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Ministry of Labour, Social Affairs and Family of the Slovak Republic

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Coordination of social security systems

The free movement of workers is one of fundamental principles of the EU, i.e. EU citizens have the right to seek jobs and work in another EU country and to reside there for this purpose, and they also have the right to equal treatment with nationals in terms of access to employment, working conditions and any other social and tax benefits.

The coordination of social security systems is a set of rules and principles which aims, under the principle of free movement of persons, to protect citizens' social security rights when they reside or work in other EU countries, Iceland, Liechtenstein, Norway and Switzerland. Its other purpose is to improve the effectiveness of cooperation between the relevant institutions responsible for the application of social security rules within the EU Member States.

Coordination rules

The new coordination rules that have been in place since 1 May 2010 and facilitate intra-EU mobility for workers, their family members, but also young people and other citizens, are:

- Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems
- Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems
- Regulation (EC) No 988/2009 of the European Parliament and of the Council of 16 September 2009 amending Regulation (EC) No 883/2004 on the coordination of social security systems, and determining the content of its Annexes.

Since 1 January 2011, Regulation (EC) No 1231/2010 of the European Parliament and of the Council extending Regulation (EC) No 883/2004 and Regulation No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (this does not apply to Denmark, Iceland, Liechtenstein, Norway, Switzerland and the United Kingdom) (replaced Council Regulation (EC) No 859/2003 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality) has been in force.

Since 1 April 2012, Switzerland has committed itself to the application of the new coordination rules.

Since 1 June 2012, the EEA States (Iceland, Liechtenstein, Norway) have committed themselves to the application of the new coordination rules.

Since 28 June 2012, Regulation (EU) No 465/2012 of the European Parliament and of the Council amending Regulation (EC) No 883/2004 on the coordination of social security systems and Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004 has been in force – this concerns in particular the application of Article 13 of Regulation (EC) No 883/2004.

These coordination rules do not replace national legislation, but determine which social security system of which State is competent for a particular person in their particular situation. If a person is in a 'cross-border situation', e.g. resides in one Member State and works in another Member State or works in more than one Member State, the coordination rules lay down in these cases the rules and principles according to which the country where the given person will be insured for social security is determined, what social security benefits will be paid to them and under what conditions. The coordination rules prevent a person from being simultaneously subject to the legislation of several Member States and, therefore, being required to pay contributions to several schemes or receiving benefits of the same kind from more than one State.

Formerly applicable coordination rules

Following its accession to the European Union, the Slovak Republic applied the following in its relations with the other Member States in the area of social security:

Regulation (EEC) No 1408/71 of the Council of 14 June 1971 on the application of social security schemes to employed persons and their families moving within the Community and Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community.

These Regulations have been replaced by new Regulations (EC) No 883/2004 and (EC) No 987/2009.

The original Regulations remained in force during the transitional period foreseen by the new Regulation (EC) No 883/2004.

What is an EU regulation?

A regulation is a legal act of general application which is directly applicable in its entirety throughout the EU. It is binding in all its parts and is valid in all EU Member States immediately upon entry into force. All Member State authorities, administrative authorities and courts are required to apply regulations.

Basic coordination principles

The basic coordination principles are: equal treatment and non-discrimination, application of legislation/law of only one State at any time, aggregation of insurance periods and export of benefits abroad.

1) Equal treatment and non-discrimination

Unless otherwise provided for by this Regulation, persons to whom this Regulation applies enjoy the same benefits and are subject to the same obligations under the legislation of any Member State as the nationals thereof. Any discrimination based on nationality is prohibited, including in the area of social security. The general principle of equal treatment is of particular importance for workers who do not reside in the Member State where they work, including frontier workers.

Equal treatment regarding benefits, income, facts and events are also part of this principle. Member States are required, when granting and paying social security benefits, to

take into account all the circumstances which occurred in another Member State as if they had occurred in the territory of that State, and these are decisive in relation to social security benefits.

2) Determination of applicable legislation – application of the legislation of one country

As a general rule, only one State's legislation may apply to a person at a particular time, so that social security contributions or insurance are paid/returned by the person in only one country.

The law of the State to which the person is subject applies is decided by the social security institutions and the person cannot choose which legislation will apply to them.

Title II – Articles 11 to 16 of Regulation (EC) No 883/04 contain provisions determining the rules for determining jurisdiction when a person is employed, self-employed or inactive. The rules laid down by the Regulation are exclusive, binding and superior to national legislation – both for the payment of insurance contributions and for the provision of benefits.

The coordination rules are primarily based on the principle of 'lex loci laboris', meaning that the legislation of the State in which the person is employed or self-employed is deemed to be the relevant legislation. There are special rules for persons employed in more than one State or employed in one State and self-employed in another, etc.

A person is subject to the legislation of only one Member State – Article 11(1) of Regulation (EC) No 883/04.

