

# **Fact sheet – The regulation of social security at EEA level**

## **What is social security coordination?**

The EEA Agreement provides common rules to protect citizens' social security rights when moving within Europe (EU 27, Iceland, Liechtenstein and Norway). However, the rules on social security coordination (Regulation 1408/71) do not actually replace national systems with a single European one. Although coordinated, all countries are free to decide who is to be insured under their legislation, which benefits are granted and under what conditions. However EEA law imposes certain rules and principles to ensure that the application of different social security systems does not disadvantage persons who exercise their right of free movement.

## **Who do these rules apply to?**

Nationals of the EU, Iceland, Liechtenstein and Norway who are or have been insured in one of these countries, and their family members. Third country nationals are only covered in the EEA when they are family members of a person with one of the above-mentioned nationalities.

## **What are the principles of social security coordination?**

- You are covered by the legislation of one country at a time, so you only pay contributions in one country. The decision on which country's legislation applies to you will be made by the social security institutions. You cannot choose.
- You have the same rights and obligations as the nationals of the country where you are covered. This is known as the principle of equal treatment or non-discrimination.
- When you claim a benefit, your previous periods of insurance, work or residence in other countries are taken into account if necessary.
- If you are entitled to a cash benefit in one country, you may, in principle, receive it even if you are living in a different country. This is known as the principle of exportability.

## **Family benefits**

Family benefits vary from one country to another. The country responsible for providing the benefits when one lives in the EU, Iceland, Liechtenstein or Norway depends on the family situation. The assessment of the family situation is done by the competent national authorities in accordance with the rules laid down in the national legislation and if appropriate with Article 1(f) of Regulation 1408/71. Article 1(f)(i) of Regulation 1408/71 defines what is to be considered as a “family member” in the EEA when it comes to a case where the family does not reside in the same country (cross-border case).

## **Family members living in different countries**

If the members of the family do not live in the country where one of the parents is insured, the family could be entitled to benefits in more than one country. However, one will not receive benefits twice: “priority rules”, derived from Article 10 of Regulation 1408/71, decide which country is responsible for providing them.

### **The priority rules**

- Generally, the country where your family's right is based on a situation of employment or self-employment is responsible for providing the benefits.
- If your right is based on employment or self-employment in both countries, the country where your children live is responsible if one of the parents works there. Otherwise, it will be the country where the highest benefits are paid.
- If your right is based on a pension in both countries, the country where your children live is responsible if this country pays one of the pensions. Otherwise, it will be the country where you have been insured or have resided the longest.
- If your right is based on residence in both countries, the country where your children live is responsible.

### **What are supplements?**

The benefits you receive from the competent country may turn out to be lower than what you would have received from the other country where you had rights. If this is the case, the second country will pay a supplement corresponding to the difference between the two benefits.

### **Marital status**

The coordination rules do not distinguish according to marital status in relation to entitlement to family benefits. The Court of Justice of the European Union has held in several judgments that such a differentiation would be discriminatory and is unjustified.

### **The case before the European Court of Justice**

The Court of Justice clarified in the judgment of case *Slanina* in 2009 that a condition in a national legislation, which foresees that a parent can only be entitled to family benefits if he/she lives together with the child, has to be interpreted in a cross border case in a way that the national administration has to check whether the child is mainly dependent on that parent. If it is, the benefit has to be paid to that parent. Norway does not apply this check, but simply refuses the benefit due to the separate housing.