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Social Security Co-ordination and Social Security Reforms

**Capacity raising and institutional development
for the realisation of the negotiation process on
bilateral agreement in the area of social
protection**

**Pension Benefits
in a Bilateral Social Security Agreement
by Vanda Crnjac Paukovic**

Prishtina, 6 and 7 May 2010

Which pensions are co-ordinated

Compulsory pension schemes listed under the material scope:

- **PAY-AS-YOU-GO** -
 - If benefits **depend on the length of the qualifying period** completed – the amount can be calculated by the co-ordination method
- **FUNDED** -
 - Although benefits usually **do not depend on the length of the qualifying period** completed - cannot be calculated by the co-ordination method
 - Benefits depend directly to contributions paid into the individual account + the rate of return
 - Principle of the **export of benefits** makes them subject to co-ordination

Periods for Entitlement

- **Aggregation of periods** applies only if the claimant does not satisfy the periods requirement in a Contracting State for the “independent” pension
- **Periods:**
 - **periods of insurance** completed under the general compulsory scheme – those defined in Article 1: contributions, occupational activity, residence and equivalent periods,
 - **periods completed in special occupational schemes** are aggregated with the periods completed in other Contracting State under a similar special scheme
- **Length of the period required** varies among States and also according to the contingency – periods are aggregated to the extent necessary for the entitlement to benefit

Occupational Pensions

- **Aggregation of special periods** completed in an occupation or employment for occupational pension but...
 - If the total of periods for occupational pension is not sufficient, the periods of insurance completed under the general scheme are aggregated for the pension granted from the general scheme
 - Contracting State that does not have special occupational schemes treats the special periods from the other Contracting State as periods of insurance completed under the general scheme

Assimilation of Facts

- **Taking into account of the legal facts** completed in the territory of the other Contracting State (assimilation of facts):
 - being subject to the legislation of a Contracting State at the time of contingency
 - period of payment of a pension
 - receipt of sickness cash benefits or incapacity for work in a specified period
 - place of residence of family members for the amount of benefit
- **Requirements are deemed to be fulfilled or the legal facts are recognized** in one Contracting State if the person was subject to these conditions under the legislation of the other Contracting State

Award of Pensions

- **Two different possibilities:**
 - entitlement to the “**independent**” pension in one Contracting State – the Agreement does not apply and the calculation is based solely on the periods completed under its legislation, but if
 - **Entitlement based on aggregation of periods**– calculation of the actual part of the pension by the co-ordination method
- **Two different ways of calculation by co-ordination method:**
 - Pro-rata temporis
 - Direct calculation

Pro-rata Temporis

Contracting State will calculate:

- 1. The theoretical amount** based on total of periods as if they were all completed under its legislation,
- 2. The actual amount** by multiplying the theoretical amount by fraction in which the nominator is the period completed in one Contracting State and the denominator is the total of periods completed in both States (pro-rata formula):

theoretical amount x periods in one Contracting State / total of periods in both Contracting States = actual amount of pro-rata pension

But...

Maximum Period

- ! If a Contracting State applies the **maximum insurance period**, and the total of periods completed in both States exceeds that maximum, then the State concerned applies the maximum period as a denominator in the pro-rata fraction (pro-rata formula):

theoretical amount x periods in one Contracting State / maximum period in the same Contracting State = actual amount of pro-rata pension

Direct Calculation

- If a Contracting State applies the **point pension formula** or similar formula,
- **but not** the one established on the percentage from the pension base,
- **the actual pension** may be defined by putting the insurance period completed in only that Contracting State in the pension formula.
- The actual amount should be **the same** (or approximately higher) to the pro rata amount, but the way of calculation is easier.
- If a Contracting State applies the **pension formula established on the percentage from the pension base**, the pro-rata way is the only possible way of calculation by the method of co-ordination.

Calculation Example

- Man age 65, periods in Austria – 7 years, periods in Croatia - 10 years.
- Old age pension, entitlement based on aggregation of periods
- Average value point of the person concerned is defined on the basis of working history in Croatia – 2.6415.
- Actual value of pension 01.07.2009. – 58.37 HRK
- Entitlement on 01.09.2009.

Direct Calculation

- Same as for the “independent pension” but the **entitlement is based on the aggregated periods**

- Personal points = **Croatian insurance period**
10 years x value point 2.6415 x initial factor for old-age pension 1 = 26.415

- Pension = personal points 26.415 x pension factor for old-age pension 1 x actual value of pension 58.37 =
1,541.84 HRK

Pro-rata Calculation

1. Theoretical amount for the total period of 17 years (Austria + Croatia)

- Personal points = 17 years x value point 2.6415 x initial factor 1 = 44.9055
- Theoretical amount = 44.9055 x 1 x 58.37 = 2.621.13

2. Pro rata amount:

- Pro-rata factor = 10 years in Cro : 17 years total period (Cro + Aut) = 0.588235
- Pro-rata amount = 2.621.13 (theoretical amount) x 0.588235 (pro-rata factor) = **1,541.84 HRK**
- the same amount as the one calculated directly

Short Insurance Period

- Insurance period **less than 1 year**, less than 6 months, or...depends on the agreement of the Contracting States...
- And if **no right to benefit** in a Contracting State solely on the basis of this period...
- Then the **other Contracting State shall take** this period into account for the amount of benefit under its legislation...

Administrative Arrangement

- **Submitting of claim** in the Contracting State of residence is treated as the claim in other Contracting State submitted on the same date
- Liaison body **processes the claim** and forwards it to the liaison body of the other Contracting State
- Lists of **documentary evidence** may be stipulated for benefits of each Contracting State
- **Medical examinations** in one Contracting State on the request of the other Contracting State at the expense of the requesting institution (reimbursement of costs)

Documentary Evidence

Application form may be furnished with the following **documentary evidence**:

- **Insurance period** as defined in Article 1(1) of the Agreement
- **Evidence of work** or residence or current employment
- Details of **income**
- **Medical examination** report and evidence
- **Certificates** (birth, marriage, death, education, etc)
- **Other** evidence agreed between negotiating Parties

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Thank you for your attention !