

WRITTEN CONTRIBUTION TO THE ONLINE WORKSHOP *under the title*

«Practical Questions arising from the implementation of Regulation 883/2004 on the Coordination of Social Security Systems»,

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SECTION 1.

Introduction

Social security coordination rules concerns cross-border situations where no Member State can act individually.

According to Article 48 TFEU, coordination measures are required at EU level, the adoption of which is deemed necessary for the exercise of the right of free movement.

Without coordination, free movement could be restricted and the movement of persons would be less likely if it resulted in the loss of social security rights acquired in another Member State.

It is therefore essential that the rules of coordination are in line with the evolving legal and social framework in which they operate and further facilitate the exercise of citizens' rights, while ensuring legal clarity, a fair and equitable distribution of financial burdens between institutions of the member states involved.

➤ *European Regulations 883/04 and 987/09*

From 1 May 2010, a modernized system of coordination of social security rules with regulations (EC) no. 883/2004 and (EC) no. 987/09 is applied, updated by Regulation (EU) No 465/2012.

Subsequently, the evaluations and discussions within the Administrative Committee for the Coordination of Social Security Systems revealed the need to continue the modernization process in the areas of long-term care benefits, unemployment benefits and family benefits.

➤ *A few Words about the Proposal for a Regulation 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*

On 13 December 2016, the Commission submitted its proposal to amend 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.

The general objective of the proposal is to continue the modernization of EU social security coordination rules by making them clearer and fairer, and by improving their enforceability, thus contributing to the facilitation of free movement of persons within the EU.

In particular, the proposal focuses on six areas: (i) access by economically inactive mobile citizens to certain social benefits, (ii) applicable legislation for posted and sent workers and persons working in two or more Member States, (iii) long-term care benefits, (iv) family benefits and (v) unemployment benefits; as well as (vi) miscellaneous amendments.

Important landmarks have been reached on this file so far and 16 trialogues have taken place. At the last trialogue a preliminary political agreement was found, which, however, was rejected in Coreper.

Therefore, the Council continued discussions with the European Parliament with a view to finding a compromise on three outstanding issues:

In the chapter on Applicable Legislation:

- 1) The obligation for prior notification and possible exemptions from this obligation.
- 2) The method to determine the location of the registered office or place of business for a business in case of activity in two or more Member States.

In the chapter on Unemployment Benefits:

- 3) Rules on unemployment benefits for cross-border and frontier workers as well as on the length of the export of the entitlements for workers in cross-border situations.

➤ *The future of negotiations*

The Union rules on social security coordination directly contribute to the free movement of workers and encompass legislation on a myriad of themes: sickness, maternity and equivalent paternity benefits, old-age pensions, pre-retirement and invalidity benefits, survivors' benefits and death grants, unemployment benefits, family benefits, benefits in respect of accidents at work and occupational diseases.

In practice, the majority of the elements included in this revision have been already provisionally agreed between the co-legislators and three outstanding issues remain under discussion.

In conclusion from our side, we are of the opinion that, this revision is of utmost importance for improving the free movement of workers, a fundamental right of the European Union and we support the conclusion of this file considering that all the efforts to reach an agreement should be pursued.

(Source: European Commission, Council)

SECTION 2.

PRACTICAL ISSUES

- *Implementation of European legislation on the coordination of social security systems in the Member States, by the Greek Competent Authority and the Greek competent institutions.*

Greece, applying the European Regulations for the coordination of social security systems from 1/1/1981 for employees and from 1/7/82 for the self-employed, has accumulated considerable administrative / implementation experience in this field.

The Ministry of Labor and Social Affairs has been designated as the Greek Competent Authority.

The competent Greek institutions are, the Electronic National Social Security Fund (e-EFKA), for all pension benefits, sickness allowance and death grants, the National health provision Organization (EOPYY), for sickness benefits in kind and the Organization (OAED) for unemployment benefits and family benefits.

- **Implementation process of article 16 of K883 / 04**

Regarding the application of article 16 of K883 / 04, the competent authority for the conclusion of the relevant Exemption Agreement is the Ministry of Labor and Social Affairs

According to the provisions of article 13 par. 3 of the Regulation (EC) 883/2004, which is valid from 01.05.2010, the person who is normally employed and self-employed in different Member States, is subject to the legislation of the Member State in which he is employed.

In cases of posting the insured, in order to be exempted, from the obligation to pay double contributions, for the period that the company is seconded to an EU company, the employer must submit a relevant request to the competent authority of the company to which he is seconded. the employee.

The usual procedure involves correspondence between the two designated competent authorities.

