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WORKING PAPER

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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Technical expert seminar on social security coordination on the withdrawal of the United Kingdom from the European Union in the no-deal scenario (5 March 2019)

Delegations will find attached the final version of the Brexit contingency guidance note on social security coordination, post-seminar organised on 5 March 2019.

Note from the services of the European Commission of 25 June 2019

After the withdrawal of the United Kingdom from the EU, in the absence of the Withdrawal Agreement, EU law on free movement and social security coordination will no longer apply to and in the United Kingdom. A no-deal Brexit scenario raises concerns for the EU-27 citizens currently working/residing in the United Kingdom or having previously worked/resided in the United Kingdom, as regards their social security entitlements acquired or to be acquired in relation to their mobility within the EU when the United Kingdom was a member of the EU. The same applies to United Kingdom nationals currently or previously working/residing in the EU-27 Member States as well as to the refugees and stateless persons in the same situation. Third-country nationals legally residing in an EU Member State and in a cross-border situation involving the United Kingdom prior to the withdrawal will also be affected.

In order to respond to these concerns and to ensure as much legal certainty as possible for the persons who have exercised their freedom of movement before the withdrawal date as regards their social security entitlements, the services of the European Commission have produced a guidance note providing for a unilateral coordinated contingency approach[11]. The guidance note is annexed to the present note.

The guidance note was discussed at the 20 December 2018 and the 5 March 2019 technical expert seminars (EU-27, EEA and CH) on social security coordination on the withdrawal of the United Kingdom from the European Union in the no-deal scenario. On the basis of this discussion and written comments received from delegations, the note has been revised by the Commission services. The contents of the approach should be uniformly applied (in the event of no-deal) by the EU-27 Member States as from the date of the withdrawal of the United Kingdom from the EU.

The guidance note, and the approach contained in it, is complementary to the Regulation (EU) 2019/500 of the European Parliament and of the Council of 25 March 2019 establishing contingency measures in the field of social security coordination following the withdrawal of the United Kingdom from the Union (the contingency Regulation). The note therefore deals with aspects beyond the scope of the contingency Regulation, while also providing a number of examples illustrating the principles (aggregation, assimilation and equal treatment) covered therein.

Annex: 1

[1] The interpretations and ideas set out in the guidance note do not constitute an authoritative interpretation of EU law and do not engage the European Commission as such. The contents of this document only represent the views of the Commission services. The Court of Justice of the European Union (hereinafter: CJEU) is the final instance responsible for interpreting the Treaty and secondary legislation.

Guidance note of the Commission services

BREXIT contingency joint approach at EU-27 level in a no-deal scenario ("unilateral coordinated contingency approach")

1. INTRODUCTION

1.1. Purpose of this guidance note

The aim of this guidance note is to:

- Ensure a unilateral coordinated contingency approach for EU-27 Member States on social security coordination as of the withdrawal date of the United Kingdom from the EU in a no-deal scenario (referred to here as "the withdrawal date''). This unilateral coordinated contingency approach shall ensure **the widest possible protection of the concerned persons affected by the withdrawal of the United Kingdom from the EU** by covering aspects not dealt with in the contingency Regulation, including export of old-age pensions and a coherent approach as regards new/pending reimbursement requests and offsetting/recovery claims (section 2)**.**
- Indicate the areas where Member States could complement the unilateral coordinated contingency approach with national measures providing further protection for citizens in relation to this period and beyond (section 3).
- Clarify the aspects of data protection when the United Kingdom is no longer a Member State (section 4).
- Clarify the fact that bilateral agreements concluded between the EU-27 Member States and the United Kingdom before the application of social security coordination Regulations 883/2004 and 987/2009 are no longer valid, unless explicitly provided otherwise by these Regulations (section 5).
- Provide for examples on aspects covered by the contingency Regulation (i.e. the principles of aggregation, assimilation and equal treatment) (section 7).

This document should be used by the national institutions and may be supplemented by further guidance documents to institutions and citizens at national level and the necessary implementing measures under national law.

