



# Workflow Guidance for the interaction between ELA and the Administrative Commission

IN THE EVENT OF DISPUTES BETWEEN  
MEMBER STATES ON MATTERS THAT  
CONCERN EU SOCIAL SECURITY  
COORDINATION DURING THE COURSE  
OF A MEDIATION BEFORE ELA

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# 1. Introduction

Member States which have a dispute that concerns the application of EU social security coordination rules have several ways to resolve the matter. Different out-of-court dispute resolution mechanisms exist. Member States can first of all enter into a bilateral dialogue with a view to reconcile their divergent points of view and find a mutually agreeable solution for the dispute concerned. When such direct contact and dialogue remains unsuccessful, they may consider to either bring the case for mediation under the mandate of the European Labour Authority<sup>1</sup> (hereinafter ‘ELA’) or opt for conciliation under the procedures established by the Administrative Commission (hereinafter ‘the AC’) for the coordination of social security systems<sup>2</sup>. All mechanisms are based on the voluntary participation of the Member States concerned and on the principles of sincere administrative co-operation between Member States, as enshrined in the relevant EU legislative instruments.

ELA’s objective, as defined in Article 2 of its founding Regulation (EU) 2019/1149, is to contribute to ensuring fair labour mobility across the Union and assist Member States and the European Commission in the coordination of social security systems within the Union. To that end, ELA shall, amongst others, mediate and facilitate a solution in cases of cross-border disputes between Member States on the application of relevant Union law. The aim of mediation is to reconcile divergent viewpoints between the Member States regarding individual cases of application of Union law in the areas covered by the founding Regulation and to adopt a non-binding opinion. ELA’s mandate is wider than only social security coordination and mediation is not strictly confined to this part of the EU social acquis.

The AC for the coordination of social security systems, on the other hand, is responsible for dealing with administrative matters, questions of interpretation arising from the provisions of regulations on social security coordination, and for promoting and developing collaboration between EU countries. The AC is comprised of representatives of the government of EU Member States and a representative of the Commission. Its composition, operation and tasks are laid down in Title IV of Regulation (EC) No 883/2004<sup>3</sup>.

In particular, according to Article 72(a) of Regulation (EC) No 883/2004, “the Administrative Commission is responsible for dealing with all administrative questions or questions of interpretation arising from the provisions of Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009”.

Within this context a Board for the Cooperation with the European Labour Authority and for Conciliation, was established with note A.C.055/022, on 14 March 2022, to assist the Administrative Commission<sup>4</sup>. The Board for the Cooperation with the European Labour Authority and for Conciliation assists the Administrative Commission:

- in applying the Cooperation Agreement between the Administrative Commission and the European Labour Authority, to establish a cooperation framework in the field of the coordination of social security systems;
- in cases of differing interpretation between members of the Administrative Commission arising from the provisions of the Coordination Regulations, in particular on such issues referred to in paragraph 1 of Decision No A1<sup>5</sup>.

As described above, **disputes between Member States that are (in full or only in part) concerned with the application of EU social security coordination rules may fall within the respective mandates of ELA and the AC**, and Member States are in principle free to decide which dispute resolution mechanism they want to activate with a view to resolving their dispute. There is consequently a need to have rules on the respective competences, co-operation modalities

<sup>1</sup> All details available at the following link: <https://www.ela.europa.eu/en/mediation>.

<sup>2</sup> Rules of the Administrative Commission for the Coordination of Social Security Systems attached to the European Commission of 16 June 2010 (2010/C 213/11).

<sup>3</sup> <https://ec.europa.eu/social/main.jsp?catId=857&intPagId=983&langId=en>

<sup>4</sup> The “Board for the Cooperation with the European Labour Authority and for Conciliation” has replaced the Conciliation Board, established on 16 June 2010 by the Rules of the Administrative Commission for the Coordination of Social Security Systems attached to the European Commission.

<sup>5</sup> The decision No A1 established the “Dialogue and conciliation procedure concerning the validity of documents, the determination of the applicable legislation and the provision of benefits under Regulation (EC) No 883/2004 of the European Parliament and of the Council”, on 16 June 2009. The text of the decision is available at this address: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0424\(01\)&from=de](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32010D0424(01)&from=de).

and exchange of information between both bodies for the different situations that may occur.

Within this context, article 13(10) of the founding Regulation (EU) 2019/1149 determines that: “the mediation before ELA shall be without prejudice to the competence of the AC, and all decisions it takes shall take into account all relevant decisions of the AC.” Article 13(11) installs the obligation to establish a cooperation agreement between the AC and ELA, in order to ensure good cooperation, to coordinate the activities in mutual agreement and to avoid any duplication in cases of mediation which concern both issues of social security and labour law. The AC-ELA Agreement was approved by ELA’s Management Board and entered into force on 1 June 2022<sup>6</sup>.

The present workflow guidance is aimed to facilitate the operationalization of the said AC-ELA cooperation agreement. Consequently, the workflow outlined here can only be used if Member States have first opted for a mediation procedure before ELA. If, on the other hand, Member States submit their case directly to the AC, the conciliation procedure before the latter will be followed.

## 1.1 WHO ARE THE ACTORS INVOLVED IN THE INTERACTION BETWEEN ELA AND THE AC?



Member States which have a dispute that, at least in part, concerns the application of EU social security coordination rules may decide to request to ELA a mediation, individually or jointly. As soon as at least one Member State has submitted a request for mediation to ELA, **all Member States that are involved in the dispute**, become key actors into the present workflow guidance (concerned with the interaction between ELA and the AC) as the entire process is based on the voluntary participation and agreement by all Member States involved. Member States may decide at any point during the mediation procedure to refer their dispute to the Administrative Commission and/or to proceed from mediation to conciliation before the AC (see in particular, scenario 2 and 4) or the AC may request to do so once it has been informed by ELA (see scenario 1 and 3).



At ELA, the **ELA mediation secretariat** (within the Cooperation Support unit) is the main and single contact point at any stage of the interaction with the AC, once ELA has received a request for mediation from at least one single Member State. The mediation secretariat is in charge of maintaining communication with the AC and with the Member States concerned. However, within ELA mediation process, different individual actors can detect the presence of a social security coordination issue which can occur at any point in time during the different stages of the mediation procedure (e.g. mediator, Chair or experts of the Mediation Board, Rapporteur).



The AC has assigned the Chair of the **Board for the Cooperation with the European Labour Authority and for Conciliation**, (hereinafter: the Cooperation and Conciliation Board-CCB) the role of the single point of contact. The CCB is composed of maximum 20 members nominated by the delegations of the AC and appointed by the AC for a term of 24 months. These members act on the basis of their personal expertise and therefore in an impartial manner.

<sup>6</sup> Ref.Ares 7916942, available at this address: <https://www.ela.europa.eu/sites/default/files/2022-03/ELA-AC-signed-agreement.pdf>.

The work of the CCB is coordinated by the Chair and supported by the Secretariat and a representative of the European Commission. The Chair is the main and single contact point at any stage of the interaction with ELA. All communication between the AC and ELA will therefore take place between the mediation secretariat and the Chair of the CCB, who will benefit from the support of the Secretariat, who provides a functional mailbox for the single point of contact (SPOC).

## 1.2 WHAT ARE THE KEY MOMENTS DURING THE ELA MEDIATION PROCESS, WHEN THE AC-ELA INTERACTION IS TRIGGERED?

The AC may become involved at any point during the entire mediation process before ELA. Two main situations can be discerned, which respectively relate to the different phases of the mediation process: (1) the interaction is triggered during the initiation phase, prior to the launching of the first stage of the mediation procedure and (2) the interaction is triggered after the formal launch of the first stage of the mediation procedure. The latter situation can occur during the first or the second stage of the mediation procedure or even after the completion of the entire mediation process.

Within each of the 2 main situations, two scenarios can occur depending on whether either the AC itself or the Member States are requesting the referral of the case to the AC.

