,74
SLOVACCHIA	2	€ 1.145,45	€ 2.290,89	0	€ 1.145,45	€ 0,00
SLOVENIA	159	€ 309,33	€ 49.183,81	68	€ 309,33	€ 21.034,59
SPAGNA	76	€ 1.092,69	€ 83.044,47	28	€ 1.092,69	€ 30.595,33
SVEZIA	5	€ 338,70	€ 1.693,52	11	€ 338,70	€ 3.725,73
SVIZZERA	211	€ 423,34	€ 89.324,62	74	€ 423,34	€ 31.327,12
UNGHERIA	2	€ 1.049,82	€ 2.099,64	0	€ 1.049,82	€ 0,00
TOTALI	2.133	€ 21.549	€ 772.059,42	771	€ 21.549	€ 273.483,10

Secondly, the suspension of payments of unjustly paid benefits and/or the withdrawal of benefits are mentioned (**CZ**).

Lastly, criminal charges are noted as a possible consequence in circumstances where old-age and survivor's benefits were unduly received (**AT, CZ**). In this regard, the LOB Guarantee Fund of Switzerland stated that to combat fraud there were 173 cases in 2016 in which the LOB Guarantee Fund, pursuant to Article 56(5) LOB, refused to pay benefits worth CHF 1.9 million on grounds of abuse (the CEO is insured under the occupational pension scheme and does not pay the contributions due to the pension fund which produces the effect that the CEO is not paid any benefits). Charges were filed against three employers because they deducted the contributions for the occupational pension scheme from the salaries of their employees but failed to pass them on to the pension fund (Article 76 LOB).

2.2.2.2. Applicable legislation

(a) Specific controlling and monitoring actions

A frequent occurring type of control relating to applicable legislation is the initiating of regular checks of PDs A1, whereby the authenticity of the presented document is verified and posting conditions are being double-checked (**BE, BG, CZ, HU, PT, RO**). Sometimes these checks are performed at the express request of competent institutions of other Member States.

Poland mentioned that the main step taken in the year 2016 by their Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ*) in order to combat both fraud and error in cases determined under the Regulations was launch of a central register of issued PDs A1.

The National Revenue Agency (NRA) of **Bulgaria** reported that the most common types of error, inconsistencies or fraud found during the checks conducted by NRA TD/office for the period 01.01.2016 – 31.12.2016 included:

- filing a request for a certificate without existing grounds for the issuing thereof;
- persons not declaring a change in the circumstances which would give grounds for cancellation or termination of the validity of an issued certificate – particularly with regard to work in two countries where the persons do not want the current determination of the applicable legislation but later, after the expiry of the period;
- the submission of A1 certificates not issued by NRA via the General Labour Inspectorate Executive Agency and the competent institutions of other Member States;
- submitting insurance data about persons for whom an A1 certificate is requested, after a certificate has been issued under the applicable law, being corrected or deregistered by the employer;
- unjustified return of issued A1 certificates due to the fact that the employer has not observed the provision of Article 6a of the Social Insurance Code;
- submitting copies of requests filed to NRA for the issue of an A1 certificate with the number and date to institutions from other Member States to prove particular applicable law for which refusals were issued subsequently.

On 25.01.2016 a campaign was launched in **Bulgaria** for checking the compliance of taxable persons with the applicable legislation in accordance with the rules on the coordination of social security systems of Member States. For a period of six months, 226 taxable persons with a high risk of committing violations of the social insurance legislation were checked, and 25 of the checks were conducted jointly with controlling bodies of the General Labour Inspectorate Executive Agency. Types of committed errors identified in 2016:

- Non-fulfilment of the obligation to notify NRA upon a change of the circumstances in the case of an issued A1 certificate – these are identified cases of errors in which the A1 certificate has been issued but the revenue administration found that the respective employee was not effectively seconded to another Member State or upon return of the seconded person to Bulgaria prior to expiry of the secondment term to another Member State the A1 certificate was not returned within the legally prescribed time limit. In 2016, in 12 cases were such errors found.
- Non-compliance with the obligation for filing the A1 certificate where this is required, i.e. identified cases of error where the administration found that employees were seconded to another Member State for which the employer did not submit a request for an A1 certificate. This type of error was found most commonly when conducting inspections and audits, and in the course of the proceedings the persons took action to submit requests for A1 certificates. In 2016, 1,150 cases of this type of error were found.

As mentioned before, concerning the scheme applicable to self-employed workers, the **Belgian** government has prioritised the fight against fictitious self-employed workers. In 2016, the competent institute (INASTI – National Institute of Social Insurance for Self-employed Persons) continued to combat suspect affiliations carried out with the clear intention of obtaining the right to permanent residence in Belgium. Fictitious affiliations may also result in affiliation with the self-employment scheme, without any real professional activity being practised, with the sole aim of obtaining benefits, especially as regards social assistance and healthcare. The appropriate checks are carried out by the Inspection and Obligations Services. Affiliations for which either the social insurance fund or the national institute find that the professional activity mentioned clearly does not fall under the social security status of self-employed workers were sent for inspection to the competent inspectorates.

Action 32 of the **Belgian** government's action plan of 12 April 2016 provided for 200 anti-dumping front-office checks in 2016 (for all social security and employment inspectorates: the National Security Office (NSSO – *OMSS*), the Social Legislation Inspectorate (SLI – *CLS*) and the Social Inspection of the FPS Social Security (SI – *IS*)). This translated into one check per month coordinated by the three inspectorates on sites selected using a data-mining system that calculates the risk of fraud.

The volume of anti-dumping investigations in 2016 concerning only the 'determination of applicable legislation' aspect carried out by the social security inspectorate (of the Social Security Federal Public Service):

Name of institution type	Number of investigations	Number of persons checked
Open investigations	380	1,528
Closed investigations	322	2,338

The number of workers checked as part of closed investigations is higher than that in open investigations as the data is systematically shown in the first case and often missing in the latter.

Rectifications resulting from anti-dumping investigations from 1 January to 31 December 2016:

Irregularities	Number of cases rectified	Total amount of rectification	Number of workers rectified
Foreign MS requested to withdraw E101-E102-A1	17	4,004,321.89	257
LACK of E101-E102-A1 – Belgian SS rectified	9	1,496,255.36	67
Total – request for application of Belgian social security legislation	26	5,500,577.25	324
Salaries labourers - Declaration	2	33,699.58	7

Comments made by Belgium to the foregoing table:

26 investigations resulted in findings which showed that the social security legislation of a State other than Belgium was unduly applied. In 17 cases, the social security inspectorate requested the competent institution of the other EU Member State applying its legislation to withdraw the A1 certificate. Such requests concerned an estimated € 4,004,321.89 of remuneration and 257 workers. In nine cases, the employer carried out the necessary formalities in order to have the workers covered under Belgian social security (for an amount of € 1,496,255.36 and 67 workers).

After being notified by the competent institution of the decision to withdraw the A1 certificate, the social security inspectorate declared two employers who employed seven workers, with total remuneration amounting to € 33,699.58, under the Belgian social security system.

To correctly assess these results, one must consider the length of time between sending the request for withdrawal of the A1 certificate to the competent institution and obtaining the response, and then the time required to gather the data necessary to prepare the social security declaration in order to determine the social security contributions payable.

In almost all cases, the whole process takes well over one year. This means that, for a given year, the investigations which resulted in a request for withdrawal and those which effectively resulted in declarations to the ONSS are not the same. There is easily one year between the two. In short, the requests for an A1 withdrawal relate to checks carried out in 2015 and 2016, whilst the ONSS rectifications relate to checks carried out in 2014 and 2015.

These comments also apply to the results of all checks concerning the 'determination of applicable legislation' carried out by the Social Security Inspectorate, which is the only service to have recorded findings on this specific matter in 2016. These results are presented in the following two tables.

The volume of overall investigations in 2016 concerning only the 'determination of applicable legislation' aspect carried out by the 'cross-border' units of the social security inspectorate (of the Social Security Federal Public Service):

Name of institution type	Number of investigations	Number of persons checked
Open investigations	2 496	12,073
Closed investigations	2 387	22,838

Rectifications resulting from investigations carried out by the 'cross-border' units from 1 January to 31 December 2016:

Irregularities	Number of rectifications	Total amount of rectification (in €)	Number of workers rectified
Foreign MS requested to withdraw E101-E102-A1	131	38,722,164.87	1 588
LACK of E101-E102-A1 — Belgian SS rectified	106	17,734,324.45	1 272
Total — request for application of Belgian social security legislation	237	56,456,489.32	2 860
Salaries employees-Declaration	12	2,563,012.03	56
Salaries labourers-Declaration	146	44,853,109.20	2 513
Total — rectified declarations sent to the ONSS	158	47,416,121.23	2 569

(b) Specific cooperation and concrete data exchange

Cyprus reported a close collaboration with competent institutions of other Member States in order to combat fraud and error relating to applicable legislation.

Belgium mentioned that as regards the specific fraud relating to fictitious residence, cooperation and the exchange of private data were planned between various public institutions and prosecutor's offices at the labour courts. This cooperation is being set up either directly by the prosecution departments or via the municipalities and the competent police districts.

(c) Recovery of unduly paid benefits and other sanctions

The last type of steps taken to combat fraud and error in the area of applicable legislation are the recovery of unduly paid benefits and other sanctions.

Cyprus reported that in a general effort to combat undeclared work, an amendment to the social insurance legislation was adopted which introduced administrative penalties in relation to undeclared work and/or undeclared insurable earnings. These penalties can be in the form of high administrative fines or even temporary suspension of the business operations. Furthermore, the law stipulates that employers/self-employed persons who fail to pay the contributions or comply with other provisions of the law are subject to legal proceedings.

2.2.2.3. Unemployment benefits

No special innovative steps to combat fraud and error in the area of unemployment benefits were reported by the Member States concerning the reference year 2016.

Hungary reported that in order to enhance the effectiveness of combating potential errors in case of unemployment benefits, according to the information provided by the MNE, the Hungarian Employment Authority recovers/reclaims the unduly paid benefit from the person when the latter did not fulfil his or her reporting obligation necessary when starting to work abroad during the period of the unemployment benefit being provided under Hungarian legislation. In cases where EU forms (e.g. PD U1) were filled in with some misspellings by other Member States' competent institutions, the Hungarian Employment Authority requested a reviewed/modified certificate from the foreign authorities concerned. The MNE reported that the Hungarian Employment Authority reclaimed unduly paid unemployment benefits in approximately 50 cases, amounting up to approximately € 6,000. The Hungarian Employment Authority received reviewed/modified certificates (PDs U1) from Member States' authorities in nearly 40 cases, in case of mistakes related to the inappropriate filling out of the forms concerned.

The National Agency for Employment (ANOFM) of **Romania** mentioned that in the field of unemployment benefits, 1 single case of fraud was handled during 2016. Pursuant to the request of a competent Austrian institution, the Romanian National Agency for Employment, which is the liaison body for unemployment benefits, took the necessary steps to check if a Romanian national receiving Austrian unemployment benefits was entitled to receive other benefits in Romania. As a result, while benefiting from Romanian indemnity for child-raising, the person concerned was employed and later on entitled and receiving unemployment benefits in Austria. The case was settled with the person paying back the undue amount of the Romanian child-raising indemnity, thus retaining his entitlement to Austrian unemployment benefits. It should be noted that, under the Romanian national provisions in force, a person who receives child-raising indemnity is not entitled to any other income or benefits.

2.2.2.4. Family benefits

(a) Specific controlling and monitoring actions

Belgium reported that domicile checks of insured persons are still used to combat family benefit fraud and errors. These checks are arranged by the family benefit funds that pay family benefits and are carried out by the FAMIFED inspection service. Domicile checks, which specifically target situations where there is a high risk that family benefits have been unduly paid, are carried out at the case handler's request in the event of doubt regarding the accuracy of the declarations made by the insured person or where the real household situation does not seem to correspond to official data from an authentic source. Where controllers carry out checks in response to risk factors, they perform the check that is necessary in order to clarify the situation. For example, they check whether the persons in question really live at the official address by checking utility bills, lease agreements, passports and other relevant documents. If this is not enough, cooperation with the local police, approved by the prosecutor's offices at the labour courts, may be necessary to enable controllers to reach a conclusion. The national register can also be adapted as a result of this cooperation. In addition, social security controllers regularly work with other inspectorates, at both federal and EU level, so that the results of checks can be used not only in relation to family benefits but also by *ONEM* (National Employment Office), *INAMI* (National Institute for Health and Disability Insurance), social housing corporations etc.

(b) Specific cooperation and concrete data exchange

In the field of family benefits, **Belgium, Denmark** and **Hungary** undertook some steps in order to combat fraud and error in the reference year 2016 related to cooperation and data exchange.

To combat fraud, cooperation on information exchange in concrete cases between *Udbetaling Danmark* (**DK**) and *Försäkringskassan* (**SE**) is ongoing and aims to secure correct payment of benefits in each of the institutions. Personal information like name, address, age, nationality, payments and the right to benefits are exchanged. Cooperation between Denmark and Sweden is valuable because of the level of mobility between the two countries, affecting the number of application for social benefits.

Hungary on the other hand reported that the CANPI – concerning family benefits – automatically verifies with the competent institutions of the other Member State concerned any relevant information about benefits being provided to the persons concerned before beginning to pay family benefits under Hungarian legislation. Lastly, **Belgium** reported on the creation of *Famicontrol*, a structured database for controllers.

(c) Recovery of unduly paid benefits and other sanctions

A few Member States (**BG, HU, SK**) reported the recovery of unduly paid benefits as a step taken to combat fraud and error in the area of family benefits in the reference year 2016.

2.2.2.5. Healthcare and sickness benefits in kind

In the field of healthcare and sickness benefits in kind, **Poland** mentioned that the National Health Fund (*Narodowy Fundusz Zdrowia – NFZ*) in 2016 continued its claim verification activity in the area of combating fraud and error in cases determined under the Regulations, as presented in the 2015 questionnaire. Cooperation and data exchange initiatives were pursued (**BE, EE, ES, NL**), although the Estonian Health Insurance Fund noted that they currently have no bilateral agreements with other Member States and therefore the majority of the problems are being resolved by e-mail.

