



SOCIAL SECURITY COVER IN OTHER EU MEMBER STATES

The coordination of social security facilitates the free movement of people within the EU. A fundamental reform of legislation in this area was carried out in 2010 and was supplemented by further legal acts improving the protection of mobile workers' rights. In 2016, the Commission included proposals in the Labour Mobility Package to further reform the system and adapt it to modern economic and social realities in the EU.

LEGAL BASIS

Articles 48 and 352 of the [Treaty on the Functioning of the European Union \(TFEU\)](#).

OBJECTIVES

The basic principle enshrined in the Treaty of Rome is the removal of obstacles to the free movement of persons between the Member States ([2.1.5](#)). To achieve this, social security measures must ensure that EU citizens working and residing in a Member State other than their own do not lose some or all of their social security rights.

ACHIEVEMENTS

In 1958, the Council adopted two regulations on social security for migrant workers, which were subsequently superseded by [Regulation \(EEC\) No 1408/71](#). Nationals of Iceland, Liechtenstein and Norway are also covered by the European Economic Area (EEA) agreement, while Swiss nationals are covered by the EU–Switzerland agreement. In 2004, [Regulation \(EC\) No 883/2004](#) (the coordination regulation) repealed Regulation (EEC) No 1408/71, although the latter continues to have effects for certain Community acts and agreements to which the EU is still party. A major reform of the system was carried out in 2010 with the adoption of the 'modernised coordination package' — [Regulation \(EC\) No 988/2009](#) and implementing [Regulation \(EC\) No 987/2009](#).

A. The four main principles.

Each Member State remains free to design its social security system independently. The coordination regulation determines under which country's system an EU citizen is insured where two or more countries are involved. Generally, social security cover is provided by the country of employment or, in the absence of employment, by the country of residence. The regulation relies on four main principles:



1. Equal treatment (Articles 4, 5)

Workers and self-employed persons from other Member States have the same rights and obligations as the host state's own nationals. The right to equal treatment applies unconditionally to any worker or self-employed person from another Member State who has resided in the host state for a certain period of time. Additionally, if in a Member State legal effects are attributed to certain situation (e.g. being married) or events (e.g. having had an accident) or being in receipt of social security benefits (e.g. people drawing unemployment benefits are also entitled to a tax break), that Member State has to take account of such facts or events, or receipt of equivalent benefits, occurring in another Member State.

2. Aggregation (Article 6)

This principle guarantees that previous periods of insurance, work or residence in other countries are taken into account in the calculation of benefits. If, for example, national legislation requires a worker to have been insured or employed for a certain period of time before they are entitled to certain benefits, the aggregation principle means that the competent Member State must take account of periods of insurance and employment completed in another Member State.

3. Principle of single applicable law (Articles 10, 11(1))

This principle prevents anyone from obtaining undue advantage from the right to free movement. Each beneficiary is covered by the legislation of one country only, and pays contributions in that country only.

4. Exportability (Article 7)

This principle means that social security benefits can be paid throughout the Union, and prohibits Member States from reserving payment for people resident in the country. However, it does not apply to all social security benefits; special rules apply, for instance, to unemployment benefits.

B. Persons covered

Originally, [Regulation \(EEC\) No 1408/71](#) only covered workers, but in 1982 its scope was extended to include the self-employed. It also covered members of workers' and self-employed persons' families and their dependants, as well as stateless persons and refugees. The scope was progressively extended: in 1998 to put civil servants on an equal footing with the rest of the population as regards general statutory pension rights, in 1999 to include all insured persons, particularly students and persons not in gainful employment, and in 2003 to cover nationals from third countries legally resident in the EU.

The most recent legal act, [Regulation \(EU\) No 1231/2010](#), extended coverage to third-country nationals who are legally resident in the EU and in a cross-border situation and to their family members and survivors if they are in the EU.

Cross-border workers who are employees or are self-employed in one Member State and reside in another Member State to which they return daily or at least once a week are also covered.



Posted workers are an exceptional case because they are sent on temporary assignment and remain insured for social security in their home Member State for a maximum duration of 24 months. Only healthcare benefits in kind can be drawn in the Member State of residence.

C. Benefits covered

Article 3 of [Regulation \(EC\) No 883/2004](#) lists the social security benefits covered:

- Sickness, maternity and equivalent paternity benefits, but not means-tested social and medical assistance as these do not depend on previous contributions to the social security system;
- Old-age, survivor's and invalidity benefits;
- Benefits in respect of accidents at work and occupational diseases;
- Death grants;
- Pre-retirement benefits, unemployment benefits, family benefits;
- Special non-contributory cash benefits which are not exportable.

D. The modernisation of the system

Since 1971, legislation on social security coordination has been amended numerous times to take account of developments at EU level, changes in legislation at national level and case-law of the Court of Justice of the European Union (CJEU).