**For the purposes of the present guidelines four different scenarios are hence identified.** The first two may occur before the start of the first stage of the mediation procedure. The last two, on the other hand, occur after the start of the first stage of the mediation procedure:

1. ELA-AC interaction is triggered **before the launching of the first stage of the mediation procedure** (during the initiation phase).
  1. AC requests a referral following a communication from ELA.
  2. Member States involved in the mediation procedure request a referral to the AC.
2. ELA-AC interaction is triggered **after the launch of the first stage of the mediation procedure**.
  3. AC requests a referral, following a communication from ELA. This will only happen in exceptional situations.
  4. Member States involved in the mediation procedure request a referral to the AC.

### 1.3 GLOSSARY AND CONCEPTS

CONCEPT	MEANING
<b>AC- ELA COOPERATION AGREEMENT</b>	<p>The Cooperation Agreement concluded between the AC and ELA, which contains the rules to ensure good cooperation between the two bodies, to coordinate the activities in mutual agreement and to avoid any duplication in cases of mediation which concern both issues of social security and labour law.</p> <p>The AC-ELA Cooperation Agreement entered into force on 1 June 2022.</p>
<b>ADMISSIBILITY CHECK</b>	<b>The administrative check that is conducted by ELA on the basis of which it can decide to (not) launch the first stage of the mediation procedure. The aim of the admissibility check is to verify that all necessary conditions are fulfilled and ELA deems the issue within its competence.</b>
<b>DETAILED STATEMENT</b>	A statement of the Member State/s making the request for mediation before ELA, which allows ELA to clearly determine the cause and nature of the dispute. It includes the necessary information allowing ELA to verify whether the case can be admitted to mediation.
<b>REFERRAL</b>	<b>The referral is the act that allows the AC or the Member States, to bring a dispute (previously pending before ELA) to the AC's attention, or back to ELA's attention.</b>
<b>JUSTIFICATION</b>	A document the AC sends to ELA explaining why it deems appropriate to request the referral of the dispute.
<b>JOINT NON-BINDING RECOMMENDATION</b>	<b>A decision reached by ELA and the AC in common agreement, which indicates which body is best positioned to deal with a specific dispute and could therefore be more effective.</b>
<b>ABSTRACT QUESTION</b>	The legal question behind the individual dispute which requires an interpretation by a court or a specialized body, on a particular piece of relevant EU labour mobility legislation.
<b>SPOC- SINGLE POINT OF CONTACT</b>	<b>All communications, documents, notifications that the parties wish to exchange pass through the SPOC. Each party shall communicate which is the point of contact and let the other party know how the SPOC shall be contacted.</b>
<b>INTERNAL REGISTERING SYSTEM</b>	The internal information system where ELA is storing the information and communication relating to the mediated disputes.

## 2. The possible interaction between the AC and ELA, before the launch of the first stage of mediation

When ELA receives a case to mediate from the Member States, or initiates one, it is crucial that it **verifies whether the dispute could in any way be related to EU social security coordination issues**. ELA will always verify this possible connection by means of the admissibility check of the case (point 8, [Doc. IX](#)).

When a dispute relates, fully or in part, to matters of social security coordination, **ELA shall inform the AC**. Following the communication by ELA, either the AC itself ([Scenario 1](#)) or the Member States ([Scenario 2](#)) can request a referral of the dispute to the AC. ELA in itself is not requesting a referral, ELA only informs the AC about the fact that the case concerns fully or in part matters that relate to EU social security coordination.

In order for the AC-ELA interaction to be triggered, the dispute must hence have already been initiated before ELA. If the dispute is not already brought before ELA, a possible interaction between the AC and ELA may only occur in a situation when two (or more) Member States initiated the two alternatives means of dispute resolution (mediation and conciliation) in parallel in order to resolve the same dispute. In such an instance, the instructions in Section 5 can be followed.

### 2.1 ELA VERIFIES THAT THE DISPUTE CONCERNS FULLY OR IN PART MATTERS THAT CONCERN SSC

When conducting the “**Admissibility check**” ([Doc. IX](#)), ELA verifies whether the dispute to be mediated concerns fully or in part a EU social security coordination matter. In the affirmative, ELA is obliged to inform the AC<sup>7</sup> and the AC-ELA interaction is triggered.

However, before informing the AC, ELA must first be certain that **all Member States, involved in the dispute, agree to mediate**<sup>8</sup>.

### 2.2 ELA VERIFIES THAT ALL MEMBER STATES INVOLVED IN THE DISPUTE AGREE TO MEDIATE

Before informing the AC (about the possible interaction -due to a social security coordination matter, in the dispute to mediate) ELA needs to verify whether the Member States involved in the dispute agree to mediate or not. To do so ELA will be able to use the “**Letter of invitation to mediate**” ([Doc. V](#)).

This step is essential, since the absence of consent to mediate from at least one of the Member States involved, automatically implies the end of the mediation process before ELA (early closure).

<sup>7</sup> Article 11(2) of the Rules of Procedure for mediation and Article 6(1) and (2) of the AC-ELA Cooperation Agreement.

<sup>8</sup> Article 6(2) of the AC-ELA Cooperation Agreement.



## OUTCOME A: ONE (OR SOME) MEMBER STATE(S) DO NOT AGREE TO MEDIATE

When one (or more) Member State(s) decline(s) to mediate, through a “**Letter of refusal**” ([Doc. VI](#)), ELA will not inform the AC about the matter of social security coordination, because in this case, one of the necessary conditions to initiate mediation/a mediation procedure is missing: the consent of all Member States involved. ELA will send a “**Notification of early closure**” ([Doc. VII](#)) to all Member States involved.

## OUTCOME B: ALL MEMBER STATES AGREE TO MEDIATE

When all Member States, including those that did not (yet) sent a letter of request to mediate, replied positively, through a “**Letter of Acceptance**” ([Doc. VI](#)), ELA can proceed and **inform the AC**. As soon as all detailed statements are received from the Member States, ELA sends to the AC a “**Letter of information**” ([Doc. XXXII](#)).

### B.1 ELA informs the AC

After obtaining the consent of the Member States for mediation, ELA must inform the AC about the dispute that concerns social security coordination issues. To that end, ELA sends a “Letter of information” ([Doc. XXXII](#)) to the AC.



The letter of information that ELA sends to the AC contains in annex:

- All **detailed statements** which ELA has received from the Member States involved.
- **ELA tries to avoid referring information included in the detailed statement(s) which does not relate to coordination of social security systems, unless this information is essential to understand the full scope and/or context of the dispute or in cases Member States agree that the entire Detailed Statement is sent to the AC.** ●
- **Any other relevant documentation** submitted by the MS(s) to ELA (if any), or identified by ELA, in case the mediation process started on ELA's initiative.
- When possible, **all the disputes** that have been mediated up until that moment which are **related to social security coordination** (if collected in the internal registering system).

### B.2 ELA notifies Member States that it has informed the AC

ELA notifies the Member States involved, through a “**Notification letter to inform the Member States that the detailed statement has been sent to the Administrative Commission**” ([Doc. XXXIII](#)) that the AC has been informed and that the detailed statement(s) (if any) has/have been sent<sup>9</sup>.



The notification letter that ELA sends to the Member States contains:

Information that their **detailed statements, or parts thereof, have been sent** to the AC.

The **consequences for the mediation procedure** (which has not yet started concretely) depending on the decision to be communicated by the AC, presumably **within 20 working days**.

<sup>9</sup> Article 7(2) of the AC-ELA Cooperation Agreement.



### B.3 ELA suspends the mediation procedure for the part related to SSC

During a period of **20 working days** counted as from the date of the sending of the “Information Letter to the AC”, **ELA cannot proceed on the social security coordination part of the dispute**<sup>10</sup>. However, ELA can decide to start the first stage of mediation on those disputed issues which are not related to social security coordination (when such a separation of the disputed issues is possible). However, the part of the case that is made the subject to the AC’s assessment must remain pending until the AC’s response has been received.

Once ELA has fulfilled its informative duties, the potential referral of the dispute is not yet fully accomplished.

This **referral of the dispute to the AC** - before the launch of the first stage of mediation- **can be requested by the AC itself** ([Scenario 1](#)) **or by the Member States** ([Scenario 2](#)).