Belgium mentioned the cooperation of INAMI (National Institute for Health and Disability Insurance) within the Benelux project group on social benefit fraud in order to detect illicit accumulation of social benefits and revenue from unauthorised work in Belgium, the Netherlands and Luxemburg as a step taken to combat fraud and error. INAMI has issued new instructions to the Belgian sickness funds to better inform their invalidity pensioners when a *pro rata* invalidity case is investigated on their behalf and Belgium is paying advances on the foreign invalidity pension, in order to remind them of their obligation to cooperate with the examination of their rights to the foreign (*pro rata*) invalidity pension under the regulation and to prevent potential recovery procedures afterwards (combating errors). Besides, *INAMI* obtained the legal authorisation of the Social Security Sectoral Committee to exchange data with the Netherlands; the technical development of the exchange between Belgium and the Netherlands is pending.

Austria mentioned that the practice of recovery of costs arising from inappropriate use of the EHIC is continued.

2.2.2.6. Closing remarks

Steps taken to combat fraud and error	Member States
In general:	
Controlling and monitoring actions	AT, BE, BG, CH, DK, PL, RO, UK
Cooperation and data exchange	AT, BE, BG, ES, FI, IE, LV, MT
Recovery of unduly paid benefits and other sanctions	CH, ES, FI, LV, NL, PL, RO
Other	PL, UK
In the area of:	
Old-age and survivor's benefits:	
Specific controlling and monitoring actions	AT, NL
Specific cooperation and concrete data exchange	DK, ES, NL, PL, SK
Recovery of unduly paid benefits and other sanctions	AT, CZ, ES, IT, PL
Applicable legislation:	
Specific controlling and monitoring actions	BE, BG, CZ, HU, PT, RO
Specific cooperation and concrete data exchange	BE, CZ, CY
Recovery of unduly paid benefits and other sanctions	CY
Unemployment benefits	HU, RO
Family benefits:	
Specific controlling and monitoring actions	BE
Specific cooperation and concrete data exchange	BE, DK, HU
Recovery of unduly paid benefits and other sanctions	BG, HU, SK
Healthcare and sickness benefits in kind	AT, BE, EE, ES, NL, PL
Special non-contributory cash benefits	MT

Member States who replied to Q1.1	Member States who refrained from replying to Q 1.1
AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, HR, HU, IE, IS, IT, LT, LV, MT, NL, NO, PL, PT, RO, SK, UK	EL, LI, LU

2.3. National legislation relevant to preventing and combating fraud and error

The Member States have corrected, updated or completed Annex I of the 2016 report on fraud and error in the field of EU social security coordination (reference year 2015) where necessary. The results can be found in Annex I of this year's report.

When observing the corrections, updates and completions, only two significant special matters are eye-catching:

1. the national legislation of **Norway** especially targeting fraud against the National Insurance Scheme, whereby specific definitions of fraud are given (with specific criteria) and the fraud itself is qualified as a crime with specific sanctions in the Norwegian Penal Code;
2. Article 21(3) of the Law on State Social Insurance of **Latvia**, according to which the State Social Insurance Agency can transfer a person's social insurance contributions made in another EU Member State to Latvia. Amendments entered into force on 25 October 2016; this is the only example of national legislation concerning social fraud and error in cross-border cases.

It is clear that Member States keep introducing new national legislation concerning social fraud and error, although rarely targeted specifically at cross-border cases.

Lastly, it can be observed that still no uniform definition of social security fraud and error is available. Just like the European coordination Regulations, the national legislations often do not provide any kind of definition, although the recent Commission proposal to revise the social security coordination Regulations includes a definition of fraud.¹⁰ In the cases where a definition is provided in national legislation, it often concerns a very broad definition which is not repeated in other legislation.

Please see Annex I for the detailed country sheets on the existing national legislation concerning social fraud and error.

Member States who replied to Q 1.4	Member States who refrained from replying to Q 1.4
AT, CH, CZ, DE, DK, EE, ES, HR, HU, IE, IS, IT, LT, LV, NL, NO, PL, PT, SK	BG, EL, FI, LI, LU, MT, NL, RO, UK

¹⁰ The Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 (COM(2016) 815 final) intends to include a new definition of "fraud". Its Article 2.4 states that "In Article 1(2), the following point is inserted after paragraph (e): "(ea) 'fraud' means any intentional act or omission to act, in order to obtain or receive social security benefits or to avoid to pay social security contributions, contrary to the law of a Member State;". It should be noted that this definition includes a link with the (different) national legislative frameworks of the Member States.

3. SPECIFIC PROBLEMS IN IMPLEMENTING THE EU COORDINATION RULES WHICH MAY LEAD TO (AT LEAST RISKS OF) FRAUD AND ERROR

The Member States have reported various specific problems in implementing the EU coordination rules which may lead to fraud and error. The problems are categorised and set forth hereinafter. Problems arise concerning the (lack of) exchange of data between Member States, cross-border investigation and cooperation in general, the determination of the applicable legislation, the recovery of unduly paid benefits and the use of the European Health Insurance Card (EHIC). A summary table of these specific problems in implementing the EU coordination rules which may lead to fraud and error can be found at the end of this section (p. 60).

3.1. *Problems regarding the (lack of) exchange of data between Member States*

3.1.1. **The lack of/difficult exchange of data or facts that influence the entitlement to a benefit**

Various Member States (**AT, BE, EE, ES, HR, IE, LT, PL, SK**) expressed their displeasure regarding (the lack of) exchange of data on deaths or other facts influencing the entitlement to a benefit. It was reported that there is rarely a formalised, structured exchange of data with other countries, and that ad hoc exchanges often come with a (significant) delay or even do not take place at all. **Belgium** mentioned that the average response time is three months, which is very long when dealing with a case of fraud.

Spain stated that in some cases, the significant delay in notifications of a termination of entitlement to benefits in kind is due to information coordination problems between the national institutions competent for pensions and those competent for sickness insurance. However, such anomalies are in their opinion also the result of failure by the insured parties themselves to timely provide information about any change in their personal and/or family circumstances, such as a change of residence, in accordance with Article 76(4) third subparagraph of Regulation (EC) No 883/2004. As this inappropriate conduct by those concerned has no financial implications for them, they have no interest in changing it, even though it has economic repercussions for both the competent institutions and the institutions of the place of residence. **Hungary** seconds the foregoing and adds that the risk of fraud and error is even greater in the case of family benefits, i.e. in the children allowance granting procedure. Currently, data exchange is performed by the submission of hard copies; the stated proceedings are therefore unjustifiably long-lasting and result in overlapping of benefits and undue payments.

With regard to the foregoing, **Poland** reported the impossibility of getting assistance from some Member States concerning deaths of beneficiaries due to the lack of access to institutions' registers, which results in a need to continue to send life certificates in paper form. **Italy** on the other hand again noted that the lack of a European-level database that registers migration outflows and inflows makes it difficult to monitor the permanent, habitual residence of workers and recipients of social welfare and social security benefits.

The Belgian National Institute for the Social Security of the Self-employed (NISSE) stated to encounter difficulties obtaining information from tax administrations from various Member States. Such information is necessary to verify whether or not the conditions for the posting of a self-employed person are met (e.g. checking whether someone is or has been substantially active in Member State of establishment).

3.1.2. The lack of / unknown / inconsistent legal bases for the international exchange of data

The **Swiss** National Accident Insurance Fund (*Schweizerische Unfallversicherung – Suva*) reported that legal provisions that would make an international exchange of data possible are non-existent/unknown/inconsistent. In the same regard, **Italy** mentioned that experience suggests that cooperation between institutions is a very effective tool for limiting the risk of fraud or error. Unfortunately, the arrangements for the exchange of information and the implementation of the related operating procedures depend on the willingness of the institutions involved, requiring long negotiations between the parties. According to Italy it does not seem possible to obtain satisfactory results by means of almost spontaneous initiatives implemented in the framework of administrative cooperation provided for under current European legislation. Given the interest in the proper payment of benefits, there is a need for European rules obliging the social security institutions to forward to institutions from other Member States involved, as soon as possible and using IT tools, all information on the death of recipients of benefits paid on the basis of the international accumulation of contributions.

3.1.3. Constraints of the national laws on the protection of personal data

Some Member States (**AT, BE, CH, IT, PT**) reported that the exchange of data is sometimes made difficult by national rules on data protection.

Italy mentioned that in some cases, bilateral agreements regarding data exchange are not reached because of concerns resulting from the constraints of the national laws on the protection of personal data.

Austria reported that requests for information are often not complied with as a result of data protection rules under existing national legislative provisions. **Portugal** also stated that in the field of accidents at work and occupational diseases (provision of benefits in kind), competent institutions sometimes issue or request PDs A1 (former E123), omitting or not identifying injuries resulting from an accident at work or occupational disease, based on the need to protect personal data. Such practice increases the risk of error insofar as it may lead to the provision of undue benefits (not in conformity with the type of injury actually involved). Portugal expects that, with the implementation of the electronic data exchange and the mandatory fulfilment of the field associated with the type of injury, this constraint will be overcome.

3.1.4. Other specific problems

Spain reported on one other specific problem. Regarding unemployment benefits, the French institutions request numerous documents, including the last four payslips, before sending the U1 form. Spain is concerned about the possibility that the French institutions may be compiling U1 forms without having access to employment or social security information – hence their requests for that amount of information – and they might not even be able to verify whether the worker has other periods of employment or has received unemployment benefits in France. Yet another example of how a lack of information (exchange) hampers or might hamper the correct application of the EU legal framework.

3.2. Problems regarding cross-border investigation and cooperation in general

3.2.1. The lack of/difficulties regarding cooperation

Various Member States (**AT, CH, CZ, DK, HU, IE, IT, LT, NL, PL, RO**) reported difficulties regarding cooperation between the Member States. **Austria** reported that there often is a lack of cross-border cooperation with consequently a lack of information, evidence and action. If there is any cooperation at all, requests for information are frequently not fulfilled or fulfilled with a delay, resulting in lengthy processing times and in some circumstances making the implementation of potential penalties difficult or impossible, owing to a lack of information. Language barriers also add to lengthy processing times. The legal department of the Federal Social Insurance Office of **Switzerland**, too, encounters difficulties in obtaining the responses necessary for dealing with cases that fall within the scope of Title IV of Regulation (EC) No 987/2009. Relations with Portugal are particularly affected despite the creation of a dedicated contact point in November 2014 with the Benefits and Contributions Department (DPC) of the Portuguese Social Security Institute and with the Social Security Financial Management Institute (IGFSS).

The **Hungarian** Central Administration of National Pension Insurance (CANPI) (family benefit sector) on the other hand indicated that Member States' authorities also contribute to certain elements of malfunctioning of the implementation of the Regulations, since they often experience that Member States fail to request all necessary information from the competent institutions of another Member State before providing family benefits. **Lithuania** even reported that in the field of family benefits there were cases where competent institutions of other Member States did not send SEDs but asked the person concerned to apply for the relevant SED or E-form personally. Moreover, in one case the E-form was filled in by the employer.

A few Member States (**LT, NL, PL, RO**) reported that the lack of updated contact information of Member States' social insurance institutions makes cross-border cooperation difficult. In certain cases SEDs sent by post were returned as the address of the receiving institution was changed. Also **the Netherlands** mentioned that part of the exchange issue seems to be that it is unclear where to address specific questions. This causes delay in investigations and therefore the effect of efforts to reduce the violation of rules.

3.2.2. The lack of procedures for the investigation of suspected cases of fraud and error across borders under the coordination rules

Udbetaling Danmark (**DK**) finds it problematic that the implementation of the coordination rules does not include procedures for investigating cases of suspected fraud and error across borders. *Udbetaling Danmark* particularly observes that none of the SEDs seem appropriate for this task and some of the competent institutions in the Member State do not seem to be familiar with cooperating across borders on fraud and error. When *Udbetaling Danmark* investigates a concrete fraud and error case, information on where the person is living in one country or the other is crucial. In this regard there may be a need for information indicating whether a person is residing in one country or the other (such as address or information on economic activity). Such information is not necessarily needed during the application process and for this reason the competent institution may stand with uncomprehending eyes towards the request and does not provide the requested information.

In order to solve the foregoing problem, national Single Points of Contact (SPOCs) would be highly relevant, as a SPOC function should be able to facilitate requests to the correct recipients. In this regard, the NCP group could be a starting point.

Austria mentioned the absence of binding effect and consequences of decisions taken under the dialogue procedure as a problem.

3.2.3. Constraints on national laws

The **Swiss** National Accident Insurance Fund (*Schweizerische Unfallversicherung – Suva*) reported the differences between legal systems (e.g. as regards occupational and non-occupational accidents, duration of the provision of benefits) as pressure points regarding cross-border investigation and cooperation.

Romania mentioned a lack of uniformity when applying the provisions of the European Regulations.

3.3. Problems regarding the applicable legislation

3.3.1. The determination of the applicable legislation itself

Various Member States (**AT, FI, HU, MT, LV**) reported that errors often arise from unfamiliarity with the coordination rules in the case of persons working in several Member States.

According to **Finland, Hungary** and **Malta**, the rules on activity in more than one Member State (Article 13 of Regulation (EC) No 883/2004, Article 16 of Regulation (EC) No 987/2009) are hard to understand and difficult to apply. This enables misuse of these rules by some of the employers and the rise of the probability of erroneous decisions by the clerks. **Finland** mentioned that the lack of clear rules also means that workers moving around Europe are not aware of their rights and cannot easily predict how their social security will be arranged. Article 65(2) of Regulation 883/2004 states: "A wholly unemployed person who, during his last activity as an employed or self-employed person, resided in a Member State other than the competent Member State and who continues to reside in that Member State or returns to that Member State shall make himself available to the employment services in the Member State of residence." As there are differences between the Member States in the levels of unemployment benefits, there is some tendency to give false information about one's state of residence and about possibly returning there. Generally, the question about state of residence is quite open to different interpretations and therefore also prone to error.

Hungary adds that many persons pursuing activities in more than one Member State are not aware of their notification (reporting) duties and pay social security contributions in more than one Member State. **Malta** stated that the high risk of fraud and error in these situations is also related to the fact that the institutions rely mainly on the information provided by the applicants (employer and employee) which, in some cases, is not easily verifiable. A practical example is the condition of one month prior affiliation required in order to apply the posting rule. Sometimes the institution has no means of verifying whether the worker was actually physically present in the country prior to the commencement of the posting period. Although on paper workers are registered as employees of the company, this could also be fictitious in order to conform to the posting conditions.

