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60 years of European social security coordination: achievements and controversies

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OSE / ETUI conference

Social policy in the European Union 1999-2019

Brussels – 12 March 2020

Coordination of social security systems at the heart of the 'social acquis'

- Under the Juncker European Commission, renewed attention has been directed to Europe's social dimension;
- Nevertheless, 'social Europe', has always been a reality, not least for people who are mobile in the EU;
- From 1958 onwards, the Treaty included a strong legal basis for legislation in the field of coordinating social security;
- It obliges the legislature to take measures to provide, in the field of social security, protection to people who make use of their right to free movement.

The 'hidden' European Welfare State

- Free movement of persons would not be possible without the guarantee that citizens do not lose their social security protection when moving to another country in the EU/EFTA;
- A sophisticated European social protection system for mobile persons, based on high-quality coordination techniques, has been developed over a period of 60 years;
- The Regulations currently in place are 'Basic' Regulation 883/2004 and 'Implementing' Regulation 987/2009;
- Key principles:
 - The prohibition of discrimination, reinforced by the equal treatment of cross-border facts and events (i.e. principle of assimilation);
 - The aggregation of insurance periods;
 - The exportability of benefits;
 - The determination of a single applicable legislation.

Gradual expansion of the personal scope

- The group of mobile persons enjoying social protection by the Coordination Regulations has expanded considerably over the past 60 years;
- Current Coordination Regulations apply to all EU nationals insured under national law, whether employed, self-employed, students, civil servants, pensioners or non-active persons, as well as to family members;
- The Coordination Regulations not only apply to EU nationals but also to nationals of Norway, Iceland and Liechtenstein, thanks to the Agreement on the European Economic Area, as well as to Swiss nationals by virtue of a bilateral agreement on the free movement of persons;
- Regulation (EC) No 1231/2010 offers third-country nationals the same protection, in terms of social security, as EU citizens moving within the EU.

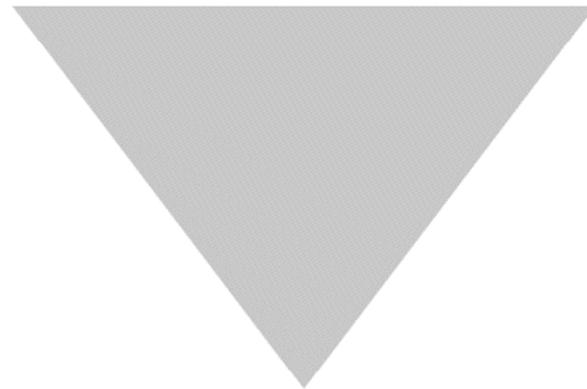
Further extension of the social risks covered

- The Coordination Regulations can be applied only in respect of legislation concerning benefits covered by the material scope;
- Apart from the extension to paternity and pre-retirement benefits, the branches of social security covered by the material scope are identical to those laid down in Regulation 3 adopted 60 years ago;
- LTC benefits must be regarded as 'sickness cash benefits' for the purposes of the Coordination Regulations;
- Social assistance has always been explicitly excluded from the material scope of the Coordination Regulations
 - Coordination of 'special non-contributory benefits';
 - Directive 2004/38/EC specifies the residence rights of EU citizens moving within the EU and defines certain conditions and limitations
 - Economically inactive persons are entitled to residence for more than three months, subject to the condition that they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of the host Member State.

Variables determining the number of persons involved and the budgetary impact

National social security legislation

EU rules on the coordination of social security systems



Mobility flows from and to EU/EFTA countries

Composition of intra-EU mobility by different types, 2017

Type of mobility	Extent (2017 figures)
Stock of EU/EFTA movers in the EU/EFTA	19 million
<i>As share of total population in the EU/EFTA</i>	3.6%
Stock of EU/EFTA movers in the EU/EFTA of working age (20-64 years)	14 million
<i>As share of the total working age population in the EU/EFTA</i>	4.5%
Flow of EU/EFTA movers in the EU/EFTA	2.1 million
Cross-border workers in the EU/EFTA	1.9 million
<i>As share of the total employed in the EU/EFTA</i>	0.8%
Postings in the EU/EFTA	1.8 million
<i>As share of the total employed in the EU/EFTA</i>	0.8%
Persons who normally worked in two or more Member States	1 million
<i>As share of the total employed in the EU/EFTA</i>	0.4%
Stock of EU/EFTA movers in the EU/EFTA aged 65 or over	1.8 million
<i>As share of the total population aged 65 or over in the EU/EFTA</i>	1.8%
Trips with overnight stay in another EU/EFTA country	229 million

