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Title

Transport costs and accomodation abroad
(as Sickness Benefits in Kind)

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References:

- **Recital(s):** 16;17-IR
- **BR :** ---
- **IR:** 22; 26 c (8) ---
- **AC Decision (s) :** ---
- **ECJ CASE Law:** C-466/04 Acereda Herrera ; C- 8/02 Leichtle

Comments:

- This note deals with the specific issue of transport and accommodation costs as "benefits in kind" within the meaning of the EU social security coordination regulations. A fuller account of the meaning of "benefits in kind" generally can be found in a separate note (see "Benefits in Kind (sickness)").
- The general principles applicable in this field are as follows. It is national legislation that determines which benefits in kind are to be granted to insured persons and under which conditions. The role that the coordination regulations play is to ensure equal treatment with regard to benefits in kind in cross-border situations.
- A lot of national social security legislation or health systems provide or reimburse sickness benefits in kind which are not, strictly speaking, of a medical nature. For instance, all kinds of care for a person, such as medico-social care, personal care, catering, ambulance transport, transport and accommodation, must be considered as sickness benefits in kind when these costs are in fact provided by the health system, or reimbursed by social security systems.
- The new definition of benefits in kind in Article 1 (va) of Regulation 883/04 does not expressly refer to transport or accommodation costs. This is because, during the negotiations of the definition, some delegations took the view that it was a useful clarification whilst others felt that it was a matter for national legislation. However, if legislation of a Member State provides for transport costs (for example, the cost of an ambulance), this benefit shall be dealt with as "benefits in kind". Furthermore, by virtue of the equal treatment principle in Article 4 BR, such benefits shall be granted equally, regardless of the nationality of the person to whom the legislation of this Member

State is applicable.

Scheduled Treatment

- In the context of Article 26 of Regulation 987/2009, which deals with various procedural issues concerning scheduled treatment (that is, where a person resident in one Member State is authorised by his competent institution to receive medical treatment in another Member State), this principle is illustrated expressly: *'Where the national legislation of the competent institution provides for the reimbursement of the costs of travel and stay that are inseparable from the treatment of the insured person, these costs for the person concerned and, if necessary, for a person who must accompany him/her, shall be assumed by this institution when an authorisation is granted in the case of treatment in another Member State.'*

Information to citizens

- As far as information to citizens and benefits in kind are concerned, there is a specific duty in Article 22 of Regulation 987/2009, which requires both competent authorities and institutions to provide information regarding the procedures and condition of eligibility for granting benefits in kind in the territory of a Member State other than the competent institution. This provision must be read in the light of the general provision of Article 2(1) of Regulation 987/2009 (on which the European Parliament insisted): *'...exchanges between Member States' authorities and institutions and persons concerned shall be based on the principle of public service, efficiency, active assistance, rapid delivery and accessibility, including e- accessibility, in particular for the disabled and the elderly.* Quite clearly this duty must also extend to the provision of information about whether transport and accommodation costs are granted as benefits in kind in the territory of another Member State.
- Finally, Recital 17 IR reminds users of the Regulation of a general principle, namely that the coordination regulations do not prevent the application of more favourable national provisions with regard to the reimbursement of costs incurred in another Member State.

To go further:

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