

Seminar on pensions 17 December 2009 in Warsaw

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Seminar on pensions 17 December

0900 opening session and introduction

0915 the most relevant articles in 1408/71 and 574/72 for pensions, family benefits...

1030 short break

1045 to be continued.....

1230 lunch break

1315 to be continued.....

1500 – 1800 (including a short break)

comparison between Regulations 1408/71 and 574/72 and Regulation 883/2004 (basic regulation) and its implementing regulation (IR)

Seminar on pensions 17 December

Member States:

Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, Finland, France, Germany, Great Britain and Northern Ireland, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Rumania, Slovakia, Slovenia, Spain, Sweden and the Check Republic.

**Efta-states covered by the EEA-agreement:
Iceland, Liechtenstein and Norway.**

Special agreement with EU:

Switzerland,

Regulation 1408/71, divided into titles

www.eur-lex.europa.eu/pl/legis/20091101/chap05204020.htm

- **TITLE I, general provisions, articles 1-12**
- **TITLE II, determination of the legislation applicable articles 13-17a**
- **TITLE III, special provisions relating to the various categories of benefits, articles 18-79**
- **TITLE IV, Administrative commission on social security for migrant workers, articles 80-81**
- **TITLE V, Advisory committee on social security for migrant workers, articles 82-83**
- **TITLE VI, miscellaneous provisions, articles 84-93**
- **TITLE VII, transitional and final provisions, articles 94-98**

- **Annexes I-VII**

4 (5) Main principles

- **Equality of treatment (article 3)**
- **Exportability (article 10)**
- **Aggregation of insurance periods (article 45)**
- **Pro rata temporis (article 46)**
- **One legislation applicable at the time (article 13)**

TITLE I, general provisions, articles 1-12

Article 1, definitions (1)

- Refugee (d)
- Stateless person (e)
- Member of the family (f)
- Competent institution (o)
- Periods of insurance (r)

Persons covered, article 2,1 (2)

Old age/invalidity pension

Employed and self-employed persons who

- have been subject to the legislation of one or more Member States (MS)
- are nationals of a MS or
- are stateless or refugees residing in a MS

Annex I, persons covered by the Regulation

- Case 75/63 Unger, 300/84 van Roosmalen, 66/77 Kuyken, 2/89 Kits van Heijningen

Persons covered, article 2,1

Survivor's pension

The deceased must have been

- employed or self-employed
- subject to the legislation of one or more MS
- a national of a MS or
- Stateless or refugee residing in a MS

To be continued.....

Persons covered, article 2,1

Survivor's pension

Example

- a Polish self-employed man dies. His Chinese wife may be entitled to a survivor's pension from Poland.

To be continued.....

Persons covered, article 2,2

Survivor's pension

The survivor must be

- a national of a MS or
- stateless or refugee residing in a MS
provided that the deceased was
- subject to the legislation of one or more MS
- employed or self-employed

N.B! Regulation 859/2003 third country national

Persons covered, article 2,2

Survivor's pension

Example

- a Polish widow is entitled to a survivor's pension provided that her deceased American husband was
- subject to the legislation of one or more MS
- as employed or self-employed

Persons covered from 20030601 (859/2003)

- Third country nationals legally residing in one MS
- who have worked in another MS or
- who have worked in two or more MS (at least two MS must be involved).

Equality of treatment, article 3 (4)

- A person covered by the regulation and residing in a MS is subject to the same obligations and enjoy the same benefits under the legislation of any MS as nationals of that State

Matters covered, article 4 (3)

The regulation applies to all pension legislation concerning

- invalidity benefits (chapter 2, 3)
 - old age benefits (chapter 3)
 - survivor's benefits (chapter 3)
 - And other benefits such as e.g.
 - death grants (chapter 5)
 - family benefits (chapter 8)
- to be continued.....

Matters covered, article 4 (3)

The regulation does not apply to

- **special non-contributory benefits** referred to in **Annex II** nor to
- **social and medical assistance**, or to **benefit schemes for victims of war or its consequences**

(Regulation 1612/68)

Declaration by the MS on the scope of the Regulation, article 5 (9)

- Each MS shall specify their legislation in declarations to be notified and published in accordance with article 97.

Social security conventions are replaced by the Regulation, articles 6-8 (8)

Exceptions

- provisions of the social security conventions listed in Annex III
- new conventions may be included

Admission to voluntary continued insurance article 9 (14.3)

- Some MS have provisions in their legislation which make admission to voluntary continued insurance possible.
- If such provisions make the admission conditional upon residence in the territory of the MS in question residence in another MS must be considered provided that the person once has been subject to the first MS as employed or self employed.

Exportability (waiving of residence clauses), article 10 (7)

- Pension benefits (old age pension, invalidity pension, survivor's pension, accidents at work, occupational diseases) ***must be paid*** with the same amount ***irrespective of residence***
- (with exceptions for the benefits mentioned in Annex IIa)

Prevention of overlapping of benefits, article 12 (10)

- General rule, article 12
- Pensions, article 46 b-c
- Family allowances, articles 77, 78 and 79, 1408/71 and article 10, 574/72

Prevention of overlapping of benefits, article 12

- A person can not have the right to several benefits of the same kind for one and the same period of compulsory insurance with the exception of pension rights.

Legislation applicable , articles 13-17

- **Article 13:** persons covered by the regulation shall be subject to the legislation of one MS only = the legislation where the person works, irrespective of residence (lex loci laboris)
- **Posted workers** = subject to the legislation of the "posting MS" (1+1 year)
- **Exception:** work as employed in one MS and as self-employed in another MS =simultaneously subject to the legislation of two MS (annex VII)

Legislation applicable , articles 13-17 (11-16)

- **Article 14-16:** special provisions
- Persons normally employed in two or more MS
- = subject to the legislation in the MS of residence provided that work is performed there
- Rules concerning voluntary insurance
- Rules concerning diplomatic missions
- **Article 17:** exceptions from articles 14-16

Three kind of pensions system in the European Union

- **A-model system**
- **B-model system**
- **B/C-model system**

Three kind of pensions system in the European Union

- **A-model system** = sickness insurance system, where the pension is not depending of periods of insurance/residence but requires that the person is insured at the time of the materialization of the risk

Three kind of pensions system in the European Union

- **B-model system** = an insurance system where the pension is depending on actual periods of insurance/residence

Three kind of pensions system in the European Union

- **B/C-model system**= an insurance system where the pension is depending on actual periods of insurance/residence and assumed periods

Chapter 2 invalidity = A-system

- Chapter 2 of Regulation 1408/71 is only applicable to a person who has been subject to the legislation of two or more MS under which the amount of invalidity benefits is independent of the duration of the periods