#### SCENARIO 1: Request of referral by the AC



The AC-ELA Cooperation Agreement states in Article 8(2) that:

“**Within 20 working days** of the receipt of the relevant information from the ELA as provided in Article 7(1), the AC shall inform the ELA on whether:

1. **It is requesting the ELA to refer the dispute concerning social security to the AC**, together with a justification and declaration stating the agreement of all the Member States party to the dispute to refer the dispute relating to social security to the AC; and
2. **Whether the dispute concerns an issue of new interpretation of the Coordination Regulations which was never dealt with either by the AC**, or any institutions such as the Court of Justice of the European Union or any other specialised body entrusted by Union law to provide such interpretations, and thus falls within the exclusive competence of the AC to deal with such issue in accordance with Article 72 of Regulation 883/2004.”

<sup>10</sup> Articles 6(4) and 8(5) of the AC-ELA Cooperation Agreement.

The AC then has **20 working days** to make its assessment and communicate to ELA<sup>11</sup>, through a standard “**Written letter**” ([Doc. XXIX](#)<sup>12</sup>). The AC-ELA Cooperation Agreement provides four communications that the AC may (or may not) provide to ELA, so the figure below illustrates:

1. The **four possibilities envisaged for the AC**<sup>13</sup>, by Article 8 of the AC-ELA Cooperation Agreement.
2. The consequent **actions that are required of ELA**.
3. The **possible outcomes** for the Member States involved in the mediation process.

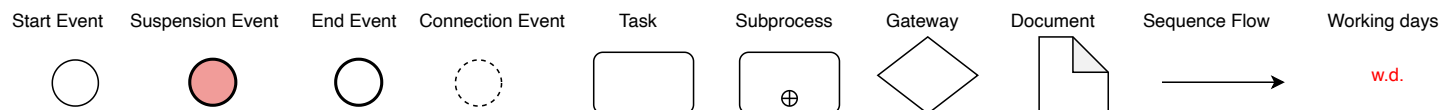
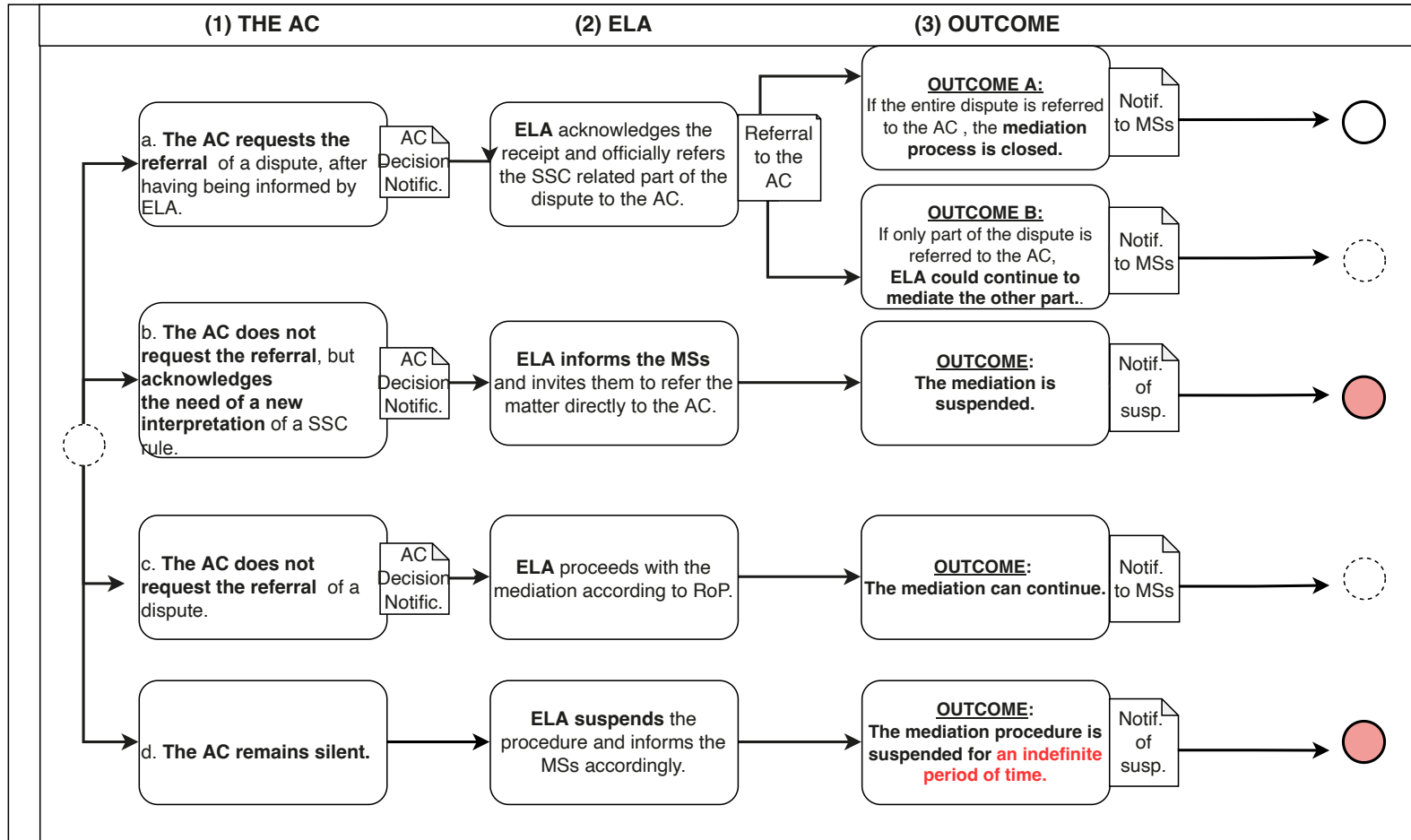
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<sup>11</sup> For procedures involving the AC, when cooperating with ELA, it will be advisable to look at the working arrangements made by the AC for the timeframes and deadlines they shall respect.

<sup>12</sup> This document No XXIX “Written letter” is a document that ELA proposes to the AC so as to facilitate and standardise communication; however, the AC is free to use a different document.

<sup>13</sup> The first two possibilities the AC has, according to Article 8 of the AC-ELA Cooperation Agreement, are only apparently different. In fact, as will be illustrated, in both cases the AC recognises the need to refer the dispute to itself and/or to interpret it. However, in the second hypothesis, the AC does not ask ELA directly for the referral, but it is the Member States that will have to do so, if they want to.

**REFERRAL OF THE DISPUTE TO THE AC, BEFORE THE LAUNCH OF THE FIRST STAGE OF MEDIATION**  
**REFERRAL UPON REQUEST OF THE AC**



### The AC requests the referral of a dispute (fully or in part) (Option A)

The AC requests ELA to refer the dispute concerning social security coordination to the AC. The AC sends to ELA the “**Written letter**” ([Doc. XXIX](#)) with a justification and a declaration, **stating the agreement of all Member States party to the dispute**.

It is essential that the AC also verifies -for its part- the willingness of the Member States to transfer the dispute (partially or completely) to the AC. In fact, if at least one Member State does not agree with the referral to the AC, it will be necessary to activate the procedure provided for in Article 10 of the Cooperation Agreement (See [Section 4](#)).

ELA acknowledges the receipt of declaration and justification from the AC and officially refers the social security coordination related part of the dispute to the AC, through a “**Letter of referral**” ([Doc. XXXIV](#)).



The letter of referral that ELA sends to the AC contains:

- **Acknowledgement of the receipt** of the justification and declaration from the AC
- **Official referral** of the part of the dispute related to a matter of social security coordination to the AC.

Immediately afterwards, ELA informs the Member States, involved in the mediation procedure, about the decision taken by the AC<sup>14</sup>. Based on this, two possible outcomes can be outlined.

- A** **OUTCOME A: The closure of the mediation procedure when** the AC has taken the entire dispute under its proceedings and the Member States have agreed. In this case, ELA will send the Member States a “**Notification of early closure**” ([Doc. VII](#)).
- B** **OUTCOME B:** The possible continuation of the **mediation** process since only part of the dispute has been referred to the AC and the remaining part can be mediated by ELA, if the Member States agree. Therefore, in the latter case, ELA will send a “**Notification of start of the first stage of mediation**”<sup>15</sup> for that part of the dispute that has not been referred to the AC.

