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Training on Social Security Co-ordination

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Coordination of pensions

by

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Overview of the problem

- (i) In every country where a person was insured,
  - his insurance record is preserved until he reaches pensionable age;
  - contributions which have been paid are neither transferred to another country nor paid out to the person if he is no longer insured in that country.
- (ii) Every country where a person was insured for at least one year will have to pay an old-age pension when the person concerned reaches pensionable age;

Overview of the problem

- (iii) This pension will be calculated according to the insurance record in that country.
  - If you were insured there for a long period of time, you will get a relatively « high » pension. If not, your pension will be relatively « low ».
- => Loss of pension rights when a worker moves to another country constitutes a bar to the free movement of labour
- The solution
  - Coordination rules

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Reminder : the personal scope of the different international instruments

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The articulation of the texts

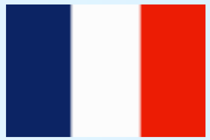
- Regulation 1408/71 and 574/72 for the 25 Member States + EFTA States + Switzerland
- Council of Europe rules
  - Interim agreements if a another country is involved and if this county has ratified the Convention
  - European convention on social security
  - Model provisions for bilateral agreements

EU coordination rules on pensions

As an example for pension coordination

A transnational situation in pensions

Typical "european" career:

- Italian national 
- Who emigrates to work
  - In Luxemburg first 
  - In France after 

Example

EXAMPLE

A migrant worker's carrier

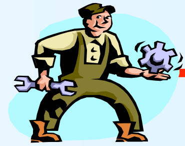
Italy	Luxemburg	France

[Employment period in Italy]

= 3 years

[Employment period in Luxemburg]

= 23 years



[Employment period in France]

= 14 years

What old age pension (s) ?

- **WITHOUT COORDINATION RULES**

- **Italian pension on 3 years contributions**
- **Luxemburg pension on 23 years contributions**
- **French pension on 14 years of contributions**

A low pension in each State

Specific rules for pensions

Non-discrimination: → equal treatment of facts (assimilation of facts)

But :

- Each institution serves a pension
- Specific rules of calculation of the pensions
  - Totalisation" of acquired rights
  - "Proratisation" for the payment

The “totalisation proratisation process”

- Central principle for acquiring rights in the field of benefits with long term conditions

- How does it work ??

Application of general principles

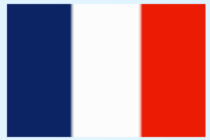
- Equal treatment
- Waiving of residence clauses
- Aggregation of periods
- Equal treatment of benefits, income, facts or events
- Made it possible to simplify and shorten some provisions

A transnational situation in pensions

Reminder

Our « Typical european career »:

- Italian national
- Who emigrates to work
  - In Luxemburg first
  - In France after



Example

The different steps

1/ Calculation of the “national pension”

2/ Calculation of a “theoretical pension”

3/ Calculation of a “pro-rata pension”

4/ Comparison between

Pro-rata pension

National pension

And possibly international pension

Step 1 Calculation of the « national pensions »

Application of the national rules

Employment period in Italy

= 3 years

Employment period in Luxemburg

= 23 years

Employment period in France

= 14 years

- **Italian pension on 3 years contributions**
- **Luxemburg pension on 23 years contributions**
- **French pension on 14 years of contributions**

Step 2 : Calculation of a "theoretical pension"

- The theoretical amount of the benefit to which the persons concerned could lay claim if
- All periods of insurance and/or of residence, which have been completed under the legislations of the Member States to which the employed person or self-employed person was subject had been completed in the State in question under the legislation which it administers on the date of the award of the benefit.

Step 2 : Calculation of a "theoretical pension"

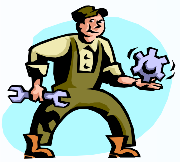
- What is a period of insurance or residence ?

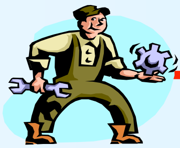
- « periods of contribution or periods of employment or self-employment as defined or recognised as periods of insurance by the legislation under which they were completed or considered as completed, and all periods treated as such, where they are regarded by the said legislation as equivalent to periods of insurance

EXAMPLE

Regulation 883/2004

Italy | Luxemburg | France





What old age pension ?

