



Free movement of workers and
coordination of social security with the
focus on the Finnish-Estonian
relationship
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**Regional Seminar on Free Movement of
Workers with The Focus on Estonia and
Finland**

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1. Basic principles of social security coordination in EU



Objectives of social security coordination in EU

- Coordinate the social security rights of people moving between member states
- Equal treatment
- Determine the legislation applicable in order to secure that a person doesn't fall outside social security as a result of using the right to free movement
 - The basic principle of *only one legislation applicable*
 - the legislation of the country of employment *lex loci laboris*
- Prevention of overlapping of benefits and contributions
- Export of benefits irrespective of the member state of residence
- Coordination not harmonisation!



Basic principles of coordination

- Legislation of only one member state is applicable at a time
 - In case of an employed person it's the member state of employment
 - In case of an non – active person it's the member state of residence
- All benefits are generally paid from this member state
 - Exceptions
 - Family members derived rights to family benefits as well as responsibility of sickness insurance costs
 - Right to health care: A person insured in one Member State has the right to necessary health care in all other Member State during temporary stay or residence in other MSs with EHIC.
 - Special rights for pensioners (the Member State paying the pension may also be responsible for the health care costs and issuing of the EHIC of a pensioner residing in another Member State)



Regulation 883/2004

article 3 – Matters covered

- The following branches of social security are covered by the Regulations:
 - (a) sickness benefits;
 - (b) maternity and equivalent paternity benefits
 - (c) invalidity benefits;
 - (d) old-age benefits;
 - (e) survivors' benefits;
 - (f) benefits in respect of accidents at work and occupational diseases;
 - (g) death grants;
 - (h) unemployment benefits;
 - (i) pre-retirement benefits;
 - (j) family benefits.

Unless otherwise provided for in Annex XI, the Regulation shall apply to general and special social security schemes, whether contributory or non-contributory, and to schemes relating to the obligations of an employer or ship owner



Regulation 883/2004 article 9 Declarations by the Member States on the scope of this Regulation

- Each Member State notifies in writing the legislation and schemes referred to in article 3



Example 1: Estonian frontier worker

- An Estonian frontier worker works as a buss driver in Finland but resides with his wife and children in Estonia. His wife is not working in Estonia.
 - The frontier worker is covered because of his employment in Finland. Finland is also primarily responsible for family benefits and for health care costs of the family members residing in Estonia and Finland issues the EHIC card for the whole family.
- Wife starts work in Estonia:
 - Because of the wife's employment the primary competence for family benefits shifts to Estonia as well as the responsibility for the health care costs of the children. The EHIC card will be issued by Estonia for the employed wife and the children residing in Estonia.



Example 2: Finnish mariner

- A Finnish mariner works on board a boat flying the Estonian flag. He lives and has always lived with his family in Finland.
 - The mariner is covered because of his work by the Estonian social security. Estonia is also responsible for health care costs of the mariner (and possibly the family members). Because of his residence in Finland he has the right to health care in Finland as if he was insured there.



Example 3: pensioner in Spain

- A pensioner gets pension only from Finland and moves permanently to Spain.
 - In order to get registered as resident in Spain the pensioner needs a E121/S1 form . This form shows that Finland is responsible for the health care costs of the pensioner.
 - The pensioner is treated as s/he would be insured in Spain.
 - Finland pays Spain a yearly lump sum for the pensioners health care costs in Spain.
 - EHIC card from Finland



New Regulation 883/2004 from 1 May 2010

- **Updating** of rules in order to correspond with current social practices
- **Simplification**
- **Clarification** incorporation of ECJ case law in a range of areas
- **Strengthening the principle of equal treatment** by introducing a provision on Equal treatment of benefits, income, facts or events (art. 5)
- Incorporation of the **principles of good administration** to the system



New Regulation 883/2004 from 1 May 2010

- Status of the Administrative Commission has been strengthened
 - Conciliation board
- More obligations for cooperation and exchange of information between institutions
- Electronic exchange of information



- Improved protection of citizens' rights:
 - Provisional application of legislation and provisional payment of benefits
- Strengthened and streamlined institutional procedures
 - Provisions on recovery of provisional payments and contributions, offsetting and assistance with recovery
 - The competent institutions are not defined in the implementing regulation anymore
 - Electronic exchange of information



2. The Finnish Estonian relationship



What happened when Estonia joined EU in May 2004

- The amount of people moving between our countries rose
- Legislative changes had been made to Finnish legislation preceding the accession of the 10 Member States
- It has become apparent the legislative changes are not compatible with the forms of mobility in reality



Statistics concerning E101/A1

- E101/A1 from Estonia to Finland
 - 440 in year 2004
 - 4683 in year 2005
 - 16 585 in year 2010
- ✓ Mostly for posted workers
- E101/A1 from Finland to Estonia about 200 certificates a year
- ✓ Mostly for simultaneous work



Kela's statistics: From Estonia to Finland

- **Year 2010:** 6600 decisions (5012 positive)
- **Year 2009:** 6610 decisions (4867 positive)
- **Year 2008:** 5145 decisions (3829 positive)