### The AC does not request the referral but acknowledges the need of a new interpretation (Option B)

The AC informs ELA, through the “**Written letter**” ([Doc. XXIX](#)), **that the dispute concerns an issue of new interpretation of the Coordination Regulations** which was never dealt with either by the AC or by any institution such as the Court of Justice of the European Union or any other specialised body entrusted by Union law to provide such interpretation, and thus falls within the exclusive competence of the AC.

In such a situation **the AC does not send a request for the referral** of the dispute (Option A) within the envisaged time frame of 20 working days. As a consequence, ELA cannot launch its mediation procedure until the decision of the AC on this issue has been received.

<sup>14</sup> Article 8(3) of the AC-ELA Cooperation Agreement.

<sup>15</sup> In this case, the mediation procedure will continue as provided in the workflow guidance for ELA mediation procedure (Stage 1).

**ELA cannot continue mediation on this part of the dispute<sup>16</sup>.** However, in order to encourage Member States to find a solution, ELA will invite them, through a **“Notification letter to inform the Member State about the possibility to refer the dispute to the AC”** ([Doc. XXXV](#)), to request a new interpretation on the legal matter directly to the AC, in accordance with Article 8(6) and 9 of the Cooperation Agreement.

In this case, ELA will only be able to initiate a first stage of mediation after the AC, the Court of Justice of the European Union or any other specialised body entrusted by Union law to provide interpretations, has given an interpretation on the matter and not before, which is why **the mediation process remains suspended until such a ruling is made.**

Should Member States wish to take up ELA’s suggestion and request the AC to resolve the interpretative doubt regarding the social security coordination issue, they can practically follow the procedure hereby described in [Scenario 2](#).

### The AC does not request the referral of a dispute (Option C)

The AC informs ELA, through the **“Written letter”** ([Doc. XXIX](#)), that it **is not requesting the referral** of the dispute, and therefore the mediation can continue before ELA<sup>17</sup>.

In this case ELA can continue the mediation procedure, if Member States agree to do so.

In accordance with the Rules of Procedure for mediation, ELA sends to the Member States involved a **“Notification of start of the first stage of mediation”**<sup>18</sup>.

### The AC remains silent (Option D)

**The AC makes no request for the referral** of the dispute within the time period **of 20 working days** and **remains silent**. Therefore, ELA shall not launch its mediation procedure (on this part of the dispute) until the decision of the AC on this issue has been received<sup>19</sup>.

ELA shall inform the Member States party to the dispute accordingly, through the **“Notification of suspension”** ([Doc. XXXVI](#)).



The notification of suspension that ELA sends to the Member States contains:

- Information of the suspension of the mediation procedure not yet launched.

<sup>16</sup> Article 8(6) of the AC-ELA Cooperation Agreement.

<sup>17</sup> Article 8(4) of the AC-ELA Cooperation Agreement.

<sup>18</sup> In this case, the mediation procedure will continue as provided in the workflow guidance for ELA mediation procedure (Stage 1).

<sup>19</sup> Article 8(5) of the AC-ELA Cooperation Agreement.

If Member States decide to follow ELA's suggestion, they can practically follow the procedure hereby described in [Scenario 2](#) and ask the AC to start the conciliation procedure.

### SCENARIO 2: Request of referral by the Member States

All **Member States involved in a mediation procedure before ELA can decide to refer the dispute to the AC** at any stage of the mediation, if the dispute is related (either fully or in part) to a matter of social security coordination<sup>20</sup>.

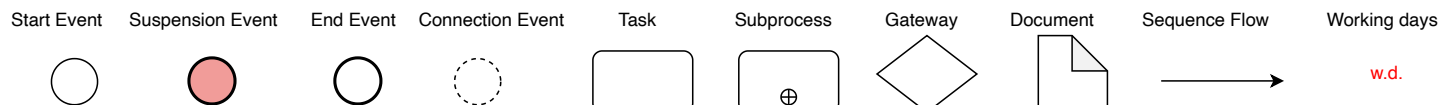
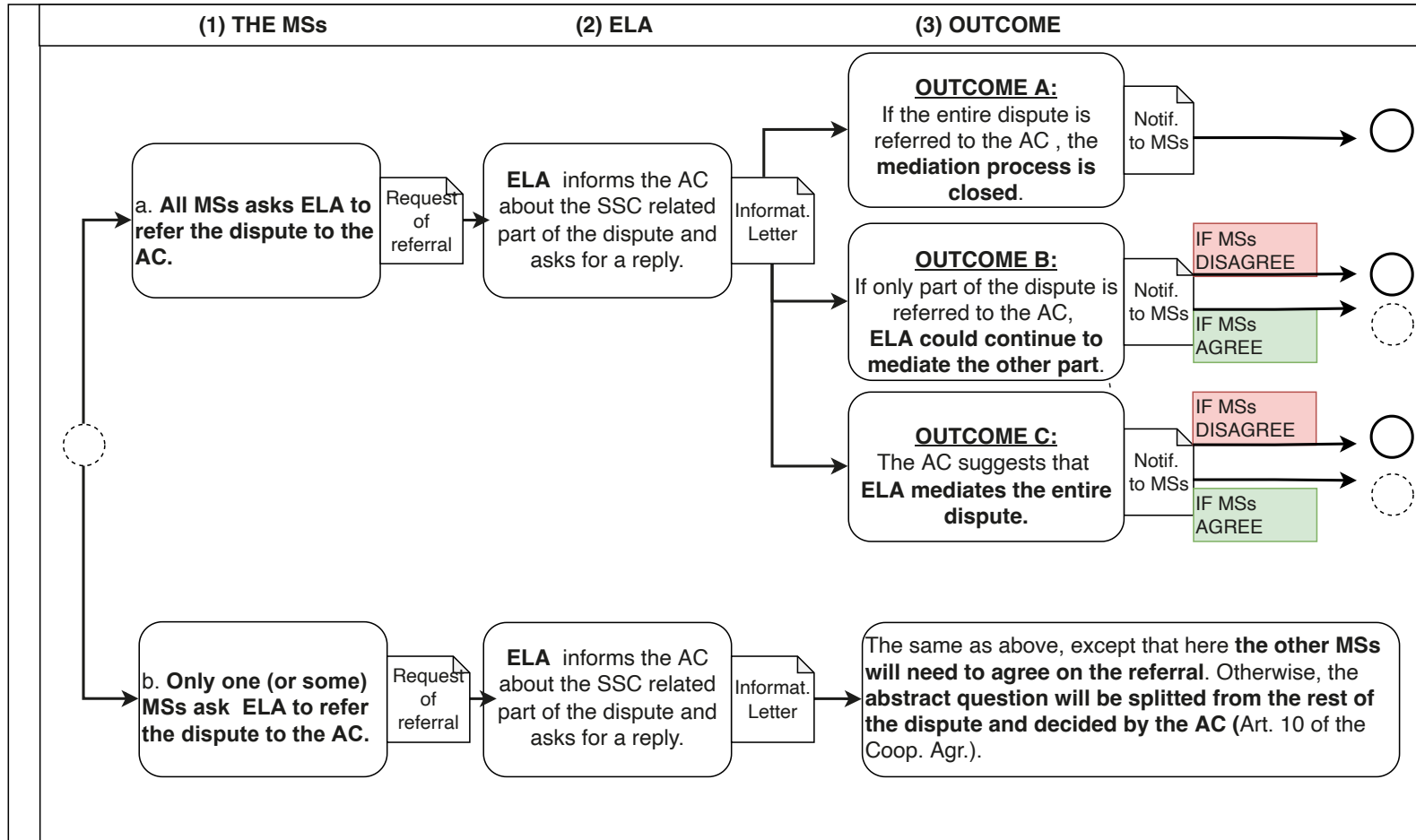
Within this (second) scenario is outlined the procedure to be followed in case Member States decide to make such a request, **prior to the launch of the first stage of mediation**. The figure below illustrates which actions ELA can take and the possible outcomes.

It must always be kept in mind that in order to refer the dispute to the AC, for the part relating to social security coordination, **the consent of all Member States is required**, if this consent is not reached, it will be necessary to apply Article 10 of the Cooperation Agreement (and thus follow [Section 4](#)).