"After the submission of the relevant application, the Competent Authority of the country of origin (of the country in which the employee wants to remain insured), will send to the service of the sending country the proposal of exemption from the social security legislation for the specific periods. If the Competent Authority of the country of dispatch agrees it will send a letter to the Competent Authority of the MS of origin informing about the agreement between the two MS and the completion of the exemption procedure, and will exempt the interested person from the due contributions for the periods referred to that Exemption Agreement ".

➤ **This exemption procedure under Article 16 is now carried out electronically through the European Electronic Data Interchange System (EESSI)**

In addition, we point out the years of insurance that have taken place in any part of the European Union that are taken into account for the establishment of a pension right (principle of taking into account the periods of insurance).

Thus, in the case of a pension claim, the competent institution of the Member State shall take into account the periods of insurance covered by the legislation of another Member State, as if they were periods covered by the legislation which it applies and each institution provides a partial benefit depending on the insurance period has been spent respectively on him.

Any problems in granting exemptions are addressed by correspondence between the competent authorities and when fraud or error occurs, we make a correction or where required to revoke the granted exemption.

➤ *Problems faced by the National Social Security Fund (e-EFKA)*

It is noted that the information regarding the e-EFKA is minimal and was given to us by phone, due to workload and understaffing of the competent service.

E-EFKA, due to the long and difficult transitional period of reorganization and transformation into a single social security institution, continues to face difficulties in the process of collecting requested information and statistical data.

Difficulties are found in gathering information on portable European A1 forms as these forms are not digitized.

Efforts are being made, however, the processes are slow, and the burden has recently shifted to the implementation of the European electronic insurance data exchange system (EESSI).

As far as EFKA is concerned, does it not maintain a separate register of its pensioners who reside in Greece but also receive a pension from another Member State.

The communication with the other competent European institutions when they have to decide the applicable legislation in case of doubts regarding the professional activity of a person (employed or self-employed) is mostly done by correspondence mainly electronic., And the competent services of EFKA that were asked, they considered it satisfactory.

The cooperation of the competent services for the prevention of fraud or error in social security, especially in the case of posted workers, *i.g. exchange of information, cross-checking of data with Labor inspections, tax offices and other auditing authorities to verify the authenticity of printed portals, effective way.*

In the context of the exchange of reliable data between the competent insurance companies, in the field of pensions for the fight against fraud and error a bilateral administrative cooperation agreement for the exchange of death data is implemented between EFKA and the German competent institution.

Finally, the changes brought about by the COVID-19 pandemic in the work of e-EFKA and its European and transnational cooperation in the field of social security coordination were mainly concerned with the extension for a certain period of invalidity pensions without examination by the KEPA.

In addition, the competent Service coordinated the issue of Life Certificates for e-EFKA pensioners residing in EU / EEA / Switzerland and DSKA countries [extension of pensions].

➤ *Problems faced by the National Organization for the Provision of Health Services (EOPYY)*

Prior authorization by the relevant national health insurance body before seeking treatment abroad.

Prior authorization before receiving health care abroad depends on whether you have exercised your right to scheduled cross-border care under Social Security Regulations (EC) 883/2004 or Directive 2011/24 / EU.

As a rule, prior approval will be required when planning to receive hospital treatment abroad or in the case of special treatments / surgeries that either require high expertise in equipment such as medical equipment and staff or are costly.

If he wishes to receive scheduled cross-border care in accordance with the Social Security Regulations, prior authorization is always required, for both closed (inpatient) and open (outpatient) care / hospitalization.

must submit the request for prior authorization to the Greek health insurance institution if his request is accepted, the institution will issue a European form (S2), which you will present to the health care provider abroad as proof of your coverage in the Greek social security system.

In general, according to Directive 2011/24 / EU, prior approval by the national health insurance institution is not required. However, the EU legislature has given Member States the option of introducing a pre-authorization obligation for certain types of care.

Greece has established an obligation of prior authorization for:

- health care, which includes overnight stay in the hospital

- healthcare, which requires highly specialized and expensive medical infrastructure or equipment
- health care that poses a risk to the safety of the patient or the general population
- health care provided by a healthcare provider that, as the case may be, could raise serious and specific concerns about the quality and safety of care.

➤ *Consequences for the Institutions when the authorization decision is issued after the provision of the hospital care and is rejected.*

Administrative acts for the provision of scheduled care are usually issued before the start of hospitalization, except in cases of requests for ex post authorization, which, of course, are submitted upon the patient's return to Greece.