The note is of relevance for the EEA countries and Switzerland. Wherever the note refers to the EU-27 Member States, it should therefore be understood as referring also to those countries and their citizens.

The notions used in this note should be understood by reference to the notions used in Regulations (EC) Nos 883/2004 and 987/2009.

1.2. Status of this guidance note and scope of the coordinated approach

This unilateral coordinated contingency approach only refers to the situations and their consequences involving the United Kingdom **before the withdrawal date**.

This means the approach also applies to benefits due for the periods before the withdrawal date, for which claims have been submitted before the withdrawal date, but for which national award decisions had not been adopted on that date. Similarly, it applies to benefits for which claims are submitted after the withdrawal date, insofar as they refer to situations occurred before such date (see section 2.2 of this note).

Obligations which stem directly from EU law, based on Article 48 TFEU, i.e. the continuous application of the principles of aggregation, assimilation and equal treatment due in respect of periods completed, and facts/events that occurred before the withdrawal date are dealt with in the contingency Regulation, and are therefore excluded from the scope of this coordinated approach. Nevertheless, in order to clarify the implementation of the contingency Regulation, this note also provides for examples illustrating the principles laid down by this Regulation.

The unilateral coordinated contingency approach, which is non-binding in its overall form, covers the following aspects (see section 2.2):

- obligations which accrued prior to the withdrawal date[2]. Such obligations relate to pending or new reimbursement/offsetting/recovery claims for situations occurred before withdrawal.

- requirements beyond the above-mentioned legal obligations, which are put forward in this note to be applied in a uniform and coordinated manner by the EU-27 in order to ensure the widest possible protection of social security entitlements of the persons concerned, i.e. payment (exportability) and uprating of the acquired old-age benefits outside of the territories of the EU-27 Member States, or continuation of medical treatments started in the United Kingdom before the withdrawal date.

The above-listed obligations and requirements included in this unilateral coordinated contingency approach should be applied in their entirety in a uniform manner by all EU-27 Member States as of the withdrawal date.

[2] These obligations would derive from the interpretation of EU law (including the rules of customary international law, which are part of the EU legal order).

By extension, based on the present coordinated contingency approach, the principles laid down in the contingency Regulation as well as in the present unilateral coordinated contingency approach, should apply to third-country nationals who acquired such rights prior to the withdrawal date or will acquire based on their past mobility within the EU by virtue of Regulation (EU) No 1231/2010 or Regulation (EC) No 859/2003 (see section 2.1)

Furthermore, the following aspects have been identified as falling outside the scope of the unilateral coordinated contingency approach:

- possible complementary unilateral actions at national level: such actions are beyond the scope of this unilateral coordinated contingency approach and have been identified to assist Member States in case they would like to complement this approach, on a voluntary basis, through additional national measures ensuring greater protection to their concerned citizens. Such measures could concern payment of family benefits and continued provision of sickness benefits in kind (see section 3).

- determination of the legislation applicable: since, as of the withdrawal date, the EU law on social security coordination will no longer apply to the United Kingdom in the no-deal scenario, it will be impossible to apply a coordinated but unilateral approach given that the cooperation of the United Kingdom would be essential and the conflict-of-law rules on applicable legislation could not continue to apply in the absence of such cooperation. As of the withdrawal date, national rules will apply to situations involving the United Kingdom, in terms of the applicable legislation, as is the case with any other third country.

- administrative cooperation, including the exchange of social security information, with the United Kingdom's institutions: since, as of the withdrawal date, the United Kingdom will no longer participate in the social security coordination, it is essential that EU-27 Member States inform the concerned citizens that they should, at their earliest convenience, seek documented evidence from the relevant institutions in the United Kingdom of all the periods of work, residence or insurance completed under its legislation prior to the withdrawal date.

  To the extent that competent institutions need to exchange data with the institutions in the United Kingdom after the withdrawal date with regard to past periods, which would take place outside the scope of EU coordination rules, Member States are to decide what type of forms they intend to use. To this purpose, they can consider using a specific form or the existing paper e-forms with adaptations as needed, while ensuring that they observe the relevant provisions in the General Data Protection Regulation (EU) 2016/679 related to data exchanges with third countries (see also section 4 below).