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<sup>20</sup> Article 9 of the Cooperation Agreement and Article 18 (2/g) of the Rules of procedure for mediation.

**REFERRAL OF THE DISPUTE TO THE AC, BEFORE THE LAUNCH OF THE FIRST STAGE OF MEDIATION**  
**REFERRAL UPON REQUEST OF THE MEMBER STATES**



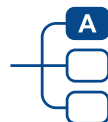


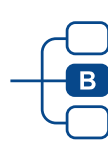
### The request is made by all Member States involved (Option A)

The Member States realise that they prefer to opt for a conciliation procedure before the AC, therefore they send a “**Letter to refer the SSC related part of the dispute to the AC**” to ELA. As the first stage of mediation has not yet been launched, ELA receives the request from the Member States directly.


If ELA has already communicated to the AC the presence of a matter related to social security coordination in that dispute, no further action will be required before the AC’s answer.

On the other hand, if the “**Letter of information**” ([Doc. XXXII](#)) has not yet been sent, ELA informs the AC about the intention of the Member States. ELA can follow the same procedure outlined hereby, under [paragraph B.1](#).

 **A** OUTCOME A: The first possible outcome is that the entire dispute is referred to the AC, which accepts to conciliate according to its own rules<sup>21</sup>. In this case, the mediation procedure is closed and ELA sends to all Member States a “**Notification of early closure**” ([Doc. VII](#)).

 **B** OUTCOME B: The second possible outcome is that only part of the dispute is referred to the AC, which accepts to conciliate according to its own rules<sup>22</sup>. The remaining part of the dispute can be mediated by ELA, if the Member States agree. Therefore, in the latter case, ELA will send a “**Notification of start of the first stage of mediation**”<sup>23</sup>.

Otherwise, if Member States do not agree, ELA will send a “Notification of early closure” ([Doc. VII](#)).

 **C** OUTCOME C: The last possible outcome is that the AC deems ELA best positioned to deal with the case, therefore it sends the request of the Member States back to ELA<sup>24</sup>. Therefore, in this case, **if Member States agree**, ELA will send to the Member States a “**Notification of start of the first stage of mediation**”<sup>25</sup>.

Otherwise, if Member States do not agree, ELA will send a “**Notification of early closure**” ([Doc. VII](#)).

### The request is made by one (or some) Member States involved (Option B)

In the event that only one of the Member States involved requests the transfer of the dispute for the part concerning social security, the procedure will be exactly the same ([option a](#)), the only difference being that in this case it will probably be necessary for ELA and the AC to agree on a joint non-binding recommendation (see [Section 4 and 5](#)).

Indeed, if at least one of the Member States prefers to go ahead with mediation and at least one with conciliation, it will be necessary to decide on the best forum for the dispute resolution.

<sup>21</sup> Article 9(2) of the Cooperation Agreement.

<sup>22</sup> Article 9(2) of the Cooperation Agreement.

<sup>23</sup> In this case, the mediation procedure will continue as provided in the workflow guidance for ELA mediation procedure (Stage 1).

<sup>24</sup> Article 9(2) of the Cooperation Agreement.

<sup>25</sup> In this case, the mediation procedure will continue as provided in the workflow guidance for ELA mediation procedure (Stage 1).

### 3. The possible interaction between the AC and ELA after the launch of the first stage of mediation

Once the first stage of the mediation procedure is launched, an interaction between ELA and AC may also occur, though in practice such a situation is not likely to happen regularly.

On the one hand, the obligation for ELA remains to inform the AC in the event of previously unknown developments in the area of social security coordination that may raise during the course of mediation. On the other hand, Member States have the possibility to transfer the dispute on social security coordination to the AC at any time.

Thus, also after the launch of mediation it is possible to envisage two scenarios depending on who is requesting the referral to the AC. A third scenario can occur when it is the AC that exceptionally requests ELA such a referral. The word exceptionally is used because in principle the AC can no longer interfere once mediation is launched. However, under two specific conditions this can occur.

The fourth scenario is the most common one and is fully relying on the Members States' initiative.

Before presenting the different scenario's, it seems appropriate to review ELA's obligations towards the AC, during the first and (eventual) second stage of the mediation procedure. In fact, compared to the initiation stage, two conditions must be fulfilled to inform the AC about a social security coordination matter.

#### 3.1 ELA INFORMS THE AC

Throughout the mediation procedure, ELA has the duty to report to the AC any cases in which a connection with social security coordination is discernible<sup>26</sup>:

- ☐ If new elements are brought into the dispute which concern social security coordination and
- ☐ If these elements were initially not evident or documented.

Whether the above-mentioned criteria are encountered ELA shall immediately inform the AC, through the “**Letter of information**” ([Doc. XXXII](#)).



The letter that ELA sends to the AC contains:

- All the **detailed statements** referred to in the RoP, in case a (some) Member State(s) initiated the mediation process.
- **ELA tries to avoid referring information included in the detailed statement(s) which does not relate to coordination of social security systems.** ●
- **Any other documentation** concerning the coordination of social security systems submitted by the MS(s) to ELA (if any), or directly identified by ELA in case the mediation process started on ELA's initiative.
- When possible, **all the disputes** that have been mediated up until that moment which are **related to social security coordination** (if collected in the internal registering system).

<sup>26</sup> Article 18 (3/b) of the Rules of procedure for mediation and Article 6(3) of the AC-ELA Cooperation Agreement, which states: “The ELA shall also inform the AC at any stage after the mediation procedure is launched, if new elements are brought into the dispute which concern social security and which were initially not evident or documented. In cases of doubts on whether a dispute relates, fully or in part, to matters of social security, the ELA and the AC shall decide by common agreement.”

### 3.2 ELA NOTIFIES MEMBER STATES THAT IT HAS INFORMED THE AC

ELA notifies the Member States involved, through a “**Notification letter**” ([Doc. XXXIII](#)) that the detailed statement(s) (if any) have been sent to the AC<sup>27</sup>.



The notification letter that ELA sends to the Member States contains:

- Information that their **detailed statements have been forwarded** to the AC.
- The **consequences of the mediation procedure** (which has not yet started concretely) depending on the decision to be communicated by the AC, presumably **within 20 working days**.

### 3.3 ELA SUSPENDS THE MEDIATION PROCEDURE FOR THE PART RELATED TO SSC

From the moment the letter of information to the AC is received, a **20 working days period commences during which ELA cannot proceed on the social security coordination part of the dispute**<sup>28</sup>. Nothing prevents ELA from proceeding to the first or the second stage of mediation on the issues that are unrelated to social security (where such a separation is possible). However, the part that is made the subject of the AC’s assessment will remain pending until the AC’s response has been received.

After the launch of the first stage of mediation and once ELA has fulfilled its informative duties, the potential referral of the dispute - - is technically not yet fully accomplished.

The **referral of the dispute to the AC can be requested by the AC itself, *exceptionally*, ([Scenario 3](#)) or by the Member States ([Scenario 4](#))**.

<sup>27</sup> Article 7(2) of the AC-ELA Cooperation Agreement.

<sup>28</sup> Articles 6(4) and 8(5) of the AC-ELA Cooperation Agreement.

### SCENARIO 3: Request of referral by the AC

Once ELA has fulfilled its informative duties, the AC exceptionally regains the power to ask ELA the referral, if the following two conditions are simultaneously met:

1. The **dispute concerns elements of new interpretation** of Regulations (EC) No 883/2004 and/or 987/2009 which **were not evident or documented when it was informed before the launch of the first stage of the mediation procedure**;
2. There is the agreement of all Member States involved.



The AC-ELA Cooperation Agreement states in Article 8(2) that:

“**Within 20 working days** of the receipt of the relevant information from the ELA as provided in Article 7(1), the AC shall inform the ELA on whether:

1. **It is requesting the ELA to refer the dispute concerning social security to the AC**, together with a justification and declaration stating the agreement of all the Member States party to the dispute to refer the dispute relating to social security to the AC; and
2. **Whether the dispute concerns an issue of new interpretation of the Coordination Regulations which was never dealt with either by the AC**, or any institutions such as the Court of Justice of the European Union or any other specialised body entrusted by Union law to provide such interpretations, and thus falls within the exclusive competence of the AC to deal with such issue in accordance with Article 72 of Regulation 883/2004.”