1. Towards better coordination of social security systems

The modernised coordination system introduced the principle of good administration, whereby Member State institutions are obliged to cooperate with one another and to provide mutual assistance. It provided for an electronic data exchange system between national institutions. The central Electronic Exchange of Social Security Information (EESSI) system was made available by the Commission in July 2017, and Member States have two years to implement it nationally.

It also:

- Updated rules in line with current social practice (e.g. provision for child-rearing periods);
- Improved protection of rights (e.g. improved information and assistance to citizens, new dialogue and conciliation procedures);
- Clarified certain aspects, e.g. by incorporating CJEU case-law (e.g. assimilation of facts);
- Strengthened and streamlined institutional procedures (e.g. electronic data exchange);
- Improved and accelerated the reimbursement of healthcare costs.

A further step towards better coordination of social security systems was taken with the establishment of the [European Labour Authority](#) (ELA) in October 2019. The ELA will take over the operational aspects of social security coordination as well as providing



mediation, through a dedicated Mediation Board, in cases of disputes between national authorities regarding the application of Union law in the area of labour mobility and social security coordination.

2. European health insurance card (EHIC)

Since 2006, European citizens travelling within the EEA have been able to use the European health insurance card, issued by the health insurance services of their home country. This card facilitates access to medical care in the event of **unanticipated** health needs during a visit to another EEA country for personal or professional reasons. Access is granted on the same terms and at the same cost as people insured in that country. Costs are reimbursed by the home social security system.

3. Supplementary pension rights

On 16 April 2014, after years of negotiations, [Directive 2014/50/EU](#) on minimum requirements for enhancing worker mobility between Member States by improving the acquisition and preservation of supplementary pension rights was signed. It only applies to labour market pension schemes, and thus neither to voluntary contributions to individual pension schemes nor to state pensions, which are covered under the coordination regulation.

4. Prospects for reform

After a specific consultation on the coordination of long-term care benefits and unemployment benefits in 2013 and a general consultation on EU social security coordination in 2015, the Commission proposed a [revision of Regulation 883/2004 and implementing Regulation 987/2009](#) as part of its Labour Mobility Package in December 2016.

The revision seeks to ensure fairness by more closely linking the payment of benefits to the Member State collecting the social security contributions. It also offers national authorities better tools to verify the social security status of posted workers in order to tackle unfair practices and abuse. The main changes include:

- Unemployment benefits: a qualifying period of three months will apply before insurance or employment periods can be aggregated, but workers can export their unemployment benefits for six months instead of three in order to look for work in another Member State. After working for one year in a Member State, cross-border workers can claim unemployment benefit in their state of employment rather than of residence;
- Long-term care benefits: the proposal defines long-term care benefits and the cases where mobile citizens can claim such benefits in a separate chapter;
- Family benefits intended to replace income during child-rearing periods are to be considered individual and personal rights, thereby permitting a secondary competent Member State the right to pay the benefit in full to the second parent. This removes potential financial disincentives for parents to take family leave at the same time.

The proposal also aims to align the legal rules in force with the CJEU's recent jurisprudence on access to social benefits for economically inactive citizens ([2.1.5](#)).



The proposal is the subject of ongoing interinstitutional negotiations.

The Commission's 2018 work programme mentioned a proposal for a European Social Security Number (ESSN) to facilitate cross-border social security coordination but no specific proposal has been presented.

ROLE OF THE EUROPEAN PARLIAMENT

Parliament has always shown a keen interest in the problems of migrant workers, border workers, the self-employed and third-country nationals working in Member States other than the one that admitted them. Parliament has, on several occasions, deplored the persistence of obstacles to full freedom of movement and has called on the Council to adopt proposals to bring early retirement pensions within the scope of social security coordination, to extend the right of unemployed persons to receive unemployment benefit in another Member State, and to widen the scope of legislation to include all insured persons. Most of these demands were met by the adoption of Regulation (EC) No 883/2004 or are included in the latest Commission proposals.

Since the Lisbon Treaty, the ordinary legislative procedure and qualified majority voting in Council applies. However, a Member State can ask for a draft legislative act to be referred to the European Council if it declares that the act would affect important aspects or the financial balance of its social security system.

In a number of its resolutions ([of 14 January 2014 on social protection for all](#), [of 14 September 2016 on social dumping](#), and [of 4 July 2017 on working conditions and precarious employment](#)) Parliament has drawn attention to specific difficulties in this field, such as the case of the self-employed, workers on temporary or part-time contracts, workers in the digital economy and seasonal workers, and has called on the Commission to review legislation and monitor the implementation and coordination of social security systems so as to ensure that citizens' rights are respected and labour mobility in the EU can operate efficiently.

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