Employed and self-employed persons are subject, in principle, to the legislation of the Member State in which they pursue their employment or self-employment – Article 11(3)(a) of Regulation (EC) No 883/04.

Inactive persons and pensioners are subject to the legislation of the Member State of residence – Article 11(3)(e).

Employees whose employer posts to another Member State to perform work there on its behalf continue to be subject to the legislation of the posting Member State for a maximum period of 24 months. In this case, we are talking about 'posting'. Similar provisions also apply to self-employed persons – Article 12 of Regulation (EC) No 883/04.

The determination of the one relevant legislation in cases where activities are pursued in two or more Member States is governed by Article 13 of Regulation (EC) No 883/04.

Two or more Member States, the competent authorities of these Member States or the bodies designated by these authorities may by common agreement provide for exceptions to Articles 11 to 15 in the interest of certain persons or categories of persons.

3) Aggregation of insurance periods – retention of rights during acquisition

The Regulation contains provisions ensuring that, in order to acquire the right to benefits, periods of insurance completed in other Member States should be taken into account where applicable, i.e. when deciding on a social security benefit, account is taken, where required, of previous periods of insurance, work or residence in other Member States.

4) Principle of exportability – waiving of residence rules

If you are entitled to a cash benefit from one country, generally, you may receive it even if you are residing in a different country. This is known as the principle of exportability (the possibility of transferring the entitlement to a benefit to another State).

Cash benefits due under the legislation of one or more Member States are not subject to any reduction, amendment or addition, suspension, withdrawal or removal based on the fact that the recipient or their family members reside in a Member State other than that in which the institution responsible for providing the benefits is situated.

5) Prevention of overlapping of benefits

Unless otherwise provided, the coordinating rules do not confer or maintain entitlement to several benefits of the same kind for one and the same period of compulsory insurance.

Cooperation between social security institutions in EU States

Another objective of the coordination rules, as mentioned above, is to strengthen and develop cooperation between Member States and their institutions in the field of social security in order to consider specific issues relating to certain categories of persons. They support the implementation of measures for cross-border cooperation in the area of social security coordination.

Exchange of information

Cooperation between the institutions consists, in particular, of the exchange of information on persons who exercise their social security rights in the course of their cross-border movement. This includes, in particular, information on periods of employment or insurance and on the benefits that those persons receive in a given Member State.

Member States' competent institutions communicate with each other through a system of standard European forms, portable documents and structured electronic documents (SED), which are necessary to determine entitlements to benefits, report the number and type of insurance periods, the degree of any incapacity for work, the amount of benefits paid, etc. All forms are approved by the European Commission.

Electronic exchange of information

The implementation of the new electronic means of communication through the EESSI electronic system for the exchange of social security data is currently under way.

Electronic exchange of information was introduced in order to allow more efficiently and rapid communication and exchange of social security information between the Member States' competent institutions.

The electronic exchange of data will speed up the procedure for determining the applicable legislation, granting social security benefits and, simultaneously, reducing the administrative costs for institutions.

For certain areas, paper forms of 'portable documents' may continue to be used in necessary cases. A portable document is a document that serves social security purposes

and is not a document confirming the identity of the document holder. A portable document must be submitted to the social security institution together with proper identity documents.

Personal scope of coordination rules

This Regulation is focused on the citizen, it applies to nationals of a Member State, stateless persons and refugees residing in a Member State and who are or have been subject to the legislation of one or more Member States, as well as to their family members and their survivors, as well as to third-country nationals who are not already covered by these Regulations solely on the ground of their nationality. .

In addition, the Regulation also applies to survivors of persons who have been subject to the legislation of one or more Member States, irrespective of the nationality of such persons, where their survivors are nationals of a Member State or stateless persons or refugees residing in one of the Member States.

The coordination rules specifically regulate the status of other categories of persons:

- workers from border areas;
- seasonal workers;
- posted workers;
- seafarers;
- persons employed at diplomatic missions and consular offices;
- auxiliary staff of the European Communities.

Material scope of coordination rules

The Regulation applies to all legislation relating to the following areas of social security:

- sickness benefits (e.g. sickness cash benefits and healthcare benefits in kind);
- maternity and equivalent paternity benefits (e.g. maternity benefit);
- invalidity benefits (e.g. disability pensions);
- retirement benefits (e.g. retirement pensions);
- survivor's benefits (e.g. widow's, widower's and orphan's pensions);
- benefits in respect of work-related injuries and occupational diseases;
- death grants (funeral grants);
- unemployment benefits;
- pre-retirement benefits (this is not the same as an early pension);
- family benefits (e.g. child and parental benefits).

Territorial validity of coordination rules

The Treaty of Accession to the European Union (EU), extended the material, personal and territorial scope of Regulations (EEC) 1408/71 and 574/72 to ten new States as from 1 May 2004: the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic.

On 9 December 2011 leaders from the EU and Croatia signed the accession treaty. The country became the EU member country on 1 July 2013.