Lastly, **Latvia** stated that according to amendments to Article 213 of the Law on State Social Insurance (entered into force on 25 October, 2016) the State Social Insurance Agency of Latvia can transfer person's social insurance contributions made in another Member State to Latvia or vice versa if a person has paid social contributions in two or more Member States at the same time. Therefore, some problems arise which can lead to error in cases determined under the Regulations. First of all, not every EU Member State has legislation which allows transfer of social insurance contributions. Secondly, there are practical problems with defining the applicable legislation (in other words, which Member State will transfer the social insurance contributions and for which insurance periods).

3.3.2. The determination of the place of residence / whether an undertaking is carrying out a significant part of its activity in the sending or posting State / of marginal work

Various Member States reported difficulties concerning the determination of the place of residence (**AT, BG, CZ, DK, ES, HU, LT**), the determination if an undertaking is carrying out a significant part of its activity in the sending or posting State (**CZ, DK, LT, PL**) and the determination of marginal work (**CZ, DK, LT, PL**).

Regarding the determination of the place of residence, Member States find the criteria ambiguous. Usually the competent institution has to rely only on the information provided by the applicant, which often leads to error and/or fraud. **Austria** stated that the determination is difficult since there is no central registration system in some Member States regarding health insurance and residence. The **Czech Republic** mentioned that although there is Article 11 of Regulation (EC) No 987/2009, Decision U2 and judgments of the Court of Justice of the European Union (CJEU) there are no specific criteria to assess residence, which gives rise to one of the biggest problems in the field of coordination, not just for clients for whom it is difficult to understand it, but also for officers for whom it is difficult to explain it to clients and deal with the consideration of residence. Moreover, according to the Czech Republic it seems that there is no united approach towards this matter across the Member States.

For what concerns the determination whether the undertaking carries out a significant part of its activity in the sending or posting State, it is found that ambiguous criteria lay the foundation for error and fraud. **Poland** particularly mentioned the criteria of the number of staff in the posting State and the criterion "about 25%" of the turnover achieved by the undertaking in the country where it is situated.

Difficulties in the determination of marginal work occur especially when applying Article 13(3) of Regulation (EC) No 883/2004, i.e. carrying out a self-employment activity in one Member State and being an employee in another. The explanation of what marginal activity is, can be found in the Practical Guide. According to **Poland** these explanations are, however, not relevant to situations covered by the above Article.

3.3.3. Problems arising from the use of PDs and SEDs

Austria and **Greece** reported that PD A1 is inadequately protected against forgery. As a counter-measure to fraudulent PDs A1 the Greek Public Employment Service (*Organismou Apascholisisis Ergatikou Dynamikou – OAED*) proposed a solution which is in their view easy to implement and to the point: the PIN (Personal Identification Number) of the person concerned must be added on all pages of the PD A1 along with the signature and seal of the competent institution on the bottom of all pages and in the adjoining points of the pages.

In addition, **Austria** stated that the withdrawal by foreign institutions of incorrectly issued PDs A1 is difficult or impossible to enforce.

3.3.4. Problems arising from ignorance of beneficiaries regarding the applicable legislation

Belgium reported a specific problem in implementing the EU coordination rules in the field of invalidity benefits. For persons who were lastly insured in Belgium at the moment they became incapacitated for work (which lead to invalidity afterwards), Belgium will pay a provisional benefit which must be considered partially as an advance on invalidity pensions of other Member States. Once the other Member State has taken a decision to grant an invalidity pension as well, Belgium will calculate the final amount of the partial Belgian invalidity benefit due under Article 46 of Regulation (EC) No 883/2004 and recover the advances via the pension arrears due by the other Member State which Belgium always asks to hold in reserve (application of Article 72(2) of Regulation (EC) No 987/2009).

Nevertheless, it is sometimes impossible to calculate the exact amount of advances within the two-month timeframe given by Article 72(2) of Regulation (EC) No 987/2009, as a result of which the other institution pays its invalidity pension arrears directly to the person concerned. In that case, pensioners are sometimes misinformed that because of the expiration of the two-month time delay, Belgium would no longer have a claim on the pension arrears. This is not correct, and Belgium will recover these amounts directly from the pensioner concerned (see also the case *Cabras*).¹¹

Persons receiving (*pro rata*) invalidity benefits from Belgium and (an)other Member State(s) under Article 46 of the Regulation are confronted with different national legislations that regulate certain situations differently. This is a source of confusion. As such, these persons are not always aware that certain changes in their personal situation (e.g. a changed household situation/revenue, starting a salaried or self-employed activity etc) impact on the amount of the Belgian benefit and should thus be reported to or even authorised by the competent Belgian institution, whereas these situations do not at all impact on the invalidity benefits received from the other Member State concerned. This is most often the case for persons receiving a *pro rata* benefit for short periods of work in Belgium in the past and who are thus not very familiar with Belgian legislation (however, they are informed of their obligations under Belgian legislation in the decision granting the benefit, but possibly do not always understand, due to for example poor knowledge of the language in which the decision is drafted).

Belgian invalidity insurance is a risk-based system, in which the benefit amount is not calculated on the basis of the total amount of the insurance period completed in Belgium (thus not an invalidity 'pension'). This implies that the right to invalidity benefits is made dependent on the obligation of the beneficiary to claim potential invalidity pension rights that may exist under other foreign legislations. However, when on behalf of these persons a *pro rata* case file is investigated under Article 47 of Regulation (EC) No 987/2009, it can be found that persons mistakenly take the Belgian invalidity benefit for granted, and do not cooperate with the foreign institution examining the *pro rata* claim or renounce the claim (e.g. when asked to send elements of proof of their insurance career when no databases are available, or when the person concerned is asked to move to the State concerned for an additional medical exam). This is often the case when the amount of the foreign pension is only minimal (short career).

¹¹ Judgment of 21 March 1990, *Cabras*, C-199/88, EU:C:1990:127.

3.4. Problems regarding the recovery of unduly paid benefits

The LOB Guarantee Fund of **Switzerland** reported a problem that arises in occupational pension schemes when employers who have their head office in a Member State, employ people in Switzerland and are obliged to insure them under an occupational pension scheme (in Switzerland). If these employers fail to pay the contributions that are due, it is very difficult to recover the contributions abroad (particularly because pension funds are not able to issue any injunction to levy the contributions).

Poland seconds Switzerland regarding the foregoing. It considers it a problem that national regulations or practice prevent the return of benefits transferred to the bank account of people entitled to benefits after their death.

3.5. Problems regarding the EHIC

Various Member States (**AT, DE, EE, IE, NL, PL**) reported on risks of fraud and error related to the use of the EHIC.

First of all, the fact that EHICs are not electronically readable is found problematic. The more so because the start of the period of validity is not shown on the EHIC. As in previous years, in 2016 the National Health Fund (*Narodowy Fundusz Zdrowia – NFZ*) of **Poland** identified cases in which the EHIC is used in order to enable an institution to settle the cost of medical benefits provided prior to the validity period of the card. An end date can, however, be found on the EHIC; the health insurance can end before this date. Data exchange on this matter is quite slow. **Estonia** mentioned that healthcare providers and competent institutions of other Member States should not accept the EHIC retrospectively and should ask for a replacement certificate of the EHIC. **Austria** also finds it problematic that invalid EHICs are not called in in some Member States.

Secondly, the **Netherlands** reported that the form E 125 does not specify the cost and nature of the care provided. Health insurers therefore have to pay costs of benefits in kind without having insight into the care provided. This makes the use of the EHIC card sensitive to error and fraud. For example, it is not possible to see if the EHIC was presented for unplanned care or for planned care, whether or not consciously.

Furthermore, **Germany** mentioned that in some States that apply the benefits-in-kind principle, there are still too few contracted healthcare providers to meet the demand for treatment based on the EHIC. This means that the EHIC is frequently not accepted in these States, and an application for reimbursement of costs must be submitted after the insured person has returned to Germany.

Lastly, as in last year's report, the **United Kingdom** again reported on the problem of EHIC copycat websites.

3.6. Closing remarks

Iceland and Norway had no specific problems to report.

Specific problems in implementing the EU coordination rules	Member States
Regarding the (lack of) exchange of data between the Member States:	
The lack of/difficult exchange of data of facts that influence the entitlement to a benefit	AT, BE, EE, ES, HR, IE, LT, PL, SK
The lack of/unknown/inconsistent legal bases for the international exchange of data	CH, IT
Constraints of the national laws on the protection of personal data	AT, CH, IT, PT
Other	ES
Regarding cross-border investigation and cooperation in general:	
The lack of/difficulties regarding cooperation	AT, CH, CZ, DK, HU, IE, IT, LT, NL, PL, RO
The lack of procedures for the investigation of suspected cases of fraud and error across borders under the coordination rules	DK, AT
Constraints on national laws	CH, RO
Regarding the applicable legislation:	
The determination of the applicable legislation itself	AT, FI, HU, MT, LV
The determination of the place of residence / whether an undertaking is carrying out a significant part of its activity in the sending or posting state / of marginal work	AT, BG, CZ, DK, ES, HU, LT, PL
Problems arising from the use of PDs and SEDs	AT, EL
Problems arising from ignorance of beneficiaries regarding the applicable legislation	BE
Regarding the recovery of unduly paid benefits	CH, PL
Regarding the EHIC	AT, DE, EE, IE, NL, PL, UK

Member States who replied to Q 2	Member States who refrained from replying to Q 2
AT, BE, BG, CH, CY, CZ, DE, DK, EE, EL, ES, FI, HR, HU, IE, IS, IT, LT, LV, MT, NL, NO, PL, PT, RO, SK	LI, LU, UK

4. AGREEMENTS AND BILATERAL COOPERATION ARRANGEMENTS

The Member States have corrected, updated or completed Annex II of the 2016 report on fraud and error in the field of EU social security coordination (reference year 2015) where necessary. The results can be found in Annex II of this year's report.

Most of the agreements concluded during the reference year 2016 concerned bilateral agreements regarding the electronic exchange of data on deceased pensioners. Several Member States also reported ongoing negotiations with the aim of concluding such agreements.

No multilateral agreements were concluded in 2016.

Please see Annex II for (1) an updated detailed summary of the reported bilateral/multilateral agreements and bilateral/multilateral cooperation arrangements¹² per country and (2) the updated detailed country sheets.

Member States who replied to Q 3	Member States who refrained from replying to Q 3
AT, BE, CH, CZ, DE, DK, EE, ES, FI, HR, HU, IE, IS, IT, LT, LV, NO, PL, PT, SK	BG, CY, EL, LI, LU, MT, NL, RO, UK

Closing remarks:

Hungary proposes not to maintain the current country-specific content of Annex II, since it contains partly obsolete and not entirely relevant information.

¹² An update of Annex II to the 2016 questionnaire on fraud & error in the field of EU social security coordination.

5. IN THE FIELD OF BENEFITS IN KIND, STEPS TAKEN IN THE REFERENCE YEAR (2016) TO PROMOTE COMPLIANCE BY INSTITUTIONS AND HEALTHCARE PROVIDERS WITH THE COORDINATION RULES AND TO PROVIDE INFORMATION TO CITIZENS

The Member States have taken different steps to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens in the field of benefits in kind.

5.1. *General steps taken to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens in the field of benefits in kind*

Steps taken in 2016 to promote compliance with the coordination rules	Member States
by institutions:	
Informing of staff:	AT, NO
via circular letters or on the intranet	BE, HR
via circulars, guidelines	BE, DE
via letters by post	HR
via FAQs about handling cross-border situations in the scope of Regulation (EC) No 883/2004	DE
via using targeted information	ES
via seminars	DE, PL
via central contact points/online support	IE
Training of staff	CH, DE, NO, UK
E-learning modules	CH, UK
Workshops/working groups/meetings to discuss and find common solutions to problems relating to the coordination Regulations and to share information and good practices	AT, DE, RO, UK
by healthcare providers:	
Informing of healthcare providers:	AT
via website(s)	AT, DE, DK, NL, NO, PL
via leaflets/brochures/posters	AT, DE, UK
via letters by post	HR, NO
via e-mail or phone	MT, NO, UK
via guidelines	AT, IE

via personal advice and support	EE, ES, PL
Training of healthcare providers	AT, CH, DE, EE, MT
Encouraging to perform identity checks when the EHIC is presented by asking to see an official ID photo	AT

Steps taken in 2016 to provide information to citizens regarding the coordination rules:	Member States
Informing	
via website(s)	AT, CH, DE, DK, EE, ES, HR, IE, LT, NL, NO, PL, RO, UK
via brochures/flyers/folders/leaflets	AT, DE, LT, PL
via mail	DE
via the press	AT, DE, EE, NO, PL, RO
via radio/television programmes	AT, MT, PL, RO
via members' magazines	DE
via magazines circulated to doctors' practices	AT
via mobile application(s)	IE
via other mass communication measures	LT, MT, RO
via official centres for providing information/customer services/call centres/online support	EE, ES, IE, RO
via the annual policy information of health insurance companies	NL
on an individual basis via telephone, in person or via letter/mail	AT, DE, EE, PL, RO

5.2. Specific steps taken to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens in the field of benefits in kind

A few of the steps taken to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens in the field of benefits in kind reported by the Member States are too specific to categorise in the table in chapter 5.1.

In **Austria** for example, if contracted doctors charge private healthcare fees after unjustifiably refusing to accept an EHIC, they are required to explain themselves and there is subsequent reimbursement.

Germany mentioned that healthcare providers are automatically informed by their respective national associations. However, the national association of statutory health insurance funds, DVKA, is in touch with its contacts in the healthcare providers' associations and supplies them with all the relevant information. It has worked

together with the various healthcare providers' associations to produce information leaflets on medical treatment for patients who are insured abroad. These leaflets are updated regularly and contain extensive information on the procedure for presenting the EHIC or the PRC. Service providers can obtain this information at www.dvka.de (click on "*Leistungserbringer*"). Healthcare providers also receive information from various German health insurance funds about dealing with the EHIC.

In **Ireland** the Health Service Executive has systems in place to promptly identify deficiencies in data collection or inappropriate use of EHICs and provide feedback to healthcare providers, to ensure greater compliance in the future.