The AC has **20 working days** to make its assessment and communicate its decision to ELA<sup>29</sup>, through a standard “**Written letter**” ([Doc. XXIX](#)<sup>30</sup>). The possible outcomes of this communication (or in case of Option D when there is no such communication) are the four communications, hereby listed under [Scenario 1](#).

### SCENARIO 4: Request of referral by the Member States

Notwithstanding the fact that ELA concluded the admissibility check and found that there was no AC competence, or, that there was competence but the AC did not ask the referral of the dispute (as illustrated under [Option c](#)) **Member States could decide to refer the dispute to the AC at a later stage, even on an element that was already known before the launch** of the first stage of mediation<sup>31</sup>.

The route that is taken is the same as in [Scenario 2](#) to which reference is made.

In the event that only one of the Member States involved requests the transfer of the dispute to the AC for the part concerning social security, ELA and the AC shall assess the case and agree on a joint non-binding recommendation (see [Section 4](#)).

Indeed, if at least one Member State prefers to go ahead with mediation and at least one other Member State with conciliation, it will be necessary to decide on the best approach for the dispute settlement.

<sup>29</sup> For procedures involving the AC, when cooperating with ELA, it will be advisable to look at the working arrangements made by the AC for the timeframes and deadlines they shall respect.

<sup>30</sup> This document No XXIX “Written letter” is a document that ELA proposes to the AC so as to facilitate and standardise communication; however, the AC is free to use a different document.

<sup>31</sup> Article 18 (2/g) of the Rules of procedure for mediation: “By a written request of any Member State that is party to the dispute, to refer the issue concerning social security coordination to the Administrative Commission, at any stage of the mediation procedure, on the date of that request;”.

## 4. How to choose between ELA and AC in case Member States disagree which of both mechanisms is most suitable

As mentioned above, it is essential in the context of voluntary dispute resolution processes that all Member States involved in a dispute agree on the body to which they will address their dispute in order to obtain non-binding opinions. Nevertheless, it may happen that the Member States do not agree. In case when two (or more) **Member states, previously involved in a mediation procedure before ELA, cannot agree on whether to refer the dispute to the AC or remain before ELA, Article 10 of the Cooperation Agreement applies.**

How to overcome disagreement, in case one Member State does not want to refer the dispute to the AC.

According to Article 10 of the Cooperation Agreement:

‘If any of the Member States party to the dispute **does not agree to refer the issue concerning social security to the AC, the ELA and the AC shall assess the case and agree on a joint non-binding recommendation** to the Member States concerned, indicating which body could be more effective to deal with the dispute, and taking into account the general principles laid down in Article 1.

If after receiving the joint non-binding recommendation, there is **still no common agreement between the Member States to which body the case should be referred**, and in view that both mediation and conciliation are a voluntary process, the **abstract question behind the case shall remain with the AC** who shall deal with the issue in accordance with its own rules.’

ELA and the AC have a duty to try to work out together which of the two bodies is best suited to solve the problem, **since it is established that both have competence**. In the event that, following the decision taken (the joint non-binding recommendation), the Member States remain unconvinced, the AC shall deal with the **abstract question behind the case**, in accordance with its own rules.

Concretely, in the latter case, the Administrative Commission will proceed on the abstract question according to its own rules. Therefore, Member States, will not have the opportunity to see the individual dispute resolved, but only the abstract question behind the problem.

When no agreement has been reached and the abstract issue is resolved by the AC, ELA may send the Member States involved a final invitation for mediation on the individual part of the dispute. Where Member States do not respond or refuse, ELA sends a **“Notification of early closure”** ([Doc. VII](#)). On the contrary, should the Member States decide to allow ELA to mediate the individual dispute, ELA will launch the first stage of mediation by sending to the Member States a **“Notification of start of the first stage of mediation”**<sup>32</sup>.

<sup>32</sup> In this case, the mediation procedure will continue as provided in the workflow guidance for ELA mediation procedure (Stage 1).

## 5. When the procedures of mediation (ELA) and of conciliation (AC) are initiated at the same time

In the unlikely event that Member States address both bodies at the same time with a view to resolve the dispute, it is necessary to overcome the obstacle, as both bodies cannot proceed simultaneously. This solution is proposed by Article 11 of the AC-ELA Cooperation Agreement.

### How to proceed in case all Member State agree to have the dispute mediated before ELA instead of the AC.

According to Article 11 of the Cooperation Agreement:

‘In principle, Member States party to a dispute relating, fully or in part, to matters of social security may choose to bring their dispute either to the ELA or to the AC. **The simultaneous use of both the mediation procedure of the ELA and the conciliation procedure of the AC to hear the same identical case shall be avoided.**

Should such a situation arise, **the ELA and the AC shall assess the case and agree on a joint non-binding recommendation to the Member States concerned, indicating which body could be more effective to deal with the dispute,** and taking into account the general principles laid down in Article 1.

If after receiving the joint non-binding recommendation, there is still no common agreement between the Member States to which body the case should be referred to, and in view that both mediation and conciliation are a voluntary process, the case shall remain with the AC who shall deal with the issue in accordance with its own rules.’

## **6. The Templates and Forms**



## 6.1 DOC. NO V

### LETTER OF INVITATION TO MEDIATION, FROM ELA TO MEMBER STATE(S)

According to Article 14(3) of the Rules of Procedure for mediation of the European Labour Authority

When the request is not received from all the Member States that are party to the dispute, the **Authority shall, prior to launching the first stage of the mediation procedure, contact the Member State/s that did not make a request to confirm their participation** in mediation [...]

**Purpose:** ELA must ensure that the Member States involved in the dispute are invited to the mediation process. To do this, it must send an invitation letter to those who have not yet been involved by the requesting Member State(s).

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject: Letter of invitation to mediation**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter 'ELA'), hereby invites

[Member State No 1], represented by [name of the national representative No 1]

to take part in mediation procedure No [ ].

This proceeding was initiated by [Member State No 2], represented by [name of the national representative No 2]

or

[ELA]

on the [ ] day of the month of [ ], in the year [ ].

[Member State No 1], represented by [name of the national representative No 1] is kindly invited to confirm whether or not it intends to participate in the mediation process.

[Member State No 1], represented by [name of the national representative No 1] shall, in accordance with Article 14(3) of the Rules of Procedure for mediation of the European Labour Authority, send confirmation or refusal of its intent to participate to the ELA by using the form (Doc. VI) attached to this letter within 15 working days at the latest.

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

## 6.2 DOC. NO VI

### ACCEPTANCE/REFUSAL LETTER FROM MEMBER STATE(S) TO ELA

#### According to Articles 14(3) of the Rules of Procedure for mediation of the European Labour Authority

'[...] The Member State(s) concerned **shall confirm in writing, within 15 working days from the receipt of the request, including by electronic means, of their agreement or otherwise.** When all Member States concerned agree to participate in mediation, **they shall provide the Authority with the detailed statement referred to in Article 9(2) within 15 working days from the date the Member States inform the Authority of their agreement [...]**'

**Purpose:** The Member States have to confirm, within 15 working days from the receipt of the invitation to mediate, whether they agree to mediate or not.

#### According to Article 13(1) of the Rules of Procedure for mediation of the European Labour Authority

'Pursuant to Article 13(7) of the founding Regulation, where a **Member State decides not to participate in mediation, it shall inform the Authority and the other Member States** that are party to the dispute in writing, including by electronic means, of the reasons for its decision **within 15 working days** from receipt of request by the Authority in accordance with Article 14(3).'

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject: Acceptance/Refusal letter from Member State(s) to ELA**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

[Member State No 1], represented by [name of the national representative No 1], acknowledges receipt of the invitation letter, sent by The European Labour Authority (hereafter 'ELA'), on the [ ] day of the month of [ ], in the year < [ ], to invite the said Member State to take part in mediation procedure No [ ] initiated by

[Member State No 2], represented by [name of the national representative No 2]

Or

[ELA]

on the [ ] day of the month of [ ], in the year [ ].