In these cases, and if the binding opinion of the competent health body is negative for the Administration, a rejection decision is issued and the expenditure is not reimbursed by the Organization .

Examination of the insurance status of a person claiming medically necessary benefits in kind when that person does not have a European health insurance card

For the provision of medically necessary sickness benefits in kind, during the temporary residence in Greece of an insured person, without the use of EKAA, the health provider or the EOPYY has the possibility to request the issuance and direct sending of the right form (Certificate of Temporary Replacement -PPA) by its European insurance institution, especially in case of hospitalization.

Otherwise in the case of health services provided to state structures of the country or contracted private providers, the cost is paid privately and there is the possibility of reimbursing it upon request to the competent insurance body under the relevant provisions of EP 987/2009. In cases where the insured turns to purely private health providers, he pays the cost privately and cannot be reimbursed in accordance with the National legislation of Greece.

The insured may also apply to his / her insurance company for an examination of the reimbursement of the expenditure under Directive 2011/24 / EU on cross-border care.

➤ *Initiatives or other practices to facilitate exchange and transnational cooperation*

Bilateral initiatives to facilitate exchange and transnational cooperation are the bilateral talks between Member States, in particular the settlement of cross-border care expenditure accounts.

➤ *The Manpower Employment Organization (OAEΔ)*

In relation to error and fraud, OAED deals with the following cases:

Cases of fraud, error or misuse of PD U1:

- i) It is ascertained that in a part of these cases, the last employment carried out in Greece, in which an application is made to include a period of employment by another EU Member State. with deposit of relevant PD U1, extends over a period of a few days. In these cases, an investigation is carried out in relation to part-time employment and in case virtual employment is found, the requested grant is not approved.
- ii) The phenomenon is observed, while a subsidy is in progress, which resulted from the inclusion of periods of employment by another EU Member State. using PD U1, the Granting institution to receive an application for the issuance of PD U1 for the same person.
- iii) PD U1 deposit without stamp and signature.
- iv) Deposit from insured SEDs, (while SEDs must be sent by the Institutions as they are not Portable Forms).
- v) Application for issuance of PD U1 for short-term employment in Greece, in order to be used for a Grant Application e.g. in Bulgaria under Article 65 of Regulation (EC) 883/2004, in order to grant an allowance the amount of which will be calculated on the basis of the Greek salary which is higher in relation to the salary of Bulgaria. These Applications for issuance of PD U1 are checked in relation to the short-term **employment** and in case of virtual employment the requested PDs U1 are not issued and a negative response is sent.

- vi) During the Pandemic, it was observed that holders of PD U1 tried to register online as unemployed who hold PD U1 from another Member State while not in Greece.

To deal with the above requires, physical presence for registration and deposit of PD U1.

➤ *Cases of fraud, error or misuse of PD U2:*

- i) Instead of applying for PD U2, apply for PD U1 while an unemployment subsidy is in progress.
- ii) Departure during the grant to another Member State without notice and without receipt of PD U2.
- iii) Application for issuance of PD U2 before the completion of four (4) weeks from the start of the benefit
- iv) Non-registration with the Unemployment Agency of the EU Member State to which they go, within seven (7) days from the day they stop being at the disposal of the competent Institution that pays the unemployment benefit.
- v) Application for PD U2 and then departure without receiving it.
- vi) Non-use of issued PD U2 and therefore non-sending to the competent institution paying the unemployment benefit, SED U009 and SED U013, which leads to problems regarding payments and debt creation.
- vii) non-shipment of SEDs U013 by the Unemployment Institutions of the Member States to which they have gone, which leads to delays in payments.
- viii) Instead of issuing PD U2, issuance by some Member States of PD U1 of an insured person while being subsidized under national law and under Article 64 of Reg. (EC) 883/2004 should be done for the person Subsidy Extraction using PD U2.
- ix) PD U1 deposit without stamp and signature.
- x) Deposit from insured SEDs, (while SEDs must be sent by the Institutions as they are not Portable Forms.
- xi) During the Pandemic, it was observed that PD U2 holders attempted to register electronically as unemployed who hold PD U2 from another Member State while not in Greece.

To deal with the above requires physical presence for registration and deposit of the PD U2.

In order to deal with the above cases, the Organization takes the following actions:

- a. Inform through relevant Questionnaires which are sent by the European Commission.
- b. Accept only originally signed PDs and SEDs.
- c. Inform and implement the Monthly Follow Up.
- d. Request for additional information if needed in order to clarify a case.

SECTION 3.

