



EU-CHINA

Social Security Reform Co-operation Project
中国 - 欧盟社会保障合作项目

Crossing Frontiers

EU Social Security Provisions

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Why the subject?



Social Security Reform Co-operation Project
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- The European Union - China Social Security Reform Co-Operation Project
- Migrant workers in Europe
- Migrant workers in China

Treaty of Rome



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- Free movement of labour - Right of EU nationals to work or seek work in any Member State
- Requirement to remove disincentives to mobility
- Purpose to ensure that cross-frontier workers were not treated less favourably than workers whose employment was in a single Member State

Member States' National Legislation



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- Each EU Member State has its own national social insurance legislation
- 27 Member States - so 27 different schemes
- The 27 legislations are often very different and have developed differently over past century
- Member States wish to retain autonomy on social insurance legislation for financial, fiscal, macro-economic and social policy reasons
- Different from China where fundamentally single scheme

National Social Security Schemes

- No harmonisation - 27 states : 27 systems
- Differences in
 - Contribution conditions
 - Pension calculation
 - Tax liability
- Instead co-ordination
- Extended to EEA & Switzerland

Co-ordination of Member States' Social Insurance Schemes



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- EU provisions do not require harmonisation of Member States' social insurance schemes
- EU provisions provide for co-ordination of Member States' schemes
- Co-ordination arrangements cover 27 Member States + 3 other European Economic Area States + Switzerland – Total 31

Regulations 1408/71 & 574/72



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- EEC Regulations 3 and 4 related to social security for migrant workers
- Replaced by current Regulations for social security for cross-frontier workers
 - Regulation 1408/71 implements policy
 - Regulation 574/72 implements procedures
 - Many times amended, eg for accession states
 - Particular provisions to cover national peculiarities
- New Regulations due to replace them, but following same principles
- Simpler for China as basically single scheme

Regulations 1408/71 & 574/72



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- Who is covered? Non-discrimination by nationality
- Employed & self-employed EU nationals
- Members of their family
- Later extended to non-EU nationals
- Same obligations and rights as home state nationals

Regulation 1408/71



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- Regulation 1408/71 covers:
 - Sickness and maternity benefits, including cash benefits and benefits in kind (medical treatment)
 - Invalidity benefits
 - Old age benefits
 - Survivors' benefits
 - Benefits in respect of accidents at work and occupational diseases, including cash benefits and benefits in kind (medical treatment)
 - Death grants
 - Unemployment benefits
 - Family benefits

Regulation 1408/71

Applicable legislation

- No discrimination on grounds of nationality
- Contributions (or equivalent) – subject to legislation only of state of employment
- Limited exceptions
 - Secondment for up to 12 months (extendable to 24 months)
 - Agreement between social security institutions of both states where in worker's interest
 - Where worker voluntarily pays additionally to another state's social security institution

Regulation 1408/71

Calculation of benefits



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- Short- term benefits – Aggregation of Contributions (or equivalent)
 - Sickness and maternity benefits, including cash benefits and benefits in kind (medical treatment)
 - Benefits in respect of accidents at work and occupational diseases, including cash benefits and benefits in kind (medical treatment)
 - Unemployment benefits
- Long-term pensions – Aggregation and apportionment
 - Old age benefits
 - Survivors' benefits

Regulation 1408/71

Short-term benefits - aggregation



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- State to whose social security legislation individual was last subject is liable for providing benefit under own legislation
- BUT
- Must aggregate contributions or equivalent from all states to determine benefit entitlement
- Thus payment from only one state



Regulation 1408/71

Short-term benefits – aggregation - example

- State A requires 10 years' contributions for benefit entitlement
- Claimant X has only paid contributions there for 3 years
- Previously claimant X paid contributions to State B for 15 years
- State A must aggregate contributions in States A and B to determine entitlement
- Claimant X qualifies from State A as in aggregate 18 years



Regulation 1408/71- Long-term pensions

– “aggregation and apportionment”

- Acquisition - Each state where individual worked must pay higher of:
 - national entitlement
 - aggregation & apportionment

- Procedure
 - 1) Calculate entitlement under its national legislation alone
 - 2) Calculate notional entitlement under its legislation as if periods in all states were under its legislation – “aggregation”
 - 3) Calculate entitlement as the same proportion of notional entitlement as the period under its legislation bears to the aggregate – “apportionment”
 - 4) Pay the higher of 1) and 3)

- Thus payment from more than one state

- Payment - no reduction, modification, suspension or withdrawal if pensioner resides in another Member State

Example



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- Netherlands 40%
- France 30%
- Germany 30%
- Great Britain 10%
- Ireland 10%
- China 80%

- Great Britain 95%
- Denmark 5%

Administrative arrangements



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- “E forms”
- Single claim
- Subject to pension age