The new Regulations (EC) No 883/2004 and (EC) No 987/2009 apply to the territory of the following Member States: Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark (excluding Greenland), Estonia, Finland, France (including Corsica and overseas departments – Guadeloupe, Martinique, Réunion, French Guiana, but excluding the overseas territories in Australasia and the Antarctic, French Polynesia, Mayotte, New Caledonia, Wallis, Saint-Pierre-Miquelon and Futuna), Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal (including the autonomous regions of Madeira and the Azores), Austria, Romania, the Slovak Republic, Slovenia, Spain, Sweden, Italy, the United Kingdom (including Northern Ireland and Gibraltar) and Norway, Iceland, Liechtenstein and Switzerland.

Who coordinates in the Slovak Republic

Competent authority

The competent institution – the competent authority is, as a general rule, the ministry or other equivalent body responsible for social security schemes for all or part of the territory of that State.

In Slovakia, these are:

the Ministry of Labour, Social Affairs and the Family of the Slovak Republic;

the Ministry of Health of the Slovak Republic.

Access point

An access point is an entity that fulfils the function of an electronic contact point, automated routing based on an address and smart routing based on software, which allows automatic checking and routing and/or human intervention.

In the Slovak Republic, the functions of an access point are performed by the Social Insurance Agency.

Liaison body

To simplify the practical application of the rules, the competent institutions may designate liaison bodies – the institutions that communicate directly with each other and contact other liaison bodies in the respective EU/EEA and Member States and Switzerland directly.

Within their material competence, liaison bodies ensure the application of the rules, and explain and inform the claimants/beneficiaries of social security benefits of their rights and obligations.

The liaison bodies in the Slovak Republic for each type of benefit are:

- **Social Insurance Agency**

Sickness benefits in cash

Maternity and paternity benefits

Disability benefits

Retirement benefits

Survivor's benefits

Work-related injuries and occupational diseases

Unemployment benefits

- **Central Office of Labour, Social Affairs and the Family**

Family benefits

Death grants

- **Healthcare Surveillance Authority**

Healthcare benefits in kind

Institutions of the place of domicile or residence

According to the terminology of the coordination rules, the competent institution of the place of domicile (residence) is the institution responsible for the implementation of national legislation.

In general, the competent institution for each type of benefit in the Slovak Republic is:

- **Social insurance – branch offices**

Sickness benefits in cash

Maternity and paternity benefits

Disability benefits

Retirement benefits

Survivor's benefits

Work-related injuries and occupational diseases

Unemployment benefits

- **Offices of Labour, Social Affairs and the Family**

Family benefits

Death grants (funeral grants)

- **Health insurance companies**

Healthcare benefits in kind

Legislation

Legislation applicable in the area of coordination of social security systems

Consolidated texts

Regulation (EC) No 883/2004 on the coordination of social security systems.

Regulation (EC) No 987/2009 – Implementing Regulation for Regulation (EC) No 883/2004

In force since 1 January 2014

Regulation (EU) No 1372/2013 amending Regulations (EC) No 883/2004 and No 987/2009

In force since 8 January 2013

Regulation (EU) No 1224/2012 amending Regulations (EC) No 883/2004 and No 987/2009

In force since 28 June 2012

Regulation (EU) No 465/2012 amending Regulations (EC) No 883/2004 and No 987/2009

In force since 11 January 2011

Commission Regulation (EU) No 1244/2010 of 9 December 2010

In force since 1 May 2010

Regulation (EC) No 883/2004 on the coordination of social security systems.

Regulation (EC) No 987/2009 laying down the procedure for implementing Regulation (EC) No 883/2004

Regulation (EC) No 988/2009 amending Regulation (EC) No 883/2004 and determining the content of its Annexes

Regulation concerning third-country nationals

In force since 1 January 2011

Regulation (EU) No 1231/2010 extending Regulations 883/2004 and 987/2009 to nationals of third countries

Decisions concerning the EEA States and Switzerland

In force since 1 January 2015

Decision No 1/2014 of the Joint Committee – Amending Annex II to the Agreement between the EC and the Swiss Confederation on the free movement of persons

In force since 1 April 2012

Decision No 1/2012 of the Joint Committee established under the Agreement between the EC and the Swiss Confederation on the free movement of persons

In force since 1 June 2012

Decision No 76/2011 of the EEA Joint Committee amending Annex VI (Social security) and Protocol 37 to the EEA Agreement

In force since 1 February 2013

DECISION OF THE EEA JOINT COMMITTEE No 14/2013 of 1 February 2013 amending Annex VI (Social security) to the EEA Agreement

Annex VI (Social security) to the EEA Agreement

Original legislation in the area of coordination

Regulation (EEC) No 1408/71 – consolidated version

Regulation (EEC) No 574/72 – consolidated version

Regulation (EC) No 859/2003 extending the provisions of Regulation (EEC) No 1408/71 to third-country nationals