2. A UNILATERAL CO-ORDINATED CONTINGENCY APPROACH

2.1. Persons covered

Just as the contingency Regulation, this unilateral coordinated contingency approach covers all the insured persons with entitlements in the EU-27 Member States with a link to the United Kingdom before the withdrawal date, and to whom the relevant Regulations on coordination of social security systems would otherwise apply (e.g. EU-27 citizens and also United Kingdom nationals, who, as a result of exercising free movement before the withdrawal date acquired or will acquire entitlements in the EU in respect of periods completed or facts or events occurred prior to the withdrawal date, regardless of their residence at the moment of the claim). It also covers persons undergoing medical treatment on the withdrawal date. In compliance with Regulation (EC) No 883/2004, this approach also applies to stateless persons and refugees in an analogous situation. In the same spirit, the approach applies to the family members and survivors of all the above categories.

Example 1:

An Estonian citizen, who worked in Estonia, the Netherlands and the United Kingdom prior to the withdrawal date, who continues to work in the United Kingdom and maintains his residence there when he retires.

Example 2:

A United Kingdom national who has in the past worked in Cyprus and at the withdrawal date works and habitually resides in the United Kingdom and receives a pension from Cyprus after the withdrawal date.

This approach also extends the application of the principles covered by the contingency Regulation (e.g. aggregation, assimilation and equal treatment) and of the principles laid down by the present approach to third-country nationals who are or have been subject to Regulation (EU) No 1231/2010 or Regulation (EC) No 859/2003[3] prior to the withdrawal date, and their family members and survivors, in respect of their entitlements acquired or to be acquired relating to situations involving the United Kingdom prior to the withdrawal date. This means that third-country nationals who were, prior to the withdrawal date, in an intra EU cross-border situation involving the United Kingdom, as well as their family members and survivors, would maintain their entitlements in the EU-27 Member States in respect of periods completed, or facts or events occurred prior to the withdrawal date[4].

[3] Regulation (EC) No 859/2003 continued to apply to the United Kingdom until the withdrawal date, as this Member State has opted out from the adoption and application of Regulation (EU) No 1231/2010.
[4] As Denmark did not take part in the adoption of the said Regulations, it is not required for it to apply this part of the approach.

Example 3:

A Moroccan national, legally residing in Belgium and working both in Belgium and in the United Kingdom on the withdrawal date:

- right to take into account the periods of insurance in the United Kingdom up to the withdrawal date in order to determine his entitlement and calculate the pro-rata amount of the Belgian pension.

Example 4:

A Pakistani national, who is legally residing in the United Kingdom at the withdrawal date and has been receiving a pension from France before the withdrawal date:

- continuous export of the pension to the United Kingdom.

Example 5:

A United States national worked in Sweden, Denmark and the United Kingdom prior to the withdrawal and resides in the United States at the withdrawal date. She claims her Swedish pension after the withdrawal date:

- her periods of insurance/residence in the United Kingdom and in Denmark are taken into account by Sweden in order to determine her entitlement and calculate the pro-rata amount of the Swedish pension.

2.2. Matters covered

i) Principle of exportability

In order to ensure the widest possible protection for the persons concerned and not disadvantage them because they exercised their freedom of movement prior to the withdrawal date, EU-27 Member States should export old-age pensions[5] to the United Kingdom as part of the unilateral coordinated contingency approach and ensure their uprating (annual adjustment of pensions), despite the fact that it will be a third country.

[5] According to the information available, the United Kingdom legislation provides for export of old-age pensions to any country where the person resides, including to a third country. It can be expected that it will maintain this approach towards the EU-27 Member States after the withdrawal date on the basis of reciprocity. So far, the UK has only declared its intentions as regards their own nationals in the EU- 27: "*[…] the UK will also continue to preserve certain rights of UK nationals in the EU, for example by continuing to pay an uprated UK state pension to eligible UK nationals living in the EU*[4]" [Footnote: "[4] *subject to reciprocity*"]. Department for Exiting the European Union, "Citizens' Rights – EU citizens in the UK and UK nationals in the EU. Policy Paper", December 2018, point 20.