By means of this Communication [Member State No 1], represented by [name of the national representative No 1]:

- ☐ agrees to participate in mediation procedure No [ ].
- ☐ declines to participate in mediation procedure No [ ].

#### IN CASE OF ACCEPTANCE

Please:

- Remember to send, together with this letter, your detailed statement (Doc. II) as requested in article 9(2) of the Rules of procedure.
- Should you need more time to write the detailed statement, remember to send it within 15 working days of the time you receive the present communication, as requested in Article 14(2) of the Rules of procedure.

#### IN CASE OF REFUSAL

Please:

- Inform ELA and the other Member State(s) that are party to the dispute in writing within 15 working days from receipt of the request from ELA to participate of the reasons for this decision.

Please indicate the reasons of refusal:

### 6.3 DOC. NO VII

#### NOTIFICATION OF EARLY CLOSURE/SUSPENSION FROM ELA TO MEMBER STATE(S)

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**Purpose:** ELA is responsible for notifying the Member States of all cases of early closure or suspension of an ongoing mediation process.

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject:** Letter of invitation to mediation

**Ref.:** [Please write here the reference number]

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter 'ELA'), hereby informs

[Member State No 1], represented by [name of the national representative No 1], and

[Member State No 2], represented by [name of the national representative No 2]

involved in mediation procedure No [ ], that the procedure in question has been:

☐ closed early

☐ suspended until the [ ] day of the month of [ ], in the year [ ].

☐ suspended until further notice.

For the following reasons (please describe the reasons behind this decision).

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

## 6.4 DOC. NO IX

### CHECKLIST FOR ELA TO RUN THE ADMISSIBILITY CHECK

According to Articles 9(2), 10(1), 11, 12, 14(2) of the Rules of Procedure for mediation of the European Labour Authority

On the basis of Articles **9(2), 10(1), 11, 12, 14(2)** of the Rules of Procedure for mediation, ELA is required to verify whether the dispute can be mediated by ELA or not.

**Purpose:** It is crucial for ELA to understand **whether the dispute can be mediated or not**, through a complete admissibility check.

1. **Are all Member States that are party to the dispute known? Does the description of the dispute suggest that other Member States are/should be involved?**  
☐ YES, ELA can continue the admissibility check.  
☐ NO, ELA must contact the MS(s) that has/have not yet been involved and/or have not yet submitted the request for mediation and/or detailed statement, through the **invitation to mediate letter (Doc. V)** and ask for either confirmation of their agreement to mediation in writing **within 15 working days**, or to send a refusal in writing within the same timeframe, **through a rejection letter (Doc. VI)**. In case of the former, the Member State may also be required to send a detailed statement when they have not submitted that together with the acceptance letter.
2. **Have all Member States that are party to the dispute sent a request for mediation and a complete detailed statement?**  
☐ YES, ELA can continue the admissibility check.  
☐ NO, ELA must contact the MS(s) that has/have not yet submitted the request for mediation and/or detailed statement, through the **invitation to mediate letter (Doc. V)** and ask for either confirmation of their agreement to mediation in writing **within 15 working days**, or to send a refusal in writing within the same timeframe, **through the rejection letter (Doc. VI)**. In case of the former, the Member State may also be required to send a detailed statement when they have not submitted that together with the acceptance letter.
3. **Do all Member States involved agree to mediation?**  
☐ YES, ELA can continue the admissibility check.  
☐ NO, ELA notifies the requesting Member State(s) of the refusal from the other Member State(s) and ends the mediation procedure.
4. **Have Member States involved confirmed that direct contact and dialogue has been established before referring the dispute before ELA?**  
☐ YES, ELA can continue the admissibility check.  
☐ NO, ELA shall ask whether they want to have a direct contact/dialogue, or not.
5. **Does the dispute concern relevant European legislation within ELA's mandate? (Article 1(4) Regulation (EU) 2019/1149)? If not – ELA ends the mediation procedure**

#### Posting of workers

- ☐ YES  
☐ NO Directive 96/71/EC  
Directive 2014/67/EU

Additional observations:

#### Social security coordination

- ☐ YES  
☐ NO Regulation (EEC) 1408/71  
Regulation (EEC) 574/72  
Regulation (EC) 883/2004  
Regulation (EC) 987/2009  
Regulation (EC) 859/2003  
Regulation (EC) 1231/2010

Additional observations:

#### Free movement of workers

- ☐ YES  
☐ NO Regulation (EU) No 492/2011  
Directive 2014/54/EU  
Regulation (EU) 2016/589

Additional observations:

#### Social legislation in road transport

- ☐ YES  
☐ NO Regulation (EC) 561/2006  
Directive 2006/22/EC  
Regulation (EC) 1071/2009

Additional observations:

**6. Does the dispute concern matters of Union law that require a legal opinion at Union level\*?**

\*A legal opinion at Union level is an opinion provided by the European Court of justice or any other specialised body. An opinion shall not be needed if there is no reasonable doubt as to the manner in which the question raised is to be resolved .

- ☐ YES, but only partly. Therefore, ELA suspends the mediation\*\*.
- ☐ YES, but entirely/is not possible to split the matter which requires a legal opinion from the remaining part. Therefore, ELA ends the mediation\*\*\*.
- ☐ NO, ELA proceeds with the admissibility check.

\*\*The process is suspended for the part of the dispute which requires a legal opinion, whenever it is possible to split that part of the dispute from the other part which does not.

\*\*\*The process is ended when the separation of the matter requiring a legal opinion is not possible.

**7. Are there ongoing court proceedings (at national or at EU level)?**

- ☐ YES, ELA suspends the mediation until the court proceedings are finalised.
- ☐ NO, ELA proceeds with the admissibility check.

**8. Does the dispute fully or in part concern matters of EU social security coordination about which the Administrative Commission needs to be informed by ELA?**

- ☐ YES, ELA informs the Administrative Commission in accordance with the AC-ELA Agreement (please proceed according to the Workflow Guidance for ELA-AC interaction).
- ☐ NO, ELA proceeds with the admissibility check.

**The admissibility check, revealed:**

- ☐ **No obstacles:** ELA can launch the first stage of mediation\*.
- ☐ **Obstacles:** ELA shall not launch the first stage of mediation until the obstacles encountered at point No [ ] is/are resolved\*\*.

\*ELA can send the notification of the start of the first stage of mediation to the MSs (**Doc. No XIII**).

\*\*ELA sends the notification of suspension or early closure (**Doc. No VII**).

## 6.5 DOC. NO XXIX WRITTEN REQUEST, FROM AC TO ELA

### According to Article 8(2) of the AC-ELA Cooperation Agreement

'Within 20 working days of the receipt of the relevant information from the ELA as provided in Article 7(1), the AC shall inform the ELA on whether or not:

- It is requesting the ELA to refer the dispute concerning social security to the AC, together with a justification and declaration stating the agreement of all the Member States party to the dispute to refer the dispute relating to social security to the AC; and
- The dispute concerns an issue of new interpretation of the Coordination Regulations which was never dealt with either by the AC, or any institutions such as the Court of Justice of the European Union or any other specialised body entrusted by Union law to provide such interpretations, and thus falls within the exclusive competence of the AC to deal with such issue in accordance with Article 72 of Regulation 883/2004.'

**Purpose:** The AC undertakes to inform ELA within 20 working days from the receipt of the information from ELA.

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject:** Request from AC to ELA

**Ref.:** [Please write here the reference number]

[To whom it may concern/Dear Sir/Dear Madam],

I, the undersigned, [name and last name], in the role of [Please indicate your role and institution], on behalf of the Administrative Commission (hereafter 'AC') on the [ ] day of the month of [ ], in the year [ ], I'm hereby requesting to the European Labour Authority (hereafter 'ELA'):

- ☐ **To refer** the dispute, fully or in part related to social security coordination, with the case No [ ], to the AC in accordance with Article 8 (2(a)) of the AC-ELA Cooperation Agreement.
- ☐ **To not refer** the dispute, fully or in part related to social security coordination, with the case No [ ], in accordance with Article 8 (2(a)) of the AC-ELA Cooperation Agreement.