- **Year 2005:** 2842 decisions (2447 positive)
- **Year 2004:** 2611 decisions (2399 positive)
- **Year 2003:** 1576 decisions (1444 positive)



Kela's statistics: From Finland to Estonia

- **Year 2010** :1153: decisions (503 positive)
- **Year 2009**: 1188 decisions (437 positive)
- **Year 2008**: 1158 decisions (453 positive)

- **Year 2005**: 1026 decisions (595 positive)
- **Year 2004**: 832 decisions (418 positive)
- **Year 2003**: 756 decisions (469 positive)



Main challenges between Estonia and Finland

- How to determine the country of residence?
- Who is considered to be a real 'frontier worker'?
- It seems that work in both countries simultaneously is common
 - The share of A1 for simultaneous activity in Finland and Estonia are however small
- Problems relating to the A1s issued
 - The work may not have started in the firm as stated on the certificate
- For insurance periods: End often to the date preceding issuing the certificate



...Main challenges

- Family benefits:
 - It's difficult to determine 'common household' which is relevant for determining family membership according to Finnish social security law
- Unemployment benefits:
 - Overlapping payment of unemployment benefits from both countries



Challenges with workers coming to Finland

- There are no good statistics about all the Estonian workers working in Finland
- There has been reported more cases where an Estonian employer starts business in Finland and the workers are insured in Finland under the employment pension scheme. After a while the employment pension contributions are neglected.
 - The recovery of the neglected contributions is difficult from the Estonian employers
 - Employment pension coverage is on until the employer has got an adjudication order for bankruptcy
 - The recovery SEDs are hopefully going to help with this



Situations where residence has effect ...

1. For determining legislation applicable
 - i. Non-active persons (art. 11.3.e)
 - ii. Persons with simultaneous activities in more than one member state (art. 13)
2. For determining benefits
 - i. For determining the right to sickness and maternity and equivalent paternity benefits (articles 17, 20.4, 21.1 and 32)
 - ii. Benefits in respect of accidents at work and occupational diseases (article 36, 37, 40, 42.2 and 43.1)
 - iii. Rights of pensioners and their family members (articles 27, 29, 30.2 and 58)
 - iv. Unemployment benefits (article 65)
 - v. Family benefits (articles 67 and 68)



Application of article 11 of the new implementing regulation (1/2)

- Its application is in principle restricted to cases of dispute
 - Allow Member States primarily to apply the national systematic to determine the residence of a person
 - However if national systematic deviates too much from the elements under community notion this would lead to a conflict under article 11



Application of article 11 of the new implementing regulation (2/2)

- Is the list in article 11 comprehensive?
 - The provision is flexible to take into account all different cases and situations that might occur
 - It is necessary to determine residence in each case individually taking into account the special criteria of the situation
- Intention of the person concerned
 - Is a tie breaker
 - However it is not just the wish of the person concerned but the intention has to be evident also from the other elements mentioned in article 11



Cooperation in practice

- The cooperation with the Estonian and Finnish institutions is good and has long traditions
 - Secure e-mail
 - Both regular and *ad hoc* Liaison office meetings
 - Other contacts
- Next liaison office meeting in Helsinki 10 – 11 October 2011 (family benefits, legislation applicable, unemployment and questions relating to how to combat fraud and error)



Central administration

Regional Centres

Local offices / Insurance districts

All offices and Customer Contact Centres: Client service to people moving to and from Finland

InTo in Helsinki from 3.11.2008: Client service for people moving to Finland together with the tax authorities

Unit for reimbursement of EU health care costs (Kouvola/ Kuusankoski)

Office for International Affairs

- 1) People insured in Finland but staying abroad
 - Insurance coverage
 - Benefit matters
- 2) Pensioners residing abroad

6 Special units for International matters

- Insurance coverage
- Family benefits
- Sickness benefits (cash)
- Parental benefits (cash)
- Defining responsibility of health care costs
- Unemployment benefits
- Rehabilitation benefits (cash and kind)
- Disability benefits

4 EU-pension Units

- For people residing in Finland



3. Future challenges



An old and new challenge - better service for the clients

- Administrative co-operation has a more transparent status in the New Regulations
 - This will hopefully lead to better co-operation in the future for all member state
- A key factor is information to the clerks – also to those who are not specialised in international matters
 - Same easily accessible basic/general information to clients and clerks, who are not specialised
- Electronic exchange of information is only a means for co-operation
 - The real efforts have to be done in every social insurance institution



Future challenges

- EESSI electronic exchange of social security information
 - Transitional period will continue after 1.5.2012
- Use of paper SEDs and electronic exchange simultaneously for a relatively long period
- Challenges in implementing the Regulations
 - Residence, long term care, disability benefits, rehabilitation, insurance periods, child care periods, recovery
- Institutions put lot of recourses on the implementation of EESSI



Information about coordination

- <http://ec.europa.eu/social/main.jsp?catId=26&langId=en>
- <http://www.tress-network.org/TRESSNEW/>