This would enable the concerned persons who exercised their right to freedom of movement prior to the withdrawal date to receive their pensions to which they are entitled based on periods completed or facts or events occurred prior to the withdrawal date. This would apply to EU-27 citizens who continue to reside in the United Kingdom after the withdrawal date, but also to the United Kingdom nationals who acquired old-age pension entitlements prior to the withdrawal date within the EU-27[6].

Example 6:

Both the Estonian and the United Kingdom nationals from examples 1 and 2 will receive their respective (pro-rata) pensions from Estonia and the Netherlands and from Cyprus after the withdrawal date, even if they continue residing in the United Kingdom.

ii) Reimbursement requests pending on the withdrawal date

For reimbursement of healthcare costs by EU-27 Member States towards the United Kingdom, or reimbursement of costs related to unemployment benefits for frontier workers that were paid by the United Kingdom as Member State of residence, ongoing on the withdrawal date, the relevant social security coordination provisions should continue to apply until the finalisation of these claims. As regards healthcare costs, this applies for both reimbursement directly to the insured person and reimbursement between EU-27 and the United Kingdom.

The same would apply as regards pending claims of recovery of unpaid contributions/unduly received benefits, reimbursement of medical examinations under Art 87 of Regulation (EC) No 987/09 and offsetting claims.

iii) Reimbursement requests as of the withdrawal date for medical treatments provided or claims related to situations occurred before the withdrawal date

For new claims involving the United Kingdom dealt with by EU-27 Member States, which relate to treatment before the withdrawal date, the relevant social security coordination provisions should continue to apply until the finalisation of these claims. This applies for both reimbursement directly to the insured person and reimbursement by the competent institutions of the EU-27 Member States to the institutions in the United Kingdom.

[6] Based on the case-law of the ECHR in case *Gaygusuz*, United Kingdom nationals may rely on the non-discrimination principle in relation to contributory benefits, which as a rule, are exportable. This would imply that as long as benefits are exported by EU-27 to their own nationals, United Kingdom nationals should be able benefit from the exportability of the same EU-27 benefits they are entitled to. However, also according to the ECHR jurisprudence, these benefits would not need to be uprated (*Carson*).

The same would apply as regards new claims of recovery of unpaid contributions/unduly received benefits, reimbursement of medical examinations under Art 87 of Regulation (EC) No 987/09 and offsetting claims relating to situations occurred before the withdrawal date.

iv) Medical treatment ongoing on the withdrawal date

Regarding **EU citizens** who started **planned or necessary treatment** pursuant to Regulation (EC) No 883/2004 in the United Kingdom before the withdrawal date and continue the treatment after the withdrawal date, claims for reimbursement of the full cost of treatment should be processed, provided that, based on medical grounds, the treatment could not be interrupted and continued upon return to the competent Member State after the withdrawal date, or the Member State of residence, where appropriate.

Example 7:

A Croatian citizen goes on holiday in the United Kingdom. He has an accident before the withdrawal date and receives necessary treatment in the United Kingdom which, based on the medical assessment cannot be interrupted and continues in the United Kingdom for another four months. In case the person used his/her EHIC at the moment of the accident, the reimbursement should take place between the United Kingdom and the competent Member State. In case the United Kingdom issues a separate invoice for the full or part of the treatment occurred after the withdrawal date, the citizen pays for it and should then be reimbursed by Croatia.

Example 8:

An Italian citizen receives planned medical treatment in the United Kingdom, which started based on PD S2 before the withdrawal date and, due to medical complications, this treatment must be extended after the withdrawal date. The reimbursement should still take place between the institutions. In case the United Kingdom issues a separate invoice for the full or part of the treatment occurred after the withdrawal date, the citizen pays for it and should then be reimbursed by Italy.

v) Reimbursement requests received after the withdrawal date for unemployment benefits provided by the United Kingdom before the withdrawal date

For new claims involving the United Kingdom dealt with by EU-27 Member States, which relate to unemployment benefits paid by the United Kingdom before the withdrawal date to frontier workers residing in the United Kingdom but working in an EU-27 Member State, the

relevant social security coordination provisions should continue to apply until the finalization of these claims.