Employment period in Italy = **3 years**

Employment period in Luxemburg = **23 years**

Employment period in France = **14 years**

- **The calculation of theoreticla pensions [Tp]**

•Italian [tp] = Xi

•Luxemburg [tp] = Xl

•French [tp] = Xf

This is not the amount (s) our pensionner gets

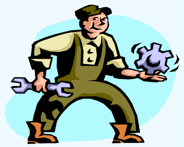
Step 3 : The “pro-rata pensions”

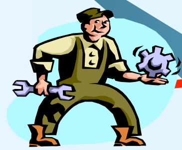
- The "actual amount of the benefit" =
- Theoretical amount in accordance with the ratio of the duration of the periods of insurance or of residence completed under the legislation which it administers to the total duration of the periods of insurance and of residence completed under the legislations of all the Member States concerned

EXAMPLE

Regulation 883/2004

Italy | Luxemburg | France





What old age pension ?

Employment period in Italy = **3 years**

Employment period in Luxemburg = **23 years**

Employment period in France = **14 years**

- **Italian pro-rata pension = 3/40 [Xi]**
- **Luxemburg pro-rata pension = 23/40[Xl]**
- **French pro-rata pension = 14/40[Xf]**

3 pensions

STEP 4 The comparison step

- By whom ?
- National institutions
- What is compared ?

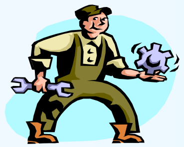
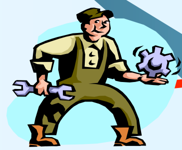
Comparision

- – Pro-rata pension with the “national pension”
- – “national pension” = pension calculated only with the national rules

- “Highest pension” is attributed

EXAMPLE

Regulation 883/2004

Italy	Luxemburg	France
		
Employment period in Italy	**Employment period in Luxemburg**	**Employment period in France**
= 3 years	**= 23 years**	**= 14 years**

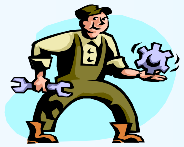
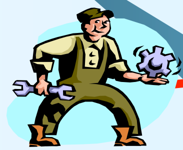
What old age pensions ?

let us suppose that

- **Italian pro-rata pension < Italian national pension**
- **Luxemburg pro-rata pension > Luxemburg national pension**
- **French pro-rata pension > French national pension**

EXAMPLE

RESULT

Italy	Luxemburg	France
		
Employment period in Italy	**Employment period in Luxemburg**	**Employment period in France**
= 3 years	**= 23 years**	**= 14 years**

What old age pensions ?

3 different pensions

- **Italian national pension**
- **+**
- **Luxemburg pro-rata pension**
- **+**
- **French pro-rata pension**

Export of pensions

Residence or stay abroad:

- The old-age pension will be paid to you regardless of where a beneficiary stays or resides within the European Union or the European Economic Area without any reduction, modification or suspension.
- This applies not only to former « migrant workers » but to all pensioners residing in another State.

Calculation of old-age pensions

- **Special provisions for funded schemes**
  - Problem of taking into account contributions paid in another Member State
  - Special rules excluding the *pro rate* calculation

Old-age pension : summary

✓ Principles

- Right to a pension in every Member State where the worker was insured for at least 1 year, prorated according to the periods of insurance in each Member State
- Aggregation of periods of insurance or residence in another Member State
- Paid by each country
- Request made in country of residence