5.3. Closing remarks

Member States who replied to Q 4	Member States who refrained from replying to Q 4
AT, CH, DE, DK, EE, ES, FI, HR, HU, IE, IS, IT, LT, MT, NL, NO, PL, PT, RO	BG, CY, CZ, EL, LI, LU, LV, SK, UK

6. BEST PRACTICES, LESSONS LEARNED, ISSUES OR CONCERNS (INCLUDING REGARDING PRIVACY AND DATA PROTECTION) WHEN DEALING WITH CROSS-BORDER COOPERATION AND INFORMATION EXCHANGE WITHIN THE FRAMEWORK OF REGULATIONS (EC) NO 883/2004 AND (EC) NO 987/2009 ON THE COORDINATION OF SOCIAL SECURITY SYSTEMS

Best practices, lessons learned and issues or concerns when dealing with cross-border cooperation and information exchange within the framework of Regulations (EC) No 883/2004 and (EC) No 987/2009 on the coordination of social security systems, as reported by the Member States, are summarised hereinafter. A summary table of these best practices, lessons learned and issues or concerns can be found at the end of this section (p. 74).

6.1. Best practices

Starting with the reported best practices, a distinction between five categories can be made:

6.1.1. Best practices regarding the cross-border cooperation and data exchange between Member States

Several Member States (**AT, BE, CH, DE, DK, EE, FI, HU, IE, IT, MT, PL, RO, SK**) provided examples of best practices regarding cross-border cooperation and data exchange between Member States. A difference could be made between best practices related to cross-border cooperation, best practices related to the European Platform to combat cross-border social security fraud and error and best practices related to data exchange.

Concerning the best practices related to cross-border cooperation, **Austria** for example reported that at irregular intervals inter-institution discussions are held with certain Member States, to improve the coordination of the rules. Also personal contacts with partners in other Member States have turned out to be very worthwhile in practice and have often led to solutions and uniform approaches. **Italy** mentioned that the level of cooperation with some institutions abroad is closer and more effective than with others, and that this cooperation helps to prevent cases of error or even fraud through the computerised transmission of applications and information, limiting human intervention and potential interference with the regularity of the production process. **Malta** stated that through cross-border cooperation most issues are managed without the need for contestations and litigations.

Regarding the best practices related to the European Platform to combat cross-border social security fraud and error, **Finland** for example reported that the Platform has been helpful in many cases. The connections in other Member States in the field of social security are very valuable as the problematic cases are usually solved in a short time with help from a colleague from another Member State.

According to **Finland**, networking among clerks in this field should be considered important and seminars and conferences should be organised more often for the clerks as well.

Udbetaling Danmark (DK) has had positive experiences with working together with the NCPs of e.g. Germany, Poland and Switzerland. **Ireland** stated that during 2016 the E-Platform has supported the NCP Network by providing forums for experts in the field of fraud and error within the framework of Regulation (EC) No 883/2004, whereas specific groups were developed to discuss particular topics, e.g. the Pension Expert Group, the Employees Benefit Fraud Group, the Applicable Legislation and the Data Sharing Group.

In the field of best practices related to data exchange, **Malta** for example mentioned that during the reference year, it continued to implement a fruitful data exchange exercise with the UK, which is the Member State where the largest amount of Maltese pensioners resides.

This exchange between Malta and the UK, which is based on a bilateral agreement, functions on the basis of an annual exchange of data on mutual pensioners residing in either country, and subsequent exchanges every 6 weeks. The information being exchanged includes the rate of the pension payable by either country in order to counteract cases of undeclared income, changes in marital status, as well as information about pensioners that passed away during the course of the year.

Malta reports that similar agreements with other countries are in the pipeline. The Agricultural Social Insurance Fund (*KRUS*) of **Poland** had positive experiences with the processing of applications for old-age and disability pensions with German competent institutions. Throughout the years *KRUS* has considerably improved its methods of cooperation with these institutions. Multiple meetings of representatives of Polish and German liaison bodies and competent institutions contributed to this to a large extent. Mutual agreements as well as exchange of information and experience helped to eliminate difficulties as well as improve the flow of information when processing old-age and disability cases.

6.1.2. Best practices regarding data protection in the context of cross-border data exchange

Like last year, as a best practice **Spain** reported the use of digital encryption methods to safeguard confidentiality and protect personal data when sharing data with institutions in other Member States. **Croatia** also reported that secure IT methods and tools providing the highest level of personal data protection are used for data exchange.

The European Online Information System of the German Old-Age and Disability Insurance (EOA), to which *KRUS* has been given access, enables *KRUS* to use, on a regular basis, information about applicants' German insurance history and the amount of German benefits received by them, which to a large extent facilitates examining applications for farmers' old-age and disability benefits and accelerates the process of issuing decisions in such cases.

As already mentioned in the introduction of this report, on 24 May 2016 Regulation (EC) No 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) entered into force. The new rules, however, will apply in the Member States only as from 25 May 2018, by which time the Member States will have to adapt their national legislations and raise awareness among public authorities and companies of the new aspects introduced.

The Regulation constitutes an attempt to harmonise the privacy rules of the various States by defining a new common framework for all Member States of the European Union on the processing of personal data in the areas of prevention, combating and punishment of crimes. The implementation of the new legislation ensuring the same level of protection of personal rights with regard to data dissemination can, according to **Italy**, contribute effectively to preventing and combating fraud and error, including in matters of social security.

6.1.3. Best practices regarding internal cooperation and data exchange

A few Member States (**CH, DK, FI, NL, NO**) also reported on best practices regarding internal cooperation and data exchange which are performed in order to combat/prevent fraud and/or error.

Switzerland mentioned as a best practice that in the absence of legal bases comparable to those existing for the Swiss Federal Law on Accident Insurance (*LAI*), some of the practices introduced by the Anti-Fraud Department of the DI Office are analysed and transferred to other sectors of the Central Compensation Office (*Centrale de Compensation - CdC - CCO*), specifically within the framework of the *LFA-CdC* working group. By way of example, raising awareness among operators in the benefits sector, and implementing an internal administrative procedure in the CCO are the result of the sharing of best practices and know-how by various sectors of the *CdC* (OAIE, OASI-benefits, Optional insurance and Disputes).

Udbetaling Danmark (**DK**) believes that an increased use of data mining is an effective tool in combating fraud and error. It is their view that an increased use of objective data from registers will contribute to identifying cases and patterns of fraud as well as strengthen the due process to the advantage of the claimants, by streamlining to a greater extent the administration of social benefits across branches of social security on the basis of objective data.

Finland indicated the existence and use of comprehensive and up-to-date registers (databases) in general (population register, business register etc) and also in the field of social insurance as a best practice, since this data can be checked when handling A1 certificates or checking the insurance of foreign workers.

The Social Insurance Bank (*Socialeverzekeringsbank - SVB*) of the **Netherlands** considers its International Verification Unit (IVU) to be a best practice. The results (recovery of unduly paid pensions/benefits) outweigh by far the cost of visiting their clients living abroad. Also **Norway** mentioned its officers who are specialised in detecting fraud regarding cash benefits of the Norwegian Labour and Welfare Administration as a best practice.

6.1.4. Best practices regarding the dissemination of information

In the field of dissemination of information, **Lithuania** reported the measure "Clean hands", in which is part of the Sectoral Programme for Prevention of Corruption in the Health System for 2015-2019. It is to determine the corruption index of personal healthcare institutions, which reflects the publicity and openness of healthcare institutions (patients' access to information) and the implementation of corruption prevention measures, as a best practice. With the help of this corruption prevention measure healthcare institutions have become more open and informative for patients.

It should be mentioned that as from 2017, the corruption index determination ratio will be applied in determining the amount of the variable component of remuneration for managers of healthcare institutions. According to the Law on Health Care Institutions of the Republic of Lithuania the monthly salary of the managers of public healthcare institutions and their deputies consists of a fixed and variable part. The amount of the fixed part of the monthly wage of the managers is established having regard to the level of performance of the institution, and is computed by multiplying the basic amount of the wage by the coefficient set forth in the law concerned. The variable part of the monthly salary depends on the performance of the institution during the previous calendar year, and is set for one year. Thus, in order to be paid a higher wage, managers of health institutions must seek better evaluation of their performance, since the level of corruption is included in the list of the performance indicators.

Also **Latvia** reported on a best practice regarding the dissemination of information. The State Social Insurance Agency has organised meetings and events with the purpose of informing society about the implementation of the EU Regulations and the impact on pensions, and other benefits.

6.1.5. Best practices regarding PDs, SEDs and other forms

In the context of the coordination of social security systems regarding family benefits, Italy mentioned the recent creation of the SED F003. Information about the payment of family benefits regarding the priority right could prove a useful tool, with the launch of EESSI, for preventing and combating fraud and error, both in unemployment benefits and family benefits. Accordingly, the new SED, confirming the payment of family benefits by the Member State of residence, shows any Italian welfare recipient residing in another Member State who has not communicated their transfer abroad despite their obligation to do so.

6.2. Lessons learned

6.2.1. Regarding cross-border cooperation

Belgium reported that a structured system with functional contacts is key in ensuring equal treatment of all (EU) citizens in an open-border Europe. Also a list of similar or closely related institutions would come in handy. For example, as a social inspector in Belgium, who can I contact in the other EU Member States who understands what I need and why? Each country has its own system and structures. There is no list of persons to contact with regard to a specific question. A lot of time and effort is required in order to find the right contact, if one is found at all. Even when successful, there is no guarantee that there will be any answer whatsoever. The Netherlands has a contact address, but it is difficult to obtain a response, nor is it specific for a social inspection. On the other hand, meetings have taken and will take place in the future in order to set up a more structured collaboration via bilateral agreements. Also with France a project has been set up in order to come to an agreement for better cooperation between the inspection services. A third project will be set up with Luxembourg in the future.

6.2.2. Regarding data exchange

The **Hungarian** Central Administration of National Pension Insurance (CANPI) (pension benefits), has a well-functioning cooperation with other Member States' counterpart organisations, especially with regard to data exchange on deaths. The CANPI is planning to further enhance the current methods of data exchange on death events (which is an international best practice taken up and followed by CANPI in this particular field), e.g. progressing from currently used technical data means to sPAD procedures in connection with Germany (the Member State with which Hungary has the most cases in this sector). This progress would certainly result in reducing the number and amount of undue payments.

With regard to the exchange of information for the recognition of benefits, it is reiterated by **Italy** that its regularity is a prerequisite for ensuring EU citizens' social security rights associated with freedom of movement in the EU, and for allowing the relevant institutions to carry out their tasks in a proper and uniform manner within a reasonable timeframe.

Pending the launch of the EESSI platform, which will ensure more structured information management, difficulties persist in the exchange of forms that are currently paper-based. Through the National Institute of Social Security (*Istituto Nazionale della Previdenza Sociale*, INPS) in 2016 Italy was involved in the completion of EESSI. It was an active part of the Consortium of Member States in the SAFE (Social Agencies for Future Europe) project, which aims to pilot the exchange of information between the institutions of the countries involved, through a prototype electronic platform, which is an important step towards the development of the EESSI.

Forms were exchanged electronically in the reporting year — Business Use Cases (BUCs) — with regard to family benefits and unemployment, which will prevent and resolve many of the current issues.

Since 2016 the INPS has also been involved, together with the competent institutions of other Member States which apply EU legislation, in updating and optimising the database, i.e. the Repository (IR), which contains information on the social security institutions that are to use EESSI. This database will be a key instrument to correctly identify the institutions involved in the electronic exchange of forms, thus limiting the possibility of error in the transmission of files to foreign institutions that have no competence in the specific case.

The INPS is championing a plan to introduce in the EU the European Social Security Identification Number — ESSIN, to identify all workers at European level reliably and unambiguously, overcoming the differences that currently exist between one country and another without removing them, and thus permitting checks of the mobility of persons in the EU and the immediate exchange of information and data according to a common standard of transparency. As well as identifying persons and facilitating solutions in determining the legislation applicable, it could be a tool for ensuring the availability of social security information that would allow the quantification — at any moment and in any country — of all useful periods and contributions credited in order to benefit from various forms of social protection. This number could be the identification key used for the construction of a European computerised system which allows access to information held in national files for integrated management of the social security, labour and tax data of each entity. In this way, it would be easier to monitor migration flows, manage employment statuses and ensure the correct recognition of social security and welfare benefits, the application of fiscal legislation and the fight against the evasion of tax and social security contributions.

6.2.3. Regarding the EHIC

The **United Kingdom** reported that NHS Protect is aware of various instances of EHICs being used by individuals who have either never been resident in the UK (and who are not insured by the UK through other means), or by individuals who were no longer entitled to apply for, or use a UK EHIC. They have completed a major piece of work examining and identifying any areas for improvement on all their administrative systems relating to EEA healthcare payments, including the EHIC, with specific emphasis on fraud and error. They are now reviewing the potential opportunities identified by this work and examining steps to take to improve the system further through a more radical redesign of their EEA systems. They hope this will help them in being able to quantify the number of cases of fraud and error.

They have already tightened the system and now require additional proofs of entitlement and residency. All applicants are required to confirm a mandatory declaration, which includes an acknowledgement of possible penalties for misuse. The acceptable proofs of entitlement and residency have also been tightened as a result. If such details are not provided the application is not processed. Individuals are also asked to sign a mandatory declaration stating that any significant changes in circumstances (that will have an effect on eligibility and/or entitlement) need to be disclosed. The declaration also clarifies that information from the form may be used by other NHS and government organisations for the purpose of the prevention, detection and investigation of fraud and error, including for the prosecution of fraud. If the declaration is not signed, the application is not processed further and the card is not issued.

An e-mail registration portal was added to the online application process for EHICs, which means that applicants resident in the UK must provide an e-mail address and log in to access the application. This provides for further validation of the applicant and allows the NHS Business Services Authority (NHSBSA) to gather further insight into the practices of the fee-paying/copycat websites, like their IP address (which enables to monitor their activity and block them). This insight will be used in the future to identify ways of improving the service. Although e-mail registration is mainly to counter fee-paying websites, it also checks that online applications are not being made from abroad (as such applications should be made by post). E-mail verification applies only to online applications.

The UK is also in the process of producing a cross-government Fraud and Error Guide that will formalise the protocols currently in place and provide extra guidance for frontline staff on how to process clear cases of fraud and misuse of the system and recover funds.