3. AREAS NOT COVERED BY THE UNILATERAL COORDINATED CONTINGENCY APPROACH

The scope of this unilateral coordinated contingency approach does not cover the issues identified in sections 3.1, 3.2 and 3.3. These are issues which individual Member States could envisage addressing through national measures that are unilateral and temporary in nature. Such measures could afford a greater level protection to their citizens after the withdrawal date. Any national measures would apply without prejudice to possible negotiations as regards the future relations of the EU with the United Kingdom.

3.1. Exportability of cash benefits other than old-age pensions

The scope of this unilateral coordinated contingency approach does not cover the export of benefits, other than old-age pension, which are based on periods completed or facts and events occurred prior to the withdrawal date, such as unemployment benefits, maternity/paternity benefits, invalidity pensions, sickness benefits, survivors' pensions, pensions in respect of accidents at work and death grants.

Export by the United Kingdom of those social security cash benefits is, according to the information available in the public domain, limited to the EEA/CH and third countries which have social security bilateral agreements with the United Kingdom. As a consequence, export for such benefits might not be provided by the United Kingdom after the withdrawal date.

3.2. Family benefits

The scope of this unilateral coordinated contingency approach does not cover family benefits.

Family benefits are not covered by this approach since they are continuous cash benefits and do not concern periods completed or facts and events that occurred before the withdrawal date. Member States may, however, under national law, apply the principles of aggregation or assimilation as regards family benefits.

3.3. Sickness benefits in kind

The scope of this unilateral coordinated contingency approach does not cover sickness benefits in kind, such as provision of healthcare based on Portable Document S1 for the EU-27 citizens remaining in the United Kingdom after the withdrawal date.[7]

[7] It is to be noted that the Portable Documents will no longer apply in relations with the United Kingdom as from the withdrawal date.

4. DATA PROTECTION

The notice of the Commission services of 9 January 2018 on data protection in the event of no deal[8] recalls that in the case of no deal, as of the withdrawal date, the transfer of personal data to the United Kingdom will become subject to the rules on international transfers in application of the General Data Protection Regulation (EU) 2016/679 (the GDPR). The 2nd Commission Brexit Preparedness Communication of 13 November 2018 clarifies that the Commission does not plan an adequacy decision with regard to transfers of data to the United Kingdom as part of its contingency measures, given the availability of other tools for international transfers.

The GDPR contains a broad toolbox for data transfers to third countries for both private entities (e.g. standard contractual clauses and binding corporate rules) and public authorities (such as legally binding instruments and administrative arrangements).

In addition, Article 49 of the GDPR provides for derogations for specific situations, in the absence of an adequacy decision or of appropriate safeguards pursuant to Article 46 of the GDPR. This could be a tool for consideration as regards the data transfers from EU-27 to the United Kingdom as of the withdrawal date, in the no-deal scenario.

These derogations include:

- The situation where the transfer is necessary for important reasons of public interest. Recital 112 of the GDPR specifically recognises that international data exchanges between services competent for social security matters can be an example of transfers for important reasons of public interest.

- The situation where the transfer is necessary for the performance of a contract concluded with or in the interest of an individual.

For more information on derogations and how to apply them, please see the Guidelines on derogations of the European Data Protection Board: https://edpb.europa.eu/our-work-tools/our-documents/guidelines/guidelines-22018-derogations-article-49-under-regulation_en.

Specific questions can be addressed to the competent authorities for the implementation and enforcement of EU data protection rules, the national data protection authorities in the EU Member States. A list of all EU data protection authorities is available here: https://edpb.europa.eu/about-edpb/board/members_en.