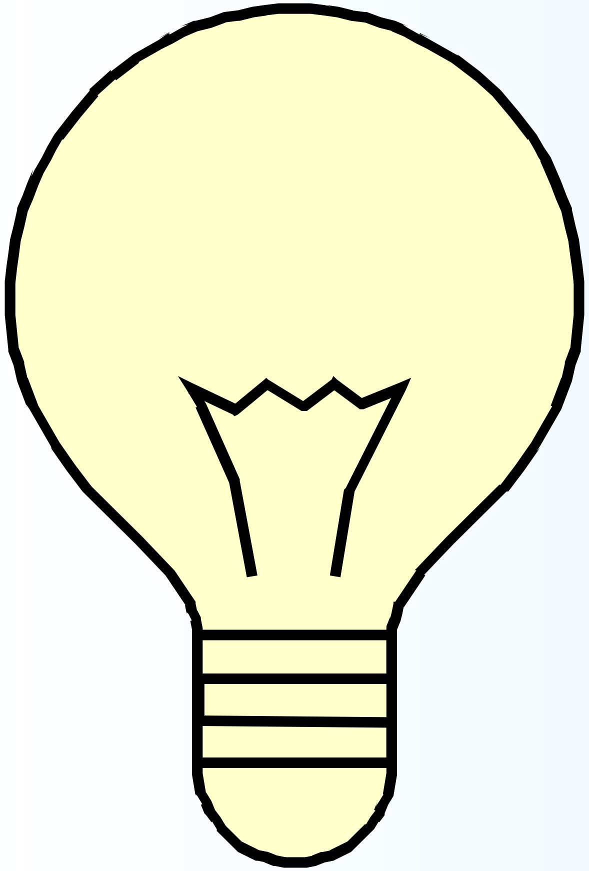
✓ Example

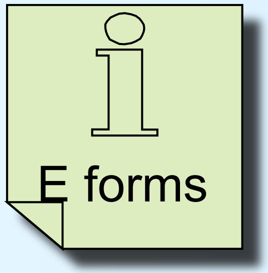
A person having worked 10 years in Belgium, 20 years in Luxembourg and 5 years in France will receive:

- 10/35 of Belgian pension
- 20/35 of Luxembourg pension
- 5/35 of French pension

Nota bene

- Only basic pensions
- Difficulties
  - Differences in pensionable age
  - Flow of information





Coordination of Invalidity benefits (cash benefits)

Overview of the problem

- Entitlement to and the rate of invalidity benefit or long term Incapacity Benefit under European Community provisions depends on the legislation to which the claimant has been subject.
- There are two types of legislation, Type A and Type B.
  - Type A are those where the rate of invalidity benefit does not depend on the length of insurance.
  - Type B are those where the rate of invalidity benefit depends on the length of insurance.

Type A invalidity benefit

A person is entitled to invalidity benefit from only one European Economic Area country where that person was insured only under Type A legislation

or

under both Type A and B legislation but the conditions for entitlement under theType B legislation are not satisfied.

- Under Type A legislation a person is entitled to a fixed rate of invalidity benefit

Type B invalidity benefit

- A person may be entitled to invalidity benefit from two or more European Economic Area countries where that person has been insured under Type B legislation.
- Under Type B legislation the rate of invalidity benefit depends upon the person's insurance record.

- The divergence between the national invalidity insurance schemes makes European coordination in this field difficult and not always easy to understand.
- the aim of the Community provisions is simple:
  - On becoming an invalid, a migrant worker may not find himself in a position inferior to that of a person who has always lived and worked in one single country

People subject only to Type A legislation

Which legislation applies ? Which country decides entitlement ?

- If a person has been subject **only** to Type A legislation, entitlement to benefit isdecided by **either**
  - **1.** the European Economic Area country whose legislation applied at the date when incapacity followed by invalidity occurred (the "relevant country") **or**
  - **2.** if the claimant was not entitled in the "relevant country", another European Economic Area country with Type A

People subject only to Type A legislation

- They will get a pension from the state where they were insured at the moment when they became an invalid.
- They will always be entitled to the *full amount* of this pension, even in cases where they were insured in this country for only a short period (one year, for example).
- On the other hand, they will *not* be entitled to pensions from the other states where you were previously insured.

People subject only to Type A legislation

- This reflects the philosophy of pension schemes where the amount of pension does not depend on the length of insurance periods:
- the important thing is the *actual insurance* at the time the person become an invalid

- The Netherlands will decide whether a person is entitled to invalidity benefits if the claimant is working in Denmark when incapacity started, but has remained insured in the Netherlands

Type B legislation

- *A person was exclusively insured in countries where the amount of pension depends on the length of insurance periods*:
- He/she will get separate pensions from each of these states.
- The amount of each pension will correspond to the periods of insurance completed in the respective state.
- The invalidity benefit can be calculated in two different ways
  - National invalidity benefit
  - Pro-rata invalidity benefit
- The higher of the two rates is payable to the claimant

Type A and B legislation

Which type of legislation applies ?

- A person first insured in a country where the amount of pension is independent of the length of insurance periods and
- then in a country where the pension does depend on these periods.
- This person will get two separate pensions, each corresponding to the length of your insurance periods in the respective countries.

Regulation 883/2004:

- Regulation 883/2004: dual coordination system in principle maintained, but:
- "One pension" system only applies if person has been insured exclusively under A system **and if** all MS concerned are listed as A System in Annex VI.
  - Example: person has been insured in Belgium, France and Netherlands. Under Regulation 1408/71: one pension (only NL). Under Regulation 883/2004: 3 partial pensions

- Thank you for your attention
- Questions ?