



# Proposal by the EU Commission for a regulation on establishing a single digital gateway

## Summary of the comments<sup>1</sup> by the German Social Insurance from 12 March 2018

The German Federal Pension Insurance (DRV Bund), the German Social Accident Insurance (DGUV), the National Association of Statutory Health Insurance Funds (GKV-Spitzenverband) and the national associations for statutory health and long-term care insurance have come together because of their common European policy interests to form the 'German Social Insurance – Working Group Europe e.V.'

The German Social Insurance represents its members in dealings with the bodies of the European Union and other European institutions. It also advises relevant stakeholders in the context of current legislative proposals and initiatives.

Health insurance, long-term care insurance, pension insurance and accident insurance are part of Germany's statutory insurance system, which provides effective protection against the consequences of major life risks.

## I. General assessment and main amendments

The German Social Insurance's assessment of the Commission's initiative is generally positive; however, it wishes to point out that:

- the general provision of information in another official EU language, depending on how comprehensive this must be, is associated with considerable additional effort and cost. It is questionable whether this can be borne by the Member States' systems,
- all necessary translation costs must be fully borne by the EU,
- the principle of not intervening in national administrative procedures must be strictly safeguarded, and
- there must be appropriate transitional periods (up to seven years) due to the effort required to adapt the administrative procedures of the Member States.

---

<sup>1</sup> The full version is only available in German: [http://dsv-europa.de/lib/02\\_Positionspapiere/2018-DSV-Stellungnahme\\_Einrichtung-eines-zentralen-digitalen-Zugangstors\\_de.pdf](http://dsv-europa.de/lib/02_Positionspapiere/2018-DSV-Stellungnahme_Einrichtung-eines-zentralen-digitalen-Zugangstors_de.pdf)

## II. Amount of translation costs borne by the EU

The (one-off) assumption of translation costs announced by the European Commission is of an amount that is by no means sufficient (see Article 28) and is clearly disproportionate to the translation costs determined by the German social insurance institutions. In the opinion of the German Social Insurance, the costs arising from the Regulation establishing a single digital gateway must be borne entirely by the European Union and cannot be unilaterally charged to contributors. In contrast, the Council's position provides for the assumption of translation costs subject to an annual ceiling. This is expressly supported by the German Social Insurance.

Current wording	Proposed amendment
<p><u>Article 28(1)(c)</u>            (...) translation of a maximum volume per Member State of information referred to in Article 2(2)(a) and instructions for completing procedures referred to in Article 11(1)(a), into an official language of the Union, other than the national language.</p>	<p><u>Article 28(1)(c)</u>            (...) translation of information, explanations and instructions in accordance with Article 9a within a maximum annual volume per Member State, without prejudice to possible reallocation where necessary to enable full use of the available budget.</p>

## III. Mandatory online administrative procedures

According to the proposed Regulation, Member States will be obliged to provide certain administrative procedures fully online (Article 5(2)). The procedures are listed in Annex II of the proposal. However, the amendment put forward by the Council has significantly modified this catalogue. In the opinion of the German Social Insurance, this has mitigated a large proportion of potential issues.

The German Social Insurance welcomes the fact that, according to the Council's position, there is no longer an obligation to provide online applications for all social benefits, and the online procedures listed only need to be offered across borders 'where such procedures exist in the Member State concerned'. However, it must be ensured that the rules mentioned do not interfere with social security procedures, particularly those involving contributions and registrations. A general remark that the Regulation does not affect the substance of administrative procedures (Article

5(5), Article 31 of the Regulation and Article 1(3) of the Council's position) is insufficient.

## 1 Registration procedures

The registration procedures for employers are already largely digitalised in Germany. However, the issue of electronically authenticating legal persons in connection with notification procedures has not been resolved. In Germany, there is no central directory for legal persons. Also, there are currently no payroll programmes that can depict multiple national legal systems in the EU. If a solution is not found in the future, there will be almost no way to implement the digitalisation demanded by Article 5(2) in conjunction with Annex II of the Regulation 'Payment of social contributions for employees' and 'Receipt or other form of confirmation of payment'.