For more information on transfers of personal data to the United Kingdom in case of a no-deal scenario, please see:

a. The notice on data protection in the event of no deal published by the European Commission: https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#just

[8] https://ec.europa.eu/info/brexit/brexit-preparedness/preparedness-notices_en#just.

b. Information note published by the European Data Protection Board on data transfers under the GDPR in the event of a no-deal Brexit: https://edpb.europa.eu/sites/edpb/files/files/file1/edpb-2019-02-12-infonote-nodeal-brexit_en.pdf.

5. PAST BILATERAL AGREEMENTS BETWEEN THE EU-27 MEMBER STATES AND THE UNITED KINGDOM

Any bilateral agreement that has been replaced by EU law does not revive, including in a no-deal scenario as of the withdrawal of the United Kingdom from the EU. This is a horizontal question of EU law which is not confined to the area of social security coordination, but which applies to all areas of EU law.

Accordingly, since Article 8(1) of Regulation (EC) No 883/2004 explicitly states that any **bilateral agreements** concluded with the United Kingdom in the field of social security have been replaced by Regulation (EC) No 883/2004, have ceased to apply and cannot be further revived.

The only exceptions are the provisions that have been maintained in force by virtue of Article 8 (1) second sentence of Regulation (EC) No 883/2004 (agreements listed in Annex II to that Regulation) and agreements further concluded in compliance with Article 8(2) of Regulation (EC) No 883/2004 and Article 9 of Regulation (EC) No 987/2009.

The case-law in C-227/89 *Rönfeldt*[9], in which the CJUE has found that certain provisions in the pre-existing bilateral conventions must in certain circumstances be applied, if otherwise it would entail a loss of social security rights by the worker, does not affect the above conclusion. The entitlements deriving from such agreements, could only be preserved, if they had already been established in the past, when the bilateral rule was the only applicable to the person at the moment when s/he exercised mobility, and maintained while Regulation (EC) No 883/2004 was applied. This however does not lead to a revival of the pre-existing agreements of the Member States with the United Kingdom which have already been superseded by EU law and did not continue to apply when the United Kingdom was a Member State.

6. FUTURE AGREEMENTS

While Member States may need to discuss and put in place arrangements with the United Kingdom for the purposes of implementing the EU or national level contingency measures – for example, exchange of information with the United Kingdom - these arrangements should be administrative and technical in nature, and be limited to the time period covered by the contingency measures. Any bilateral agreements between Member States and the United Kingdom risk undermining the unity of the EU-27 Member States and the ratification process of the Withdrawal Agreement.

[9] See also cases C-475/93 *Thévenon*; C-75/99 *Thelen*; C-277/99 *Kaske* and C-401/13 and C-432/13 *Balazs*.

For any future definitive agreements, a coordinated EU approach would have advantages over national bilateral approaches which could lead to fragmentation and the risk of insufficiently and/or unequally protecting the EU-27 citizens. Member States should therefore refrain from arrangements beyond administrative and technical arrangements referred to above.

7. EXAMPLES RELEVANT TO THE PRINCIPLES CONTAINED IN THE CONTINGENCY REGULATION

The continuous application of the principles of aggregation, assimilation and equal treatment by EU-27 Member States with regard to past situations are covered by the contingency Regulation. The following examples serve to illustrate the concrete application of the principles and rules covered by that Regulation.

7.1. Equality of treatment

Example 9:

A Greek wife of a United Kingdom national who used to work in Cyprus before the withdrawal date and dies after that date, applies for a survivors' benefit. The Cypriot authorities will assess the entitlement to this benefit applying the same conditions as if the United Kingdom worker had been a Cypriot national.

Example 10:

A United Kingdom national has lost his job in an EU-27 Member State on the withdrawal date. He applies for an unemployment benefit after the withdrawal date. This benefit covers periods of employment (and insurance) when he exercised free movement as an EU citizen. Although he claims the benefit only after the withdrawal date, when he is considered as a third country national by the host Member State, his unemployment benefit covering the said past periods should be granted to him on an equal footing with the nationals of that Member State and provided until the end of entitlement.