EESSI

EESSI is an ICT system connecting administrations in charge of social security for electronic data exchanges across 32 countries: the 28 European Union (EU) Member States (MS), the 3 European Economic Area (EEA) countries: Norway, Iceland, Lichtenstein and Switzerland¹. The European Commission is developing EESSI pursuant to Regulation (EC) No 883/2004 on the coordination of social security systems² (the basic Regulation) and 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 of 29 April 2004 on the coordination of social security systems³ (the implementing Regulation)

Scope of EESSI: From a geographical perspective, the EU rules on social security coordination apply within the territory of the EU, EEA and Switzerland. The EU rules on social security coordination apply to nationals of a Member State, stateless persons and refugees residing in a Member State who are or have been subject to the legislation of one or more Member States, as well as to the members of their families and to their survivors. Data exchanges will take place between competent administrations of all Member States in the areas governed by the Regulations on social security coordination, namely:

- sickness, maternity and equivalent paternity benefits;
- old-age pensions, pre-retirement and invalidity benefits;
- survivors' benefits and death grants;
- unemployment benefits;
- family benefits;
- benefits in respect of accidents at work and occupational diseases.

The **purpose** of EESSI is to strengthen the protection of citizens' rights by enabling the electronic exchange of information enabling the social security coordination activity among Member States' competent administrations. The aim is that the paper forms currently used for communication between administrations should be superseded by EESSI.

The IT-based exchanges in EESSI will notably:

- (i) facilitate and speed up the decision making for the calculation and payment of social security benefits;
- (ii) allow a more efficient verification of data;
- (iii) provide a more flexible and user-friendly interface between different systems; and
- (iv) provide an accurate collection of statistical data on European exchanges.

➤ **Problems and challenges for Greece – Delays at national level**

Regarding Greece, the Ministry of Labor and Social Affairs is the competent authority of the Central Government for the issues of European coordination of social security. Within the framework of its responsibilities, the Ministry exercises the control and supervision of the Greek social security institutions in matters of application of the provisions of the European Regulations for the Coordination of Social Security Systems 883/2004 and 987/2009 as well as in matters of implementation of the European actions in the framework of the implementation of these Regulations.

The timeline of Decision E7 of the Administrative Commission

According to the European Commission in March 2021, 45 of the 99 operational scenarios (BUCs) have met the 80% threshold agreed in decision E7 and according to which the Member States (MS) have six months to implement the national RINA application per institution (FCA) for these BUCs corresponding to them.

Due to the large number of BUCs, all Greek FCAs will be affected and for this reason the stakes are high as there is a long-time delay regarding the implementation of EESSI / RINA in the three major institutions, e-EFKA, OAED, EOPYY but also in " Small Institutions".

The delays mainly in EFKA are due to the reorganization of the institution, after its upgrade to a national Social Security institution, to the new organizational structure with the large mergers of services and branches, as well as to the time-consuming legal procedures of announcing public tenders, to the pandemic of the COVID 19 but also to the fact that European issues are not currently in the priority of the institutions' administrations.

Specifically, the state of play is as follows:

Ministry of Labor and Social Affairs

The Ministry, from 01/01/2020, is in productive operation for the business scenarios assigned to it (exchange 6 BUCS for the exceptions of Article 16 of EP 883/04, and some horizontally).

OAED

It is in the final stage of implementation.

e-EFKA

E-EFKA and in order to meet the deadlines of decision E7 decided to adopt a temporary solution for the implementation of a "light" RINA until the end of May 2021 in collaboration with IDIKA SA. and the Government Cloud and until the final contractor of the project is selected.

EOPYY

Due to appeals, the whole process has been delayed for three (3) months and it is foreseen if everything goes well, in the best cases and without any delay, the contract will be signed and the implementation will be achieved in 5 months.

In conclusion, by the end of September 2021, the project in question could have been completed, if everyone acts immediately and without the slightest delay.

Small Institutions

Regarding the "Small Institutions" regarding the very small volume of exchanges that will have in EESSI, no significant impact on the overall operation of the system is foreseen.

Who are the "Small Institutions ":

These are health insurance institutions, outside EFKA, which certify the insurance capacity and issue to their insured persons a European Health Insurance Card and are the following (acronyms in Greek):

ΓΕΕΘΑ

ΓΕΝ

ΓΕΣ

ΛΙΜΕΝΙΚΟ ΣΩΜΑ

ΤΥΠΕΤ

ΕΥΔΑΠ

ΑΤΠΣΥΤΕ

ΕΔΟΕΑΠ

Οίκος Ναύτου

NAT

ΟΠΕΚΑ

Γενικό Λογιστήριο του Κράτους

Τράπεζα της Ελλάδος

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