Impact of the EU coordination of social security systems, 2018

	Benefits / persons	As average share of total benefits / persons at national level	Data completeness	Expenditure (in million €)	As average share of total expenditure at national level	Data completeness
Old-age, survivors' and invalidity pensions						
Pensions exported to pensioners who reside in another Member State	5,174,994	4.5%	29 out of 32	20,652	1.3%	29 out of 32
Pensioners receiving a pension from two or more Member States one of which is the Member State of residence	1,238,597	2.2%	18 out of 32	11,553	1.5%	18 out of 32
Cross-border healthcare						
Total cross-border healthcare in the EU/EFTA under social security coordination				4,057	0.4%	32 out of 32
Reimbursement of unplanned cross-border healthcare in kind	2,242,128		30 out of 32	1,082	0.1%	30 out of 32
Reimbursement of planned cross-border healthcare in kind	70,530		26 out of 32	213	0.0%	25 out of 32
Reimbursement of healthcare in kind provided to persons residing in a Member State other than the competent Member State	4,162,587		28 out of 32	2,016	0.3%	25 out of 32
Family benefits						
Export of family benefits	567,524	1.5%	26 out of 32	1,141	2.1%	23 out of 32
Maternity and equivalent paternity benefits in cash						
Export of maternity and equivalent paternity benefits in cash	24,586	0.7%	21 out of 32	187.5	1.2%	21 out of 32
Export of unemployment benefits						
Number of authorisations to export unemployment benefit	32,650	0.2%	31 out of 32			
Aggregation of periods for unemployment benefits						
Number of certificates proving periods completed by a worker in another Member State that are to be taken into account for the award of unemployment benefits (only unemployed migrant workers)	49,503	0.20%	29 out of 32			

A highly politicised topic

- Several provisions seem to be under pressure, mainly due to fears about ‘welfare tourism’ and ‘social dumping’;
- These fears cannot always be justified on the basis of facts:
 - Less than 2 out of 1,000 unemployed persons export their UB <-> low percentage of unemployed who found work abroad during the export period (NL <-> PL);
 - In seven out of ten cases of aggregation a period of employment of more than three months had already been completed by the unemployed mobile worker in the MS of last activity;
 - The UK exports just 0.2% of its family allowance budget to other MS;
 - The number of posted workers and their share in total EU employment remains marginal <-> some specific sectors of activity, in particular the construction sector, are confronted with a significantly high number of posted workers.

Forward-looking perspectives

- The coordination system has to adapt to all kinds of developments in order to keep up with the times
 - Changes in the nature of the labour market have an impact on the rules determining the applicable social security legislation;
 - The Coordination Regulations have not sufficiently kept pace with the introduction of new forms of social security in Member States.
- The legislator needs to become more aware of the financial implications of certain provisions, primarily for Member States, but also for individuals and companies
 - *Individual*: transnational social protection of economically inactive persons;
 - *Company*: differences in social security contributions -> competitive disadvantage;
 - *MS*: a pensioner who receives a pension under the legislation of two or more MSs, of which one is the MS of residence, will receive healthcare from and at the expense of the institution of the place of residence.

Proposal to revise the Coordination Regulations

- The 2016 Commission proposal to revise the coordination rules illustrates that the impact of the Coordination Regulations is regularly monitored in order to ensure that they meet current requirements;
- It is unclear at the moment what the final outcome of the negotiations on the Commission proposal will be;
- Substantial amendments to the Coordination Regulations should only be made if they are really necessary. This can be assessed by carrying out in advance a legal and socio-economic impact assessment of the current rules and possible amendments;
- Whatever the outcome, it will only be an episode in the 60-year-long history of adaptations of the Coordination Regulations to keep up with the times;
- **The Coordination Regulations cannot solve everything:** Member States should further develop their social security systems so that they converge towards each other upwards.

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