Generally speaking, moving to multiple languages often requires a complicated reworking of the IT infrastructure used.

A reasonable transitional period of between five and seven years is necessary.

## 2 Completion help

According to Article 11 of the proposed Regulation, only the 'instructions for completing the procedure' must be translated and not the procedure itself (e.g. questions, answers and relevant masks). However, it does not make sense to only translate information and descriptions and not the procedure itself, that is, the tools, social security registrations and contribution statements which are supposed to be exchanged electronically between the social security institutions in encrypted form. Input masks, fill-in texts, explanatory texts and error/correction messages should not be separated from one another. Offering German input masks and accompanying PDF documents in another language does not reflect the current state of the art and does not add any benefit to users. This has a direct effect on input quality and increases the likelihood of errors. A foreign-language hotline would also have to be offered, which would significantly increase the burden on the social insurance institutions.

Instead, it would be more useful and more user-friendly to offer the input mask, completion instructions, explanations and error/correction messages homogeneously in a foreign language.

In order to meet the requirement for multilingualism, the user management system would have to be changed and the programme logic adapted accordingly. The effort

required to extensively expand and adapt the sv.net system used by Germany's social insurance is estimated at about 600 programming days.

Therefore, a suitable transitional period of approximately 5 to 7 years is necessary.

### 3 Applying for social benefits

According to the Commission's proposed Regulation, procedures for applying for social security benefits must be made available fully online (Article 5(3)).

The wording of the proposed Regulation does not make it sufficiently clear whether this only concerns cross-border interactions or all national procedures, including those without cross-border implications. The obligation to provide all procedures online, even those that are exclusively national, would unduly interfere with the competence of Member States to organise their social and health systems.

In the opinion of the German social insurance institutions, applying for all social benefits via the digital gateway is not appropriate, especially as the corresponding procedures would then have to be bilingual in the future. In statutory health and long-term care insurance alone, which apply the principle of benefits-in-kind, there is a plethora of benefits-in-kind and cash benefits with very different application and approval procedures, some of which are also handled by the service providers or include them. The same applies to statutory accident insurance and its unique benefits-in-kind and cash benefits.

Therefore, the German Social Insurance opposes the proposition to make it possible to apply for all social security benefits fully online as well as having to provide multilingual services.

The deletion of this paragraph, as per the amendment by the Council, is fully supported.

Current wording	Proposed amendment
<p><u>Article 5(2)</u> Member States shall ensure that users can complete the procedures listed in Annex II fully online.</p>	<p><u>Article 5(2)</u> Member States shall ensure that users can complete the procedures listed in Annex II fully online, <u>where this is necessary to ensure that EU citizens and</u></p>

		<u>businesses can exercise their right to free movement in the internal market.</u>	
<u>Annex II</u>		<u>Annex II</u>	
Working	Registering for social security benefits	Working	<del>Registering for social security benefits</del>

#### 4 Requirements for information, administrative procedures, and assistance and problem-solving services

##### 4.1 Electronic identification and authentication

The proposal for a Regulation stipulates that users must be able to use electronic means to identify and authenticate themselves for cross-border access to online procedures (Article 11(1)(c)). In addition, they should be allowed to submit evidence of compliance electronically (Article 11(1)(d)).

The German Social Insurance welcomes the principle that only those procedures which are available digitally at national level must be offered on a cross-border basis in digital form (Article 11 in conjunction with Article 5(1) of the Regulation). This principle must also be followed with regard to authentication procedures, document transfers, etc. The Council’s amendment is better suited to ensuring this.