6.3. Issues and concerns

6.3.1. Issues and concerns regarding cross-border cooperation and data exchange

Although some best practices regarding cross-border cooperation and data exchange were already mentioned, several Member States (**AT, BE, DK, MT, PL, RO, SK**) also expressed some issues and concerns in this area.

The **Polish** Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ*) reported that the following issues were faced when dealing with cross-border cooperation and information exchange within the framework of Regulations (EC) No 883/2004 and (EC) No 987/2009 on the coordination of social security systems in the year 2016:

- the reluctance of foreign institutions to cooperate with the liaison institution, competent institutions and the institutions of the place of residence;
- failure by foreign competent institutions to respond to the official letters from the liaison institution, competent institutions and the institutions of the place of residence (total failure of deadlines or slow response); and
- difficulties in determining the institution competent to consider the case.

Based on the experiences of the Agricultural Social Insurance Fund (*KRUS*) (**PL**) gained so far, the Italian, French, Greek and UK institutions are those most difficult to cooperate with.

Also **Austria** stated that there are Member States with which there are recurrent problems with regard to cooperation. This may be because forms are only being issued, despite insurance periods being known, once insured persons make an application and because known facts are being denied, or because inquiries are answered either very tardily or not at all. Language barriers, which in some cases result in lengthy processing times, should also be mentioned as problematic in this respect. The cross-border enforcement of the statutory obligations of employers and workers, or of penalties in the case of offences, also remains very difficult. In particular, only a few claims for recovery in cases of abuse are successful. Consequently, close cooperation between the institutions concerned is essential where dealing with social security issues is concerned, because action or measures by the institution/authority of the State responsible may be impossible, or severely restricted, owing to inadequate cooperation and the consequent lack of evidence and information. The exchange of data on deaths with the pension service of *Deutsche Post* provides a positive example in this respect, in that overpayments following a death are largely being avoided. The inadequate exchange of data, by contrast, also brings with it the risk of social security abuse and fraud. The Conciliation Board procedure is reported as operating well, although here as well the question of actual enforceability remains open. Lastly, Austria reported that there is also a major problem with the practice of retroactive de-registration of long-term care in some Member States, because there is no provision in Austria for retroactive self-insurance for a lengthy period.

Romania reported that their National Agency for Employment makes necessary efforts to develop a good and tight cooperation with institutions from other Member States. More in particular, efforts are made in responding to requests to investigate possible entitlements to Romanian benefits of persons who are already recipients of similar or other benefits in the respective Member States. However, the outcomes of such cooperation are often hard to achieve as long as the requesting Member State cannot provide sufficient information enabling them to precisely identify the person subject to investigation.

Malta stated that although data exchange in individual cases works very well, bulk data requests remain very difficult to establish, due to differences in privacy legislation and general restrictions.

Related to the foregoing, **Slovakia** mentioned that the communication when exchanging information related to a person's health condition is made easier by designating contact persons during bilateral negotiations and then using e-mail (e.g. with the Czech Republic, Austria, United Kingdom). Due to personal data protection rules the e-mail communication is limited to sending reminders, or exchanging basic information needed to solve concrete cases. Information related to persons, including their health condition, are sent by regular post to the postal address of the partner institution in question. This is found to be problematic. Slovakia is expecting much improvement and advancement after the introduction of EESSI.

Also **Denmark** mentioned the implementation of the future communications system EESSI as a hopefully possible solution for the need for a system of safe communication between Member States, since it is the view of *Udbetaling Danmark* that initiatives aiming at combating fraud and error are impeded by a lack of access to data from other Member States – both in relation to data exchange on a larger scale and in relation to concrete cases. Until EESSI is in place, Member States will continue to be challenged by this.

6.3.2. Other issues and concerns

Like previous years, **Austria** reported the PD A1 as another problem area, on the one hand owing to the possibility of its unrestricted retroactive issue (either through unawareness or delay at the institution concerned), and on the other hand to the lack of an actual enforceable possibility of challenging it, since a 'decision' can be taken only by agreement. The outcome of investigations at the place of work is often disregarded by the posting State, and in some cases there are even no comments in response to requests for the forms to be withdrawn. A modification of the dispute resolution procedure might be helpful here, in the shape of a specific obligation on the institution responsible to carry out checks where there are justified doubts. There also needs to be better communication between the institutions concerned, within shorter timeframes, by simple technical means.

Belgium raised a concern regarding cross-border investigations. When a social inspectorate conducts an investigation, they often have to stop as soon as one of the persons involved claims to live across the border. In those cases, which the social inspectorates often encounter in border regions, they can no longer make inquiries such as a confirmation that that person actually lives in that specific country, whether s/he receives any social benefits, generates an income etc. This leads to an unequal treatment of similar cases where, when all those involved reside on the same territory, the matter would be fully investigated. Finally, it is sometimes difficult to establish whether a person has double citizenship/registration and/or benefits from multiple social security systems at the same time.

Lastly, the **Czech Republic** reported an issue concerning pension benefits. In pension cases it occasionally comes to a controversial situation if the insured person (usually) lives in Austria, and the attending physician is also in Austria, but the claim for an invalidity pension is submitted in the Czech Republic, because that is the place of permanent residence of the insured person. In such cases it quite often happens that Austria demands the form E 213 CZ from the Czech Republic even if all the medical reports are available only in Austria (in German). In the Czech Republic the medical reports (sent from Austria) have to be translated from German into Czech. The form E 213 CZ is produced in Czech and sent to Austria, where this form has to be translated again into German. Such procedure seems to be rather pointless, although strictly in accordance with Regulations (EC) No 883/2004 and (EC) No 987/2009, if no other medical reports are available in the Czech Republic.

6.4. Closing remarks

Best practices	Member States
Regarding cross-border cooperation and data exchange:	
Inter-institution discussions at irregular intervals with Member States and personal contacts/direct meetings with partners in other Member States	AT, BE, CH, EE, IT, MT, PL
The computerised transmission of applications and information	IT
The European Platform to combat cross-border social security fraud and error	DK, FI, IE
Fruitful data exchange with other Member States	MT
Concluding bi- or multilateral agreements on data exchange	PL
Regarding data protection in the context of cross-border data exchange:	
Regulation (EC) No 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive (EC) No 95/46 (General Data Protection Regulation)	IT
The use of digital encryption methods/secure IT methods and tool	ES, HR
Regarding internal cooperation and data exchange	
The sharing of best practices between social security institutions	CH
The use of comprehensive and up to date registers and performing data mining activities on these registers	DK, FI
The use of specialised units for detecting fraud and error	NL, NO
Regarding the dissemination of information:	
The measure "Clean hands" as part of the Sectoral Programme for Prevention of Corruption in the Health System for 2015-2019	LT
Meetings and events with the purpose to inform society about the implementation of the EU Regulations	LV

Regarding PDs, SEDs and other forms	
The creation of the SED F003; information about the payment of family benefits regarding the priority right	IT
Lessons learned	Member States
Regarding cross-border cooperation	BE
Regarding data exchange	IT
Regarding the EHIC	UK
Issues and concerns	Member States
Regarding cross-border cooperation and data exchange:	
The uncooperativeness of some Member States / a lack of cooperation between Member States / long handling times / no sufficient information	AT, PL, RO
Linguistic barriers	AT
Problems regarding cross-border enforcement	AT
The need for a system of safe communication between Member States	DK, MT, SK
Other issues and concerns:	
Regarding the PD A1	AT
Regarding unequal treatment between purely national cases and cross-border cases	BE
Regarding translation issues	CZ

Member States who replied to Q 6	Member States who refrained from replying to Q 6
AT, BE, CH, CZ, DE, DK, EE, ES, FI, HU, IE, IS, IT, LT, LV, MT, NL, NO, PL, PT, RO, SK	BG, CY, EL, HR, LI, LU, UK

7. EXAMPLES OF, OR PROPOSALS OR SUGGESTIONS FOR MEASURES TO IMPROVE THE OVERALL TACKLING OF FRAUD AND ERROR IN THE FIELD OF SOCIAL SECURITY COORDINATION WHICH NATIONAL CONTACT POINTS CAN OPERATIONALISE WITHOUT THE NEED FOR CHANGES TO NATIONAL OR EU LAW

7.1. Regarding cooperation and data exchange

Austria reported that close cooperation between the Member States and institutions concerned is vital but also still open to improvement in the case of some States. Faster action and friction-free teamwork between the Member States concerned would be a substantially more promising scenario. Many Austrian institutions expect improvements as a result of the introduction of EESSI and the consequent possibility of faster data exchange.

Italy noted that members of National Contact Points (NCPs) and other actors should be encouraged to make increased use of the European Platform to combat cross-border social security fraud and error so that information and suggestions are shared more widely. A flexible and informal daily flow of information, views, practices and ideas would be ideal. To ensure more flexible use of the platform, it would also be useful if each country could enter data and receive feedback in its own language. The Social Insurance Bank (*Socialeverzekeringsbank – SVB*) of the **Netherlands** suggests that all NCPs always respond to posts on the NCP European Platform.

Norway stated that the Norwegian Labour and Welfare Administration takes part in the European Benefit Fraud Network Group, organised as a sub-group of the NCP network. This sub-group exchanges knowledge about methods, trends and examples that are of important value in tackling fraud and error, also in domestic cases. More such sub-groups should be established.

Portugal suggested the promotion of regular meetings between NCPs and representatives of institutions and services with competence in the different areas of social security coordination, thus constituting an "internal network" with their NCP.

Denmark mentioned that in order to improve the overall tackling of fraud and error International Health Insurances should either contact the relevant health providers or involve the national liaison bodies when they experience problems with the interpretation of the coordination rules, in order to resolve problems.

To improve the overall tackling of fraud and error in the field of social security coordination, it is important to **Latvia** to improve information exchange by for example new bilateral or multilateral agreements between the EU Member States (for example, agreements on the exchange of information about persons' place of living (change of residence), employment periods, deaths etc).

In **Malta's** opinion, the area which is most subject to cases of fraud and error is the area of the applicable legislation. Ideally, each Member State should adopt the best practices found in the Belgian system, which is the most focused in this area. Maybe a concerted effort at EU level in this regard could result to be very effective in combating fraud and error.

It was reported by the **Polish** Social Insurance Institution (*Zakład Ubezpieczeń Społecznych, Departament Rent Zagranicznych – ZUS DRZ*) for consideration that the provisions on the coordination of social security systems should be more precise and should not allow for different interpretation by various Member States. The Practical Guide, which is intended to be an interpretation of the rules, often creates doubts itself (e.g. the amount of turnover of the posting undertaking). In addition, *ZUS* has asked to consider building a thematic (held on the European Platform to combat cross-border social security fraud and error) database covering good practices referring to other issues identified by the Member States and reported over the years both in the context of the questionnaire to this report (and maybe also the questionnaires themselves accompanied with the statistical reports per reference year) and other AC notes. This database could be supplied by a kind of library with all the respective FreSsco reports and any other EU or international documents referring to issue of preventing or combating fraud and error in the field of EU social security

Finland stated that a European website with all the relevant information on how to insure a person in each Member State is needed. This could be achieved with the help of the NCPs from each Member State, who could collect the information and verify if this information could easily be understood by employers, employees and self-employed persons. This information could then be published by e.g. the European Commission. Also **Lithuania** mentioned the spreading of information as an efficient measure to prevent fraud and error.

7.2. Regarding Portable Document A1

Austria reported that with regard to the issue of PDs A1, it would be desirable that there is an obligation to provide detailed information about inter-State facts, including a binding declaration to confirm that the data is accurate and complete.

To prevent any cases of irregularity/fraud, the elimination of Portable Document U1 and the preferred use of SED U001 was again proposed by **Italy** as a radical solution to the Ministry of Labour and Social Policy, and via the latter to the Administrative Commission, pending the amendment of the document to put personal data on each page, given that it does not guarantee exchange of information between the respective institutions in accordance with the provisions of EU regulations. Pending possible elimination, consideration should be given to the possibility of setting up a shared database for consulting the forms in question, even though the launch of EESSI could solve these issues.

7.3. Regarding the EHIC

With regard to the EHIC, according to **Austria** it makes sense to point out to healthcare providers on a regular basis that they should check the identity of patients who are being treated temporarily. In addition, EHICs should be made electronically readable in future and/or the full period of validity should be visible directly on the card.

8. STATISTICS ON FRAUD AND ERROR IN THE FIELD OF EU SOCIAL SECURITY COORDINATION (REFERENCE YEAR 2016)

8.1. Introduction

As mentioned before, for this year's report, a new approach to the collection of statistical information was agreed, as quantitative data were collected by the thematic questionnaires launched within the framework of the Administrative Commission. The aim of this new approach was to obtain more detailed figures and a higher response rate among the Member States on the assumption that the competent institution which fills out the thematic questionnaire is also capable of replying to the quantitative questions on fraud and error. Despite this new approach still only a few Member States provided quantitative data. The response rate also strongly varies among the thematic questionnaires.

It follows that some caution is required when drawing general conclusions. These fragmented data nonetheless give an indication of the size of fraud and error in the field of EU social security coordination as well as an overview of some types of fraud and error. It is hoped that by obtaining a higher response rate in the following years some of the preliminary findings can be confirmed or perhaps even denied.

The questions on fraud and error are standardised in the thematic questionnaires and ask Member States to quantify the number of cases identified as well as the amount involved. Furthermore, Member States are invited to describe more in detail patterns of behaviour, types of inappropriate use of the EU provisions and types of error with reference to both citizen and institutional error.

8.2. Applicable legislation

Cases of fraud and error concerning the applicable legislation are reported by Belgium, the Czech Republic, Denmark, Hungary, Luxembourg, the Netherlands, Poland, Slovakia and Iceland.

Several infractions of the conditions determined by Article 12 of Regulation (EC) No 883/2004 (i.e. posting) and Article 13 of Regulation (EC) No 883/2004 (i.e. pursuit of an activity in two or more Member States) have been reported:

- no direct relationship between the posted worker and the employer;
- no substantial activities in the sending Member State, the employer only makes use of posting, inappropriate statements of the domestic activity, letterbox companies, etc;
- posted workers replace each other;
- false PDs A1;
- incorrect information provided by the applicant;
- bogus self-employment: wrong status of the person concerned;
- circumventing the application of Article 12: false evidence that Article 13 instead of Article 12 should be applied;
- fraudulent use of Article 13(3).