EU Social Security Regulation

Residence in state other than state of insurance



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- Worker whose residence is in a state other than the state where he is insured, is entitled to:
 - Medical treatment where he resides under its legislation as if he had been insured there, but reimbursed by state where worker insured
 - Cash benefits in accordance with legislation of the state where he is insured (but by agreement state of residence may pay)
 - If he stays temporarily in, or transfers to, state where he is insured, medical treatment and cash benefits there
 - Same provisions for family members

EU Social Security Regulation Frontier Workers



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- Frontier worker is entitled to:
 - Medical treatment in accordance with legislation of the state where he is insured
 - Cash benefits in accordance with legislation of the state where he is insured
- Family members covered in emergency or if both states agree or family member is authorised

EU Social Security Regulation

Beneficiary in another state

- A person entitled to sickness or maternity benefit under a state's legislation
 - Whose condition requires benefits in kind necessary on medical grounds while temporarily in another state
 - Who is authorised to return or transfer to another state
 - Who is authorised to go to another state for treatment
- Is entitled to:
 - Medical treatment provided under its legislation on behalf of the institution with which he is insured – and reimbursed by that institution
 - Cash benefits provided by the institution with which he is insured (but by agreement state of residence may pay)
- Comparable provisions for family members

EU Social Security Regulation

Calculation of cash benefits



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- If the rate of cash benefits under a state's legislation depends on average earnings or contributions, only those in that state are to be taken into account



EU Social Security Regulation

Substantial benefits in kind

- If the need for a person to have a prosthesis, major appliance or other substantial benefits in kind is recognised before a person (or family member) becomes subject to a state's insurance, the previous state with which he was insured must meet the cost, even if granted while insured in the second state.



EU Social Security Regulation

Unemployed persons requiring sickness benefits

- Unemployed person who receives unemployment benefit from the state where he is insured while in another state to which he has gone to look for work, is entitled to:
 - Medical treatment, if necessary on medical grounds (taking account of the nature of the benefits and likely length of stay), in the state where he is looking for employment under its legislation as if he had been insured there, but reimbursed by state where worker insured
 - Cash benefits in accordance with legislation of the state where he is insured (but by agreement state of residence may pay) – but with his unemployment benefit stopped



EU Social Security Regulation

Old age pensioners requiring sickness benefits

- If pensioner is entitled to pensions from 2+ states, including state of residence, he is entitled to medical treatment from that state as if he received a pension only from that state
- If pensioner is entitled to pensions from 2+ states, but not including state of residence, he is entitled to medical treatment provided by the state of residence, but at the cost of the state where he was insured the longest

EU Social Security Regulation Reimbursement



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- Reimbursement is on the basis of the production of proof of expenditure or basis of lump sum payments
- Or by other methods agreed between institutions
- Or may be waived



EU Social Security Regulation

Work accident where not resident

- Worker who suffers accident at work or contracts occupational disease, but whose residence is in a state other than the state where he is insured, is entitled to:
 - Medical treatment where he resides under its legislation as if he had been insured there, but reimbursed by state where worker insured
 - Cash benefits in accordance with legislation of the state where he is insured
 - If he stays temporarily in, or transfers to, state where he is insured, medical treatment and cash benefits there

EU Social Security Regulation

Occupational Diseases



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- Worker who contracts occupational disease has engaged in occupation causing disease in more than one state
 - Benefit payable only by state where he last worked before conditions satisfied, except
 - If disease was pneumoconiosis or other chest disease, benefit payable by each state proportionately to periods in such occupation

EU Social Security Regulation

Occupational Disease Aggravation



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- If occupational disease is aggravated by further employment in occupation causing disease:
 - If in state paying benefit, its institution must pay increased rate
 - If in another state, institution of 1st state must continue payment and 2nd state must pay excess under its legislation

Non-state benefits

Directive 98/49



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- Person with vested pension rights moving to another Member State is entitled to pension at same rate as in home state
- Participant who moves to employment in another Member State is entitled to same preservation and/or transferability rights as if taking employment in home state



Non-state benefits - Directive 2003/41

- Cross-frontier arrangements
- Provides procedures for employer in 1 Member State to use a pension scheme in another State

Options on leaving employment: Preservation or transferability

- Options for worker with occupational pension (enterprise annuity) rights on leaving employer:
 - Multi-employer (or trade union) scheme
 - Preservation within former scheme with continued investment (or possible defined benefit revaluation)
 - Transfer to new employer's scheme

Relevance to China?



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- Mobility
 - Rural to urban (and back?)
 - Farmers who have lost land to urban
 - Public service to social insurance (& vice versa)
 - Movement by urban workers between or within provinces
 - Leaving employer with enterprise annuity



- 谢谢
- 你有没有问题