

New European Regulations on the coordination of social security systems

For almost 40 years, the coordination of the social security schemes applicable to European citizens has been governed by a set of EU Regulations¹. In today's world of globalization, in which workers may reside and work in various Member States throughout their lives, these Regulations state the rules applicable and provide guidance on the determination of matters such as to which social security scheme the individual is subject, which country pays his/her family benefits and in which circumstances he/she may receive health care in another Member State.

This set of rules is due to be replaced as of 1 May 2010 by a new Regulation (EC) No 883/2004 and its implementing rules. The purpose of the new legislation is to modernize and simplify the current rules, and notably to improve cooperation and exchange of information between the various national social security authorities.

While maintaining the basic principles in force, the new Regulations bring important details and changes, including the following:

1. General principle - Legislation of the country of employment

The general principle to determine the social security scheme applicable to an EU citizen remains in force: the worker is subject to the legislation of one country only, being the country in which he/she exercise his/her professional activity, even if he/she resides in another Member State.

For the first time however, the new Regulation outlines provisions relating to the determination of the place of residence of a person in the event of a dispute between the institutions of two or more Member States on this issue. The institutions concerned shall establish by common agreement the centre of interests of the person, based on an overall assessment of his/her personal and professional situation (duration and continuity of presence within the territory of the Member States, nature of any activity pursued, family status and family ties, housing situation, tax situation, etc.).

2. Division of activities between two or more EU Member States

Currently, a person who works in two or more EU Member States is in principle subject to the social security scheme of his/her country of residence for the whole period of activity, if he/she pursues a part of his/her activity in this country. According to the new Regulation, the social security scheme of the residence country will only be applicable if a substantial part of the professional activities is performed in this country. An activity may be considered as substantial only if it represents at least 25% of the individual's working time and/or remuneration.

¹ Regulation (EC) n°1408/71 and its implementing Regulation (EC) n° 574/72



3. Simultaneous exercise of salaried and self-employed activities

Where an individual exercises various activities as an employee and as a self-employed person within the territory of various Member States, he/she shall be subject to the social security system of the country in which he/she exercises his/her salaried activity.

Exceptions are however provided by some countries in an appendix to the current Regulation, in which case the individual is simultaneously subject to two social security schemes (country in which the salaried activity is exercised and country in which the self-employed activity is exercised). These exceptions have been deleted in the new Regulation.

4. Temporary secondment

Individuals who normally work in one Member State and are temporarily assigned to another Member State, are in principle subject to the scheme of this second Member State (as mentioned sub 1).

In order to avoid the dispersal of the insurance cover of the worker who is sent abroad for a limited period of time, the EC Regulation provides for the exception of the secondment, allowing the employee to remain under the scheme of his "country of origin". Currently, this exception is allowed for a period of maximum 12 months, renewable once.

The new Regulation introduces greater flexibility and simplifies the administrative process for employers since it will be possible, from the start of the assignment abroad, to maintain the registration with the scheme of the country of origin for a period of a maximum of 24 months (nonrenewable after this 24 month period). An extension of up to 5 years should in principle remain possible subject to the agreement of the Member States concerned.

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