Only a few Member States were able to provide more detailed information on these infractions. For instance, Luxembourg and Slovakia are aware of cases of fraud regarding the application of Article 13(3) of Regulation (EC) No 883/2004. This article states that a person who pursues an activity as an employed person and an activity as a self-employed person in different Member States is subject to the legislation of the Member State in which the person pursues an activity as an employed person. In some cases there are doubts whether the activity as employed person is really carried out.

Furthermore, data was reported on the number of PDs A1 withdrawn (*Table 1*). In absolute figures, the highest number of PDs A1 were withdrawn by Poland (2,050 PDs A1). However, this Member State also issued the highest number of PDs A1 in 2016. In relative terms (i.e. as a share in the total number of PDs A1 issued) all Member States which provided figures withdrew less than 1% of the total number of PDs A1 issued in 2016. For instance, Poland withdrew 0.4% of the total number of PDs A1 it issued in 2016. However, it should be noted that (also/especially) PDs A1 issued in 2015 or even earlier could be withdrawn in 2016. Figures on the number of PDs A1 withdrawn from the perspective of the receiving Member State were also asked. However, no such figures were provided. No figures were collected on the number of requests by receiving Member States to withdraw a PD A1. This is probably a figure more easily provided than the number of PDs A1 withdrawn. Only Denmark reports that the French authorities have requested Denmark to withdraw 18 PDs A1 in 2017.

Table 1 **Number of PDs A1 withdrawn, 2016**

	Number of PDs A1 withdrawn (as competent MS)	Total number of PDs A1 issued in 2016	% of withdrawn PDs A1 in 2016
DK	6*	29,595	0.02%
HU	529	65,725	0.8%
PL	2,050	513,972	0.4%
PT	300	64,459	0.5%
IS	1	239	0.4%

* However, Denmark states that it is still in the process of talking with the French authorities and the company. So they have actually not been withdrawn yet.

Source Administrative data PD A1 Questionnaire 2017

To what extent foreign service providers commit violations to the applicable rules can be analysed by confronting the number of audits or investigations to the number of cases identified. Only Belgium has provided detailed information on this (see also section 2.2.2). Such kind of information is also reported in the annual reports of labour inspectorates.

Finally, cases of error concerning the applicable legislation were reported as a result of mistakes in determining the legal basis and the competent Member State as well as the issue of incomplete PDs A1.

8.3. Cross-border healthcare

8.3.1. Unplanned necessary healthcare

8.3.2. Inappropriate use of the EHIC

Many Member States¹³ reported cases of fraudulent use of the EHIC. Most of the reported cases refer to the inappropriate use of the EHIC by persons who were not or are no longer insured. Furthermore, cases of inappropriate use of counterfeited EHICs were reported by Poland. The United Kingdom reported that they are still aware of copycat websites charging for advice related to the use of the EHIC. In the past this was also the case for Ireland. Finally, cases of error were reported by Poland, Portugal and Romania.

A number of Member States were able to quantify the inappropriate use of the EHIC (Table 2). Out of this group, Austria reported the highest number of cases of inappropriate use. Those reported cases could be compared to the total reimbursement claims (E125 forms). In relative terms, Estonia (3% of the amount reimbursed) and Lithuania (2% of the amount reimbursed) are confronted with the highest impact.

Table 2 Number of cases of inappropriate use of the EHIC, 2016

	Total number of cases identified	Total amount involved (in €)	Share in total number of claims paid	Share in total amount reimbursed**
CZ	A few hundred		0.2%	
EE	193	175,297	2.8%	3.0%
LT	284	134,209	3.5%	2.0%
NL	More than 100 cases	85,757	0.1%	0.02%
AT	791	189,868	0.8%	0.8%
RO*	315	212,924	1.0%	0.6%

* RO: includes cases of fraud and error.

Source Administrative data EHIC Questionnaire 2017

8.3.3. Invoice rejection

Most of the rejections of an invoice issued or received by the E125 form/SED S080 are the result of an invalid EHIC at the moment of treatment or an incomplete E125 form. It also appears that some competent institutions even refuse to settle the claim on the grounds that the date of issue of the EHIC was later than the start of treatment or than the end of the treatment period.

¹³ The Czech Republic, Germany, Estonia, Spain, Lithuania, the Netherlands, Austria, Poland, Portugal, Romania, Slovakia, the United Kingdom, Iceland, Norway and Switzerland.

The main reasons reported to refuse an invoice were:

- Invalid EHIC at the moment of treatment (= person not insured in the competent Member State):
 - expired EHIC;
 - date of treatment before EHIC was issued.
- Incomplete E125 form:
 - wrong personal ID number;
 - missing EHIC ID number;
 - invalid EHIC ID number;
 - insufficient information concerning the EHIC.
- Duplication of claims.

A total number of twelve Member States were able to quantify the number of rejected invoices by their institutions or other institutions. Those cases could be compared with the total number of claims for reimbursement received or issued by an E125 form. The share of rejected invoices compared to the total claims of reimbursement received is on average 2.4% (Table 3). However, this percentage varies markedly among the reporting Member States. For instance, about 7% of the claims issued by Germany were rejected and about 2% of the claims it received. Also a higher number of claims for reimbursement issued by Norway (6.3%), France (3.3%) and the United Kingdom (3.3%) were rejected by the competent institutions in other Member States. From the perspective of the competent Member States, Croatia rejected 5.9% of the claims it received in 2016. Compared to 2015 the percentage of rejections has increased significantly.

Table 3 Number of rejections of invoices, 2016

MS	Rejections by institutions in other countries	Share of rejections in total reimbursement claims issued	Rejections in 2015	Rejections by your institutions	Share of rejections in total reimbursement claims received	Rejections in 2015
CZ	500	1.1%	1.5%	500	1.2%	n.a.
DK	73	0.7%	n.a.	84	0.4%	0.1%
DE	29,000	6.8%	5.2%	12,000	2.2%	2.3%
EE	50	0.3%	0.0%	n.a.	n.a.	0.2%
FR	3,874	3.3%	n.a.	6,438	2.1%	n.a.
HR	906	0.9%	0.4%	855	5.9%	3.6%
CY	47	0.9%	0.6%	n.a.	n.a.	0.5%
SI	159	1.1%	1.6%	519	2.7%	2.7%
FI		1-2%	1 - 2%	n.a.	n.a.	1 - 2%
UK	382	3.3%	1.9%	3,682	n.a.	n.a.
IS	40	1.2%	n.a.	n.a.	n.a.	n.a.
NO	70	6.3%	n.a.	n.a.	n.a.	n.a.
Total*		2.4%	1.4%		2.4%	1.3%

* Unweighted average of the reporting Member States.

Source Administrative data EHIC Questionnaire 2017

8.3.4. Planned cross-border healthcare

Most reporting Member States are not aware of cases of fraud and error related to planned cross-border healthcare, in particular with regard to the use of PD S2.¹⁴ Only Romania and Austria reported some cases of fraud and error.

8.3.5. Entitlement to healthcare by persons residing in a Member State other than the competent Member State

Spain has detected cases of pensioners insured in another Member State who are not registered in the competent institution in Spain although they have received a PD S1. As a result these pensioners are currently insured in Spain solely on the basis of their residence. In case healthcare is provided to these pensioners no claim of reimbursement will be sent by Spain although it is not the competent Member State. Collaborative arrangements have been made for the exchange of information on pensioners with Germany, the Netherlands and the United Kingdom to determine the competent State. This resulted in the detection of 220 persons insured by Germany and 376 persons insured in the United Kingdom. Furthermore, a limited number of cases of fraud and error were reported by Austria, Poland, Greece and Iceland. For instance, Poland reports that in some cases the PDs S1 it received are incomplete or applicable to persons who do not reside in Poland. In addition, in several cases Poland refused to issue a PD S1 when persons were not insured in Poland.

8.4. Unemployment benefits

8.4.1. Export of unemployment benefits

In order to receive the unemployment benefit in another Member State, the unemployed person has to fulfil several conditions before leaving and on arrival. Some Member States report that these conditions are not always fulfilled. Latvia reports that persons are not always properly informed by their competent Member State on the export of unemployment benefits. As a consequence, unemployed persons sometimes leave the Member State without requesting a PD U2, which was confirmed by Greece, Cyprus, Hungary and Slovakia. Moreover, Greece reports that unemployed persons do not always register with the employment services of the receiving Member State within seven days. These cases might suggest that unemployed persons are not sufficiently aware of their rights and duties and highlight the importance of raising awareness. If they are not aware of these rights/duties, they might also fail to assert/fulfil them when they move to another Member State without a PD U2. Moreover, there is the risk that even competent institutions do not know this right to export unemployment benefits.

Although the conditions to export unemployment benefits are not always fulfilled, almost all reporting Member States are not aware of cases of inappropriate use of the PD U2.¹⁵ Only Norway revealed 11 cases where the beneficiaries took up employment while still receiving an unemployment benefit.

¹⁴ This is the case for the Czech Republic, Denmark, Croatia, Lithuania, the Netherlands, Slovenia, Sweden, Iceland and Liechtenstein.

¹⁵ Bulgaria, Estonia, Spain, Croatia, Latvia, Hungary, Malta, the Netherlands, Iceland and Norway.

8.4.2. Aggregation of periods for unemployment benefits

France, Slovakia, Finland and Hungary report significant delays in receiving the PD U1. Furthermore, some cases of fraud and error were reported by the Czech Republic, France, Hungary, Slovakia and Finland. The main remark made by the reporting Member States is that information provided by institutions is incomplete. For instance, the PD U1 does not contain all necessary information on periods of insurance and wages. Moreover, differences exist in the information provided by the PD U1, payslips, labour contracts, and the Structured Electronic Documents. Hungary and the Czech Republic report that they have detected some cases of unemployed persons who started to work abroad neglecting to notify about it. Only the Czech Republic, Hungary and Spain quantified the number of cases and the amount involved (*Table 4*). These cases of fraud and error are compared to the total number of PDs U1 received.

Table 4 Number of cases of fraud and error identified in case of aggregation of periods for unemployment benefits, 2016

	Number of cases identified	Amount involved (in €)	% of total PDs U1 received
CZ	41	3,925	7.9%
HU	88	6,077	4.5%
ES	More than ten		0.3%

Source Administrative data PD U1 Questionnaire 2017

8.5. Old-age, survivors' and invalidity pensions

Belgium, Bulgaria, Denmark, Germany, Spain, Romania and Latvia have provided information on fraud and error in case of the application of the EU provisions on old-age, survivors' and invalidity pensions.

These Member States reported several types of fraud and error:

- payment of pension rights after the death of pensioners whose rights were exported abroad;
- pensioners submitting false or incorrect information (for instance, incorrect civil status or income declaration);
- falsifying life certificates.

Especially the payment of a pension even after the death of the pensioner remains a risk. This can happen due to the death occurring in the period between annual checks carried out through life certificates and because relevant institutions abroad or relatives of the deceased have informed the competent institutions late or failed to inform them. In order to avoid this risk some Member States exchange data. For instance, Belgium electronically exchanges data on the date of death with Germany and France. Also Germany carries out automatic death data cross-checks for pensioners residing in Austria, Belgium, Switzerland, Spain, Finland, Iceland, Italy, Luxembourg, the Netherlands and Sweden. Several such death data cross-checks were conducted in the 2015 reporting period. Finally, a similar initiative is reported by Poland.

As reported by Germany, fraud and error may be countered by continuing the mutual information under Article 76(4) of Regulation (EC) No 883/2004, whereby the institution of the place of residence and the institutions concerned reinforce the exchange of information about changes in the personal circumstances of pensioners. This applies, for example, to a change of address, the taking up of employment or information on marital status in respect of surviving dependants.

In 2016, the International Verification, a unit within the Social Insurance Bank (*Socialeverzekeringsbank – SVB*) of the Netherlands, visited 882 old-age pension and survivor’s benefit clients in Belgium, Finland, France, Germany, Great-Britain, Greece, Poland, Portugal and the United Kingdom. Irregularities with regard to the amount paid were found in 210 cases or in 24% of the audits. Furthermore, Romania has detected 21 cases of fraud and error in 2016.

8.6. Family benefits

Several types of fraud and error were identified by Belgium, Germany, Poland and Romania in cases where a family benefit is exported abroad:

- not informing (or informing very late) about changes affecting the right to family benefits (hiding facts about employment, the income situation of the family);
- the composition of the household reported does not correspond with the real situation;
- fictitious salaried or self-employed activities.

Finland, Malta, Latvia and Ireland are not aware of any cases of fraud and error. This is in contrast to Belgium, the Czech Republic, Poland and Romania (*Table 5*). Mainly for Belgium and Poland the detected cases of fraud and error cover a relatively high amount. Nonetheless, these cases of fraud and error are ‘only’ 4% and 2% of the total amount exported by Poland and Belgium, respectively.

Some 27% of the amount reported by Poland relate to cases of fraud, of which most are linked to not informing the competent institution about changes affecting the right to family benefits. This is also the main reason for cases of error.

Table 5 Cases of fraud and error in case of export of family benefits, 2016

	Cases	Amount involved	% exported cases	% exported amount
CZ*	199	€ 127,065	21%	12%
PL	4,033	€ 1,389,404	12%	4%
RO	998		7%	

* CZ: only cases of error.

Source Administrative data Questionnaire on the export of family benefits 2017

8.7. Maternity and equivalent paternity benefits

Bulgaria, the Czech Republic, Croatia, Estonia, Ireland, Italy, Cyprus, Lithuania, Malta and Iceland are not aware of cases of fraud and error regarding the payment of maternity and equivalent paternity benefits. Only Germany reported that it has closed 255 cases in 2014 and 2015.

8.8. Recovery of outstanding contributions and unduly paid benefits

According to Article 84 of Regulation (EC) No 883/2004 and Articles 78 to 85 of Regulation (EC) No 987/2009 a request for the collection of contributions and the recovery of unduly paid benefits can be submitted. A questionnaire on recovery procedures was launched within the framework of the Administrative Commission to collect these data. These are reported and analysed in a separate thematic report.¹⁶

The number of requests for recovery issued and received are for most Member States fairly limited. Most of the requests for recovery of outstanding contributions are submitted by the Netherlands, Austria and Germany. In general, most of the requests for recovery of unduly paid benefits concern family benefits. Mainly Luxembourg has submitted a strikingly high number of requests for recovery of unduly paid family benefits. The number of requests for recovery of unduly paid family benefits could also be compared to the total number of family benefits paid within the context of the application of the EU rules on the coordination of social security systems. The results show that a high percentage of family benefits exported abroad has to be recovered afterwards. This is mainly the case for Slovakia.