<b>Current wording</b>	<b>Proposed amendment</b>
<p><u>Article 11(1)(c)</u>                      (...) users are able to identify themselves, sign and authenticate documents using electronic identification and authentication means, as provided for under Regulation (EU) 910/2014 of the European Parliament and of the Council, where identification and signature are required;</p>	<p><u>Article 11(1)(c)</u>                      (...) users are able to identify <u>and authenticate</u> themselves, sign <u>or seal documents electronically</u>, as provided for under Regulation (EU) 910/2014 of the European Parliament and of the Council, <u>in all cases where this is also possible for national users</u>;</p>

<p><u>Article 11(1)(d)</u> (...) users are able to provide evidence of compliance with applicable requirements in electronic format;</p>	<p><u>Article 11(1)(d)</u> (...) users are able to provide evidence of compliance with applicable requirements in electronic format <u>in all cases where this is also possible for national users</u>;</p>
--	---

#### 4.2 Prohibiting national formats

There should be a critical assessment of Article 11(1)(b) which states that ‘users are not restricted by form fields that only accept data in particular national formats’. The same applies to the Council’s version which states that ‘users are able to submit the required information, including where the structure of such information differs from similar information in the Member State concerned’. The end result is that this would interfere with the format of form fields. These elements are integral parts of the procedures and any stipulations on form fields would directly affect the backend processes.

#### 4.3 Use of the Internal Market Information System

The Regulation states that, where necessary, the competent authorities shall cooperate through the Internal Market Information System (IMI) in order to verify the authenticity of evidence submitted online (Article 11(3)).

Starting in summer 2019, the exchange of social security data across borders will be done via the European Exchange of Social Security Information (EESSI) system. To insist on using the IMI system as well would result in unnecessary additional administrative burden. A parallel structure is neither necessary nor economical. Therefore, the German social insurance institutions are opposed to this.

In addition, a technical system for the electronic exchange of evidence between competent authorities is to be established (Article 12). The German social insurance institutions also oppose this new technical system due to the EESSI system.

<b>Current wording</b>	<b>Proposed amendment</b>
<p><u>Article 11(3)</u> Competent authorities shall cooperate through the Internal Market Information system (IMI), established by</p>	<p><u>Article 11(3)</u> Competent authorities shall cooperate through the Internal Market Information system (IMI), established by</p>



<p>Regulation (EU) No 1024/2012 of the European Parliament and of the Council, where necessary to verify the authenticity of evidence submitted to them in electronic format by the user for the purpose of an online procedure.</p>	<p>Regulation (EU) No 1024/2012 of the European Parliament and of the Council <u>or other existing sector-specific systems such as EESSI</u>, where necessary to verify the authenticity of evidence submitted to them in electronic format by the user for the purpose of an online procedure.</p>
<p><u>Article 12(8)</u> Paragraphs (...) shall not apply to procedures established at Union level which provide for different mechanisms for the exchange of evidence, unless the technical system referred to in paragraph 1 is integrated into those procedures in accordance with the rules of the Union acts that establish them.</p>	<p><u>Article 12(8)</u> Paragraphs (...) shall not apply to procedures established at Union level which provide for different mechanisms for the exchange of evidence, <u>such as EESSI</u>, unless the technical system referred to in Paragraph 1 is integrated into those procedures in accordance with the rules of the Union acts that establish them.</p>

## 5 Empowerment to adopt implementing acts

The proposed Regulation empowers the Commission to adopt substantial implementing acts and delegating acts (Article 15(4); Article 21(3) and (4); Article 22(5)).

In the opinion of the German Social Insurance, these sweeping powers to design and structure procedures are problematic. It is particularly opposed to Article 15(4) of the Regulation which allows the European Commission to adopt implementing acts to stipulate the organisation, structure and marking of each of the information, procedures and assistance or problem-solving services.

The Council's version, on the other hand, no longer provides for the power to adopt delegated acts. Furthermore, with regards to implementing acts under Article 15(4) of the Regulation, the Council's version no longer explicitly refers to stipulating organisation, structure and marking.

Nevertheless, it must be ensured that the implementing acts do not unduly interfere with the organisation of social security systems.