7.2. Principle of aggregation

Example 11:

A Luxembourgish citizen who:
- has worked in the United Kingdom 1996-2000;
- has worked in Belgium 2001-2025;
- claims an old-age pension in Belgium in 2026,

Belgium should take into consideration the periods worked in Belgium as well as those in the United Kingdom before the withdrawal date, to determine his entitlement to a pension and calculate the pro-rata amount of the pension.

Example 12:

A United Kingdom national who has worked in France 2000-2010, in the United Kingdom 2011-2016, in Bulgaria 2016-2018; and works and resides in the United Kingdom 2019 – 2025 and moves again to France to work there 2025-2030 and in 2030 claims a pension based on his/her previous periods of insurance, France and Bulgaria should take into consideration periods completed in France, the United Kingdom and Bulgaria prior to the withdrawal date, in order to determine his entitlement and, to give practical effect to the aggregation principle, calculate on that basis the pro-rata amount of the pension. Bulgaria should export its pro-rata pension to France. After the withdrawal, this person could be considered in a situation of intra-EU mobility, therefore Regulation (EC) No 1231/2010 would apply to him/her as a third-country national. In this context, he/she would be entitled also to the aggregation of French periods post-withdrawal.

Example 13:

A Polish citizen who:
- worked in Poland, Slovenia, the Czech Republic;
- is residing and working in the United Kingdom on the withdrawal date;
- after the withdrawal date applies for a pension due in Poland, while he continues residing in the United Kingdom,

Poland should take into consideration periods of insurance completed in Poland, Slovenia, the Czech Republic, as well as in the United Kingdom up to the withdrawal date, in order to determine his entitlement to a pension and calculate the pro-rata amount of the pension. Based on the approach proposed in this note. Poland should also export the pension to the resident in the United Kingdom (see to that aim section 2.2 above).

Example 14
In respect of an United Kingdom national who:
- worked and resided in the Netherlands in the past;
- is working and residing in the United Kingdom on the withdrawal date;

- becomes disabled after the withdrawal date and applies for a pro-rata invalidity pension,
In light of Article 51(3) of Regulation (EC) No 883/2004, if Dutch legislation makes the acquisition of the benefit conditional upon the person being insured in a Member State at the time of the materialization of the risk, the Netherlands would not have the obligation to pay a pro-rata invalidity pension.

7.3. Principle of assimilation of facts, events, benefits or income

Example 15:

A Spanish citizen has an accident at work in the United Kingdom before the withdrawal date. If Spain is competent for this person, Spain should consider this accident as having occurred on its own territory for the application of its national legislation regarding accidents at work.

Example 16:

A Finnish citizen resides in the United Kingdom and works in Finland. If a Finnish institution is competent, it should take into account, if relevant for calculating an old-age pension, child-raising periods completed in the United Kingdom before the withdrawal date, as if they took place in Finland.

7.4. Examples of provisions from the social security coordination Regulations necessary to give effect to the principles of aggregation and assimilation

Example 17:

In the case of example 10 above, if the person has lost their job in Belgium, the latter will need to apply the principle of aggregation if necessary in order to provide for unemployment benefits. Since there are special provisions on the aggregation of periods for unemployment benefits, Article 61 of Regulation (EC) No 883/2004 should be taken into consideration.

Example 18:

Following the application of the principle of aggregation, the special rules to prevent overlapping in Article 53 of Regulation (EC) No 883/2004, relating to invalidity, old-age and survivors' benefits calculated or provided on the basis of periods of insurance and/or residence completed by the same person, should be taken into consideration.

Example 19:

Following the application of the principle of aggregation for old-age and survivors' pensions, the rules on the award of benefits in Article 52 of Regulation (EC) No 883/2004 (i.e. the pro-rata calculation) should be taken into consideration.

Example 20:

Following the application of the principle of assimilation of facts, rules on granting the respective cash benefits in the case of accidents at work and occupational diseases in Art 36(3) of Regulation (EC) No 883/2004 should be taken into consideration.