8.9. Quantitative data: Conclusions

Several Member States provided statistics on the number of cases of fraud and error in the field of EU social security coordination. Others could not quantify the size of these cases but were sometimes able to describe in more detail the types of inappropriate use of the EU provisions. The table below gives a summary overview of these responses. From these data, it can be concluded that most of the reporting Member States did not detect cases of fraud and error with regard to the EU provisions on planned cross-border healthcare, healthcare provided to persons residing in a Member State other than the competent Member State, the export of unemployment benefits and finally maternity and equivalent paternity benefits. This is in contrast to the EU provisions on applicable legislation, unplanned necessary healthcare and old-age pensions.

¹⁶ De Wispelaere, F. and Pacolet, J. (2017), *Report on recovery procedures*, Network Statistics FMSSFE, European Commission.

Table 6 Cases of fraud and error in the field of EU social security coordination reported by Member States, 2016

	Applicable legislation	Cross-border healthcare			Unemployment		Old-age, survivors' and invalidity pensions	Family benefits	Maternity and equivalent paternity benefits
		Unplanned necessary healthcare	Planned cross-border healthcare	Residing in a MS other than the competent MS	Export of unemployment benefits	Aggregation of periods for unemployment benefits			
BE	YES						YES	YES	
BG					NO	NO	YES		NO
CZ	YES	YES	NO			YES			NO
DK	YES	NO	NO				YES		
DE		YES					YES	YES	YES
EE		YES							NO
IE					NO			NO	NO
EL				YES	YES				
ES		YES			NO		YES		
FR				NO		YES			
HR			NO	NO	NO	NO			NO
IT									NO
CY		NO		NO					NO
LV					NO		YES	NO	
LT		YES	NO	NO					NO
LU	YES								
HU	YES			NO	NO	YES	NO		
MT		NO		NO	NO	NO		NO	NO
NL	YES	YES	NO		NO	NO			
AT		YES	YES	YES					
PL	YES	YES		YES	NO	NO		YES	
PT		YES							
RO		YES	YES				YES	YES	
SI			NO						
SK	YES	YES			NO	YES			
FI		NO		NO	NO	YES	NO	NO	
SE		NO	NO	NO	NO				
UK		YES			NO				
IS	YES	YES	NO	YES	NO	NO			NO
LI		NO	NO	NO		NO			
NO		YES		NO	YES				
CH		YES							
No. YES	9	15	2	4	2	5	7	4	1
No. NO		6	9	10	14	7	2	4	10

Source Administrative data from the thematic questionnaires

9. ADDITIONAL REMARKS

The Central Compensation Office (*Centrale de Compensation – CdC – CCO*) of **Switzerland** additionally remarked that attention should be drawn to the judgment in the case *Vukota-Bojic versus Switzerland* delivered late 2016 by the European Court of Human Rights, of which the repercussions for the LFA have not yet been clearly determined. At the same time, the revision of the Swiss Federal Law on the General Part of Social Insurance (*Loi fédérale sur la partie générale des assurances sociales, LPGA*), rescheduled for early 2017, offers a range of opportunities:

- to provide a definition of 'insurance fraud' specific to the social insurance covered by the LPGA (e.g. by inserting the appropriate wording in Chapter 2, such as a new Article 13b LPGA or an equivalent solution);
- to provide a framework for action procedures while laying down a standard legal mandate, particularly as concerns the OASI and the DI (e.g. through a draft article broader in scope than the current Article 59(5) LAI);
- introducing an integrated legal basis in the Swiss legal system to clarify the roles and points of access in the framework of electronic exchange of data with foreign countries (e.g. the simplification of the legal aspects relating to the establishment of exchanges of dates of death with Switzerland's partners from the States party to the FMPA).

Belgium added an additional remark. It stated that the difficulty/weakness linked to the annual fraud and error questionnaire is that, unlike other theme-based questionnaires, it is not compulsory. It is therefore difficult to gather data for the different areas of social security and to encourage the institutions to invest in the IT needed for this exercise. A further difficulty also stems from the fact that each national institution gathers data specific to it (depending on its specific needs, national legal restrictions imposed in Belgium for example via management contracts). There is no coordination between social security institutions as regards the data to be gathered in order to implement European rules on the coordination of social security systems. Belgium is therefore in favour of a legal basis being added to the coordination rules that obliges Member States to gather the relevant data in a specific format for purposes of comparison. Only in this way will it be possible to obtain the relevant data that can then be compared at European level, to draw conclusions and to try to assess the scale of fraud and error in the EU in the context of the implementation of the rules on the coordination of social security systems. Furthermore, some questions would require a longer reporting period, as the adoption of new legal provisions at national level often takes quite a significant amount of time.

Belgium seems to be clearly in favour of strengthening Article 91 of the Implementing Regulation.¹⁷

The **United Kingdom** added many additional remarks. Some of them were inserted *infra*, others were too broad to fit in one of the chapters and are therefore mentioned hereinafter:

¹⁷ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems, *OJ L* 284, 30.10.2009.

The National Health Service (NHS) in the UK

Healthcare in the UK is a devolved function, which means that different healthcare systems operate in England, Scotland, Wales, Northern Ireland and Gibraltar. Entitlement to free NHS hospital treatment in the UK is based on the individual being 'ordinarily resident', not on nationality or the payment of UK taxes or national insurance contributions. A person will be 'ordinarily resident' in the UK when that residence is lawful, adopted voluntarily and for settled purpose as part of the regular order of his or her life for the time being, whether of short or long duration.

There is no standard or centralised register of people who are ordinarily resident in the UK at any given time, and this means that there may be occasions where patients are not charged for their care when they should be, either as a result of fraud or error. There is anecdotal evidence of some EEA residents travelling to the UK specifically to access services who do not have an EHIC or an S2. However, in 2015 the NHS introduced new regulations, which were updated in 2016, which apply to all courses of treatment commenced on or after that date.

These regulations place a legal obligation on NHS Trusts, NHS foundation trusts and local authorities in the exercise of public health functions in England, to establish whether a person is an overseas visitor to whom charges apply, or whether they are exempt from charges. The role of Overseas Visitors Manager is established in the NHS to ensure that those patients who are not exempt from charges make a fair contribution for the care they receive.

The S2 route

For the S2 route the main risk of fraud comes from submission of falsified documents to either prove settled residence or prove UK NHS consultant support.

The documents that the decision-making body particularly scrutinises are:

- bank statements,
- utility bills,
- tenancy agreements,
- NHS Consultant support letters.

Where these are unsatisfactory, the administrators ask for more evidence and/or reject the application.

The decision-making body does not specifically collate information on numbers of claims rejected in these circumstances or the potential amounts, although it is recorded with each application.

There are underlying concerns which have prompted our attention, which are currently under investigation, relating several applications with issues about:

- accurate translation of medical information;
- fraudulent medical support information to assist applicants to access treatment not available under the NHS;
- the ability for applicants to enter a financial arrangement with a provider whereby they pay a lesser fee than the invoice presented.

Lichtenstein reported they do not have knowledge about any cases of fraud and/or error.

Luxemburg reported that as the reporting on fraud and error is voluntary, Luxembourg decided not to take part for the reference year 2016.

10. CONCLUSION

In line with the reports of previous years, this report reveals that generally, despite the various steps taken by the Member States in order to prevent and combat fraud and error and the obvious constantly growing awareness concerning the necessity to tackle cross-border social security fraud and error, there is still room for improvement. The Member States have reported a diverse range of measures undertaken – with varying intensity – in order to tackle fraud and error in general and within the different branches of social security specifically. In spite of these differences amongst Member States as concerns fraud and error, however, the reported measures are demonstrative of the continued willingness of the Member States to tackle these practices, as was the case in 2016.¹⁸ With the foregoing in mind, the following conclusions can be drawn.

Regarding the steps taken throughout the reference year (2016) to prevent and or combat fraud and error in cases determined under the Regulations,¹⁹ it can primarily be concluded that a distinction between steps taken to prevent/combat fraud and steps taken to prevent/combat error is rarely made. Often, the reported measures have the dual intent to combat fraud as well as error. The steps taken to combat and/or prevent fraud and error, reported by the Member States can be categorised into four major categories:

1. steps regarding information dissemination;
2. steps regarding controlling and monitoring actions;
3. steps regarding cooperation and data exchange;
4. steps regarding the recovery of unduly paid benefits.

Starting with the steps taken regarding information dissemination, it is notable that in the area of prevention and detection of fraud and error, several Member States still put lots of efforts in information dissemination, in order to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens.²⁰ It is the view of the authors of this report that information dissemination is an important step in the prevention of fraud and error. When citizens and other stakeholders involved have better knowledge about the coordination rules and the resulting rights and obligations, less errors will occur. The same goes for the staff of social security institutions and other parties involved in the application of the coordination rules. Moreover, information dissemination is also a substantial step to ameliorate the fight against fraud and error, since the staff of social security institutions and other parties involved in the application of the coordination rules who are better acquainted with the matter will detect cases of fraud and/or error earlier and will know how to deal with these cases. We therefore encourage the European Commission and the Member States to keep making improvements towards information dissemination, just like they did during the current and previous reference years.

¹⁸ It needs be noted that these findings can, however, only be compared to foregoing studies in a highly limited manner, as the focal points of foregoing studies do not necessarily correspond with the focal point of the current report.

¹⁹ Cfr. Chapter 2.

²⁰ Cfr. 2.1.1.1.

Secondly, concerning the steps taken regarding controlling and monitoring actions, it is clear that Member States keep on trying to make improvements.²¹ The implementation of regular checks and monitoring activities is a substantial step in the prevention of and fight against fraud and error. Data matching and data mining are found to be very useful techniques to partly fulfil these tasks. In first instance, in order to be able to fully make advantage of these techniques, extensive corresponding databases and registers are needed. The authors of this report therefore encourage the Member States to keep establishing, improving and updating their databases and registers and to facilitate consultation of these databases and registers by relevant parties, if possible even by institutions of other Member States etc. The creation of a central register of PDs A1 was for example found to be very useful.

When extensive databases and registers are available, the techniques of data mining and data matching can simplify the processes of risk profiling, risk management and risk targeting. By using these processes cases of fraud or error can be prevented or detected early. The authors of this report would like to emphasise to the Member States that, although risk profiling, risk management and risk targeting surely have positive effects towards preventing and even combating fraud and error, they should always be aware of the fact that some risk profiles or cases of fraud can slip through the net and that risk targeting can lead to the relocation of the fraud by the perpetrators towards fields that are not targeted. Member States may not be blinkered by the results of these processes. They have to keep looking at fraud and error with an open mind, next to the aforementioned IT processes. The authors of this report would also like to encourage the Member States to make further implementations on electronic payment control systems, since they are very effective in preventing fraud and error. The creation of new or the update of already existing reporting tools can be seen as a very helpful tool for controllers and/or investigators in the fight against fraud and error. It is clear that various Member States have a vast amount of know-how on all the abovementioned processes at their disposal. The authors of this report suggest that Member States share their know-how, best practices, lessons learned and remaining issues so that all the Member States could reach the same level of progress. While exchanging this know-how, best practices, lessons learned and remaining issues new insights will be revealed and existing systems and processes will be further developed. Very often, Member States struggle with questions other Member States also struggle with, or have been struggling with and have already resolved. Also in such cases it is clear that cross-border cooperation and information exchange can boost efficiency and economise resources often too scarce. Lastly, the authors of this report find that little or no European or international inspection and monitoring actions in the fight against fraud and error were reported by the Member States. Joined checks with social inspectorates or other institutions from other Member States were for example not reported, although joined checks were held at the Benelux level. On 3 October 2014 the Benelux Member States concluded the Treaty of Liège, a Benelux Treaty on the cooperation in the field of road transport inspections. On 13 August 2017 a first common inspection (Belgium and the Netherlands) took place and was highly successful. On 23 September 2015 the Benelux Committee of Ministers issued the Recommendation concerning the development of a multilateral cooperation in the fight against cross-border social fraud at the Benelux and European levels. On 18 March 2016 the Declaration of Intentions on further collaboration of the Benelux Interparliamentary Assembly, the Baltic Assembly and the Nordic Council on the development of a multilateral cooperation to promote fair labour and to fight social security fraud was adopted. On 17 May 2016, Dutch and Belgian inspection services inspected a temporary work agency that is mainly active in the construction sector in a cross-border context.

²¹ Cfr. 2.1.1.2 and 2.2.1.1.

Since still most of the controlling and monitoring actions happen at the national level, a close cooperation and data exchange between the Member States is needed. Concerning the foregoing, it is plain that Member States keep on trying to improve the communication (including data exchange) and cooperation between internal competent authorities as well as the competent authorities in other Member States and are still willing to take the necessary steps to fulfil these intentions.²² The fact that intra and international cooperation and data exchange are a *conditio sine qua non* in the process of preventing and combating fraud and error in the field of social security coordination, does not need further explanation. The reported steps show the eagerness of the Member States to improve the already existing forms and constitute new forms of cooperation and data exchange. Regarding the data exchange, the existence of structured data collection and storage in databases or registers is once more highlighted by the Member States. Regarding intra-national cooperation, the authors of this report would like to stress the importance of joined, multidisciplinary intervention teams. Since cases of fraud often cover more fields than just the (particular) field of social security, interventions together with other social security institutions, tax authorities and police authorities can lead to the detection of cases of fraud and/or error which would not have been detected in the case of an intervention of only one of the parties concerned. On the international level, the creation or improvement of specialised units/teams to further develop the international cooperation and data exchange can be encouraged. Based on the country replies of the Member States, the Network of the National Contact Points (NCPs) and its Platform have contributed to the improvement of the fight against social security fraud and error in the framework of the EU Regulations. We therefore encourage the NCPs to further ameliorate their functioning and stimulate the social security institutions and other parties involved to make an appeal to other Member States' NCPs where necessary. However, it has to be noted that there is still lots of work to be done, since the vast majority of Member States still report problems concerning cross-border cooperation and information exchange. Concerning data exchange on the national and international level, there is still some progression to be made. In this respect, regarding files processed by inspectorates/institutions, the activities of Belgium regarding Osiris can be taken as an example. The conclusion of bilateral cooperation and/or data exchange agreements are moves in the right direction, although in many cases the legal value of the agreements is questionable, e.g. in court. Multilateral agreements on an international level, cf. the Benelux and Nordic and Baltic initiatives, are welcomed and – as past experiences in other domains have proven – could prove to be a more steady legal ground for cross-border cooperation and the exchange of information and an inspiration for supranational initiatives.

Lastly, concerning the steps taken regarding the recovery of unduly paid benefits, based on the country replies, almost all the Member States made efforts regarding the recovery of unduly paid benefits and the application of other sanctions.²³ The foregoing is in the view of the authors of this report a positive development. After all, these actions are not only essential to combat fraud and error, they also have a huge influence on the prevention of fraud and error, since they have a deterrent effect on (possible) frauds.

Regarding the national legislation relevant to preventing and combating fraud and error, based on the data provided in the country sheets concerning the national legislation (Annex I), there is still practically no national legislation that specifically deals with fraud and error under the Regulations.²⁴ Article 21(3) of the Law on State Social Insurance of Latvia, according to which the State Social Insurance Agency can transfer a person's social insurance contributions made in another EU Member State to Latvia, is the only example of national legislation concerning social fraud and error in cross-border cases.

²² Cfr. 2.1.1.3 and 2.2.1.2.

²³ Cfr. 2.2.1.3

²⁴ Cfr. 2.3.

Based on the information provided by the Member States about specific problems in implementing the EU coordination rules which may lead to (at least risks of) fraud and error, various kinds of problems can be distinguished.

Firstly, almost all the Member States expressed their concerns about the (absence of/difficulties regarding) the exchange of data between the Member States.²⁵ The lack of a unified, formalised system of exchange of data is a source of anxiety and the lack of a legal base for the exchange of (bulk) data between Member States to combat fraud is denounced. The reason is that it can be debated whether the provisions on information exchange provided by the coordination Regulations are a sufficient legal basis in all cases dealing with fraud and error in particular regarding privacy and data protection issues, even more specifically in cases of fraud leading to criminal prosecution or administrative sanctions. As the reported steps taken to combat/prevent fraud and error and the reported bilateral/multilateral agreements in Annex II reveal, electronic data exchange between the Member States, and the resulting possibility of data matching, are still on the rise. Member States are still concluding bilateral or multilateral agreements in order to regulate the scope of the data exchange and the rights and duties which have to be respected by performing the exchange, the legal value of which is, unfortunately, all too often debatable. This leads to (legal) uncertainty and unresolved cases. There is only a minimal level of uniformity between the bilateral agreements, and the question arises to what extent the exchange of data is compatible with (national and European) rules on privacy and data protection. In some cases agreements are not reached just because of concerns resulting from the constraints of the national laws on the protection of personal data. Some Member States find that it does not seem possible to obtain satisfactory results by means of almost spontaneous initiatives implemented in the framework of administrative cooperation provided for under the current European legislation. Contrary to previous years, a couple of Member States do explicitly call for a European initiative. Almost all the concluded arrangements on data exchange and cooperation are bilateral; only the Nordic and Benelux countries have made efforts by concluding multilateral agreements.²⁶ It is clear that there is a need for a fully operational and interoperable system for the electronic exchange of data and a comprehensive legal framework allowing for such exchange with due respect for privacy and data protection and reducing procedural risks to the absolute minimum. Awaiting the foregoing, we encourage the Member States to keep establishing new formalised, structured forms of data exchange, possibly by closing legally sound multilateral agreements on data exchange and by giving the competent institutions of other Member States access to institutions' national databases in accordance to the relevant case law and with due regard to the upcoming changes resulting from, among others, the General Data Protection Regulation. The idea of creating a European-level database that registers migration outflows and inflows would definitely help to monitor the place of residence of workers and recipients of social welfare and social security benefits. The need and urgency for a more structured and preferably automated form of information exchange is clearly illustrated by a joint pilot study on data matching by Belgium and the Netherlands conducted within one of the Benelux Workgroups on cross-border social fraud. The pilot study revealed a stunning reality. Of 414 files exchanged, a first check of 100 files revealed 80(!) anomalies. The overall results also give ample food for thought and consideration: of the data shared between *NSSO* and *SVB* and matched for this pilot project, it turned out that an A1 form was issued for only 28% of the cases! Furthermore, 25 % of the cases were unknown to the *SVB* prior to the sharing of the data (no A1 issued or applied for) and of those 25 %, four employers each made 10 or more LIMOSA declarations for workers posted in Belgium. It also became clear that data on cases where an application for an A1 form was either denied or no longer being processed was not always shared. Last but not least, for at least 40% of the cases there is a medium to high risk the workers concerned were either socially insured in the wrong country or had no social security coverage at all. Bearing in mind Belgium and the Netherlands do not have a history of problematic cooperation in the field of social security coordination, and even taking into consideration

²⁵ Cfr. 3.1.

²⁶ Cfr. 4.

these numbers are the result of a pilot study and have not been scrutinised for validity, reliability or statistical significance, it is the view of the authors that they clearly indicate that the prevalence of fraud and error is much higher than ever assumed.²⁷

Secondly, although it is clear that most of the Member States are willing to improve the level of cross-border investigation and cooperation in general, some problems still remain.²⁸ Member States often experience difficulties regarding the determination of the competent institution in other Member States. Furthermore, the fact that the European coordination rules do not include procedures for the cross-border investigation of suspected cases of fraud and error is found problematic. These investigations are often subject to long response times, if a response is received at all. The authors are of the opinion that NCPs could definitely play a role in the improvement of cross-border cooperation and investigation. Furthermore, it still seems necessary to reflect about cross-border competences for inspection services. In addition, in case an investigation leads to a dialogue procedure between Member States, the absence of a binding effect and/or other consequences of decisions taken under this procedure are reported as a problem.

Besides, problems concerning the applicable legislation are still present.²⁹ Member States report that determining which country's legislation is applicable often remains a difficult question in practice. The rules on activity in more than one Member State are found hard to understand and difficult to apply. Based on the reported problems regarding the determination of the applicable legislation itself, it would be helpful if the European Commission invested in information dissemination (in the form of a campaign, a revision of the Practical Guide which takes into account the Member States' remarks and questions etc) towards the social security institutions and other parties involved in the field of EU social security coordination, which again explains the precise content of the coordination Regulations and which also scrutinises the practical implementation of the coordination Regulations. Problems also arise from ignorance of the beneficiaries of social benefits regarding the applicable legislation. Therefore, the EU as well as the Member States themselves have to keep investing in information dissemination towards citizens as well. Two more aspects with regard to the applicable legislation are considered as specific problems when implementing the coordination rules and as possibly leading to fraud and error. Firstly, problems still arise regarding the determination of the place of residence, the determination whether an undertaking is carrying out a significant part of its activity in the sending or posting State, and the determination of marginal work. The applicable criteria are found to be too ambiguous. Perhaps a reform of the criteria, making them more specific, could be helpful. Secondly, problems still arise from the use of PDs and SEDs, since those documents keep creating a vast opportunity for fraud and error. The PD A1 (among others) is found to be inadequately protected against forgery. Most concerns still go out to the difficulty and even impossibility to withdraw documents which are incorrectly issued by foreign institutions or individuals themselves. Further regulations concerning the PDs and SEDs seem appropriate.

Subsequently, although compared to last year's report considerably less Member States have reported such problems, some Member States still experience problems regarding the recovery of unduly paid benefits.³⁰

Lastly, it is clear that the European Health Insurance Card (EHIC) still causes lots of problems, since the Member States reported various difficulties concerning the EHIC throughout the report. The fact that the EHIC still is a paper document which cannot be

²⁷ For more information on this pilot study, please read the "Good Practice Fiche - Benelux cross-border cooperation in detecting and tackling social fraud and error – pilot project in the Construction sector" published on the website of the European Platform tackling undeclared work (<http://ec.europa.eu/social/main.jsp?pager.offset=10&catId=1299&intPageId=4875&langId=en>)

²⁸ Cfr. 3.2.

²⁹ Cfr. 3.3.

³⁰ Cfr. 3.4.

read electronically and which sometimes does not show the period of validity, is still found problematic.³¹ It would be preferable to make the EHIC electronically readable (perhaps by pairing the EHIC to the E-ID).

Regarding the steps taken in the reference year (2016) to promote compliance by institutions and healthcare providers with the coordination rules and to provide information to citizens, also this year various measures were reported.³² It is clear that all Member States have dedicated themselves to raising as much awareness as possible concerning the coordination rules, towards institutions, towards healthcare providers as well as towards citizens. Information was shared, trainings were held, all of this in order to minimise (the risk of) fraud and error in the field of social security.

The reported best practices, lessons learned and issues and concerns reflect the essence of this report.³³ Although the Member States are willing to improve the cross-border cooperation and communication (including data exchange) between them and although the already implemented measures concerning this matter are often quite successful, they still encounter serious problems that have been reported throughout the years. The fact that cross-border cooperation is in practice fully based on the goodwill of the Member States leads to the finding that some Member States are not always cooperative (they do not respond to questions, do not share data etc) and that other Member States report they cannot do anything about that. In addition, the best practices and lessons learned show that the prevention of and fight against fraud and error still is a major topic on their agendas and that they keep trying to implement innovative measures.

The foregoing can also be deduced from the reported examples of or proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of social security coordination which NCPs can operationalise without the need for changes to national or EU law.³⁴ Member States for example encourage each other to make increased use of the European Platform to combat cross-border social security fraud and error and the NCPs themselves, by e.g. holding regular meetings between NCPs or the establishment of more sub-groups of the NCP Network on specific matters. Also the establishment of (thematic) databases held on the Platform was proposed. It is the view of the authors of this report that, concerning the foregoing, the risk of fragmentation of the NCPs and its consequences should be borne in mind, since it might hamper the efficiency of the NCPs (/NCP networks) and to at least some extent might give significant indications as to the limits of the establishment of NCPs.

In view of the aforementioned, it appears that two fundamental steps need to be taken.

In the first place, the cross-border cooperation between Member States' national institutions of social security is still to be facilitated, with due regard for enforcement. Since Member States have been reporting issues with regard to cross-border cooperation and information exchange and in most cases seem unable to resolve these issues themselves, just like in previous years, the question whether further initiatives at Union level – in addition to the Commission's recent proposal to revise the social security coordination Regulations – are needed has to be addressed.

Secondly, in connection with the first suggested step, the exchange of data between national competent authorities as well as the competent authorities in other Member States still has to be regulated, with due regard for data protection concerns. The lack of cooperation in this respect singlehandedly functions as a gateway to a number of issues amongst Member States in the field of social security coordination. In this respect, it should be noted that the Commission's recent proposal to revise the social security coordination Regulations includes several amendments in relation to data protection and

³¹ Cfr. 3.5.

³² Cfr. 5.

³³ Cfr. 6.

³⁴ Cfr. 7.

it remains to be seen which further action concerning fraud and error in the context of social security coordination will be necessary. In addition, the launch of the EESI platform was mentioned to be very urgent by the Member States, since they believe that many problems regarding cooperation and data exchange will be solved by this platform. It seems clear that further initiatives at the European Union level are called for.³⁵

Last but not least, the vast majority of authors of the Member States' national reports seem unaware of the importance of a multidisciplinary approach to tackling at least some major forms of cross-border social fraud, e.g. cases of organised cross-border social fraud. Over the years, little to no reference was made to organised forms of cross-border social fraud, which is remarkable given the impact on national economies, the rights of workers involved as well as the image and perception of the European Union. We urge all Member States to raise awareness of organised forms of cross-border social fraud (e.g. posting schemes, organised benefit fraud, organised forms of labour exploitation etc), of the need for a multi-disciplinary approach to tackling such cases, and of the specific issues and opportunities that arise in multi-disciplinary environments.

Despite the new approach to the collection of statistical information, as this year quantitative data were collected by the thematic questionnaires launched within the framework of the Administrative Commission, still only a few Member States provided figures on fraud and error. These fragmented data nonetheless give an indication of the size of fraud and error in the field of EU social security coordination as well as an overview of some types of fraud and error. It might also encourage the missing Member States to provide these kind of data. By obtaining a higher response rate conclusions will also become less tentative. The current public debate shows several ad hoc needs for more detailed information on the size of fraud and error in the field of EU social security coordination. Those needs are perfect test cases to assess the relevance of the collected data and their level of detail. It might also be a reason to step up efforts in collecting and reporting data.

³⁵ Recently a growing interest and new initiatives at the European level could be observed. The European Platform for tackling undeclared work seems to be gaining momentum (in this respect it seems odd it wasn't mentioned in the national reports), and the proposal for the revision of the Coordination Regulations, although still open for debate with the co-legislators, does put forward several improvements for tackling fraud and error and does more explicitly address data protection with regards to the exchange of information in the framework of social security coordination (Proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004, 13 December 2016, COM(2016)815 final – 2016/0397 (COD), <http://ec.europa.eu/social/main.jsp?langId=en&catId=849&newsId=2699&furtherNews=yes>). Last but not least, in his State of the Union Address 2017 at the European Parliament, President Juncker announced plans for a European Labour Authority, aimed at strengthening the cooperation between competent authorities cross-border situations. Furthermore, in his Letter of Intent to the European Parliament and Council, President Juncker announced by the end of 2018 a proposal to establish a European Labour Authority, as well as further initiatives in support of fair mobility, such as a European Social Security Number. (cf. https://ec.europa.eu/commission/sites/beta-political/files/european-labour-authority-factsheet_en.pdf).

HOW TO OBTAIN EU PUBLICATIONS

Free publications:

- one copy:
via EU Bookshop (<http://bookshop.europa.eu>);
- more than one copy or posters/maps:
from the European Union's representations (http://ec.europa.eu/represent_en.htm);
from the delegations in non-EU countries
(http://eeas.europa.eu/delegations/index_en.htm);
by contacting the Europe Direct service (http://europa.eu/europedirect/index_en.htm)
or calling 00 800 6 7 8 9 10 11 (freephone number from anywhere in the EU) (*).

(*). The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

Priced publications:

- via EU Bookshop (<http://bookshop.europa.eu>).

Priced subscriptions:

- via one of the sales agents of the Publications Office of the European Union
(http://publications.europa.eu/others/agents/index_en.htm).