Please write here additional observations:

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

## 6.6 DOC. NO XXXII

### LETTER OF INFORMATION, FROM ELA TO THE AC

#### According to Article 11(2) of the RoP

‘Pursuant to Article 13(11) of the founding Regulation, when a dispute relates, fully or in part, to matters of social security, the Authority shall inform the Administrative Commission. [...]’

**Purpose:** ‘Pursuant to Article 13(11) of the founding Regulation, when a dispute relates, fully or in part, to matters of social security, the Authority shall inform the Administrative Commission. [...]’.

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject:** Letter to inform the Administrative Commission about a SSC matter in a mediation procedure

**Ref.:** [Please write here the reference number]

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter ‘ELA’), in accordance with Article 11 of the Rules of Procedure for mediation by ELA, and more specifically Article 6 (1) (2) of the AC-ELA Cooperation Agreement

informs

the Administrative Commission (hereafter ‘AC’) that on the [ ] day of the month of [ ], in the year [ ],

a matter related to social security coordination, in connection with mediation case No [ ], was detected.

Please insert here a brief summary of the issue, highlighting the social security aspects identified.

To this communication are therefore attached:

1. Detailed statement of [Member State No 1]
2. Detailed statement of [Member State No 2]
3. Letter to refer the SSC related part of the dispute to the AC, from the Member States involved (if any) (**Doc. XXXI**)
4. Other relevant documents.
5. The Written letter that the AC can use to communicate its decision on the dispute to ELA (**Doc. XXIX**).

As stipulated in Article 7(2) of the AC-ELA Cooperation Agreement, ELA undertakes to inform the Member States involved that their detailed statements have been sent to the AC.

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**



## 6.7 DOC. NO XXXIII NOTIFICATION LETTER TO INFORM THE MEMBER STATE(S) THAT THE DETAILED STATEMENT HAS BEEN SENT TO THE ADMINISTRATIVE COMMISSION, FROM ELA TO MEMBER STATE(S)

### According to Article 7(2) of the AC-ELA Cooperation Agreement

'If the dispute relates, fully or in part, to matters of social security the **ELA shall inform all Member States party to the dispute that the detailed statement will be referred to the AC.** [...]'

**Purpose:** Member States need to be informed that the relevant parts of their detailed statements have been sent to the Administrative Commission.

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject: Notification to inform the Member State that the detailed statement has been sent to the Administrative Commission**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter 'ELA'),

informs

[Member State No 1], represented by [name of the national representative No 1]

that the mediation procedure No [ ] has a link with social security coordination and should therefore be brought to the attention of the Administrative Commission (in accordance with Article 11(2) of the Rules of Procedure for mediation of the European Labour Authority).

In order to enable the Administrative Commission properly to assess the issue, **the detailed statement has been sent to the Administrative Commission**, in accordance with Article 6(1) or (3) of the AC-ELA Cooperation Agreement.

Should the Administrative Commission:

- ☐ Consider that the dispute in question represents an issue of interpretation and wish to address it.
  - > ELA may not continue mediation on the social security part of the dispute.
- ☐ Consider that the dispute in question represents an issue of interpretation and does not wish to address it.
  - > ELA will not be able to continue the mediation, on that part of the dispute. Member States will be invited to refer the dispute directly to the AC.
- ☐ Choose not to deal with the matter,
  - > ELA may continue the mediation process.
- ☐ Not answer to ELA's letter,
  - > ELA cannot mediate that part of the dispute. Member States will receive a notification of suspension of the process.

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**


## 6.8 DOC. NO XXXIV

### LETTER OF REFERRAL TO THE AC, FROM ELA TO THE OF THE AC

#### According to Article 8(2(a)) and Article 8(3) of the AC-ELA Agreement

(2/a) '[The AC] is requesting the ELA to refer the dispute concerning social security to the AC, together with a justification and declaration stating the agreement of all the Member States party to the dispute to refer the dispute relating to social security to the AC; [...]'

**Purpose:** ELA must acknowledge the receipt of a justification and declaration from the AC and officially refer the SSC-related part of the dispute to the AC.

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject:** Letter of referral to the Administrative Commission

**Ref.:** [Please write here the reference number]

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter ELA), informs

the Administrative Commission (hereafter 'AC'), which, on the [ ] day of the month of [ ], in the year [ ], requested that ELA refer to it mediation procedure No [ ], in accordance with Article 8 (2(a)) of the AC-ELA Cooperation Agreement, that

their request was duly received on the [ ] day of the month of [ ], in the year [ ].

ELA acknowledges receipt of:

- ☐ The declaration stating the agreement of all the Member States party to the dispute to refer the dispute relating to social security to the AC;
- ☐ Justification on the basis of which the AC asks ELA expressly to refer the issue of social security coordination to it.

In light of the documents received by the AC, ELA officially refers the matter relating to social security coordination under mediation procedure No [ ], to the AC.

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

## 6.9 DOC. NO XXXV

### NOTIFICATION LETTER TO INFORM THE MEMBER STATE ABOUT THE POSSIBILITY TO REFER THE DISPUTE TO THE AC, FROM ELA TO MEMBER STATE(S)

#### According to Article 8(6) of the AC-ELA Cooperation Agreement

'Pursuant to paragraph (5), if the AC confirms that the dispute requires a new interpretation of the Coordination Regulations, **and the AC makes no request for the referral of the dispute within the deadline, the ELA shall not launch its mediation procedure until the decision of the AC on this issue is received. The ELA shall inform the Member States party to the dispute accordingly and recommend that they may refer the case to the AC** to address this specific legal issue before the ELA mediation procedure can be launched.'

**Purpose:** ELA must ensure that Member States have the possibility of addressing their dispute to the Administrative Commission directly, where the latter does not ask for the matter to be referred to it but says that an interpretation on the social security coordination aspect is necessary.

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject: Notification letter to inform the Member State about the possibility to refer the dispute to the AC**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter 'ELA'),

informs

[Member State No 1], represented by [name of the national representative No 1],

That, although the Administrative Commission (hereafter 'AC') confirmed, through its Written letter (**Doc. XXXIX**), here attached that the **dispute requires a new interpretation** of the Coordination Regulations pursuant to Article 8(2(b)) of the AC-ELA Cooperation Agreement, **it made no request for the referral** of the dispute within the deadline.

Therefore, ELA, in accordance with Article 8(6) of the AC-ELA Cooperation Agreement may not launch its mediation procedure until the decision of the AC on this issue has been received.

ELA hereby invites

[Member State No 1], represented by [name of the national representative No 1], and

[Member State No 2], represented by [name of the national representative No 2]

to refer the dispute directly to the AC should they wish to proceed with the resolution of the case through the AC's conciliation procedure.

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**


## 6.10 DOC. NO XXXVI

### NOTIFICATION OF SUSPENSION, FROM ELA TO MEMBER STATE(S)

#### According to Article 8(5) of the AC-ELA Cooperation Agreement

'In cases where, within the deadline stipulated in paragraph (2), **the AC does not inform the ELA on whether to refer the dispute or not, the procedure shall be suspended, and ELA shall inform the Member States party to the dispute accordingly.** In such case, the ELA shall not launch the mediation procedure before the AC confirms its position on the question stipulated in paragraph (2)(b)[...]'

**Purpose:** ELA must ensure that Member States know whether the first stage of mediation can be launched/has been suspended.

[Mr/Ms Insert name and last name of the addressee]  
[Organisation/entity/department]  
[Address]  
[City]  
[Postal code]  
[Email]

**Subject: Notification of suspension**

**Ref.: [Please write here the reference number]**

[To whom it may concern/Dear Sir/Dear Madam],

The European Labour Authority (hereafter 'ELA'),

informs

[Member State No 1], represented by [name of the national representative No 1],

that the Administrative Commission (hereafter 'AC') did not confirm, within the deadline stipulated in article 8(2) of the AC-ELA Cooperation Agreement, whether or not it was seeking referral of a dispute relevant to social security coordination.

Therefore, **ELA**, in accordance with Article 8(5) of the AC-ELA Cooperation Agreement

☐ **Will not launch**

☐ **Has suspended**

the [First/second] stage of mediation pending receipt of the decision of the AC on this issue.

**Name and Last name:**

**Organisation/Entity/Department:**

**Function:**

**Place and date of signature:**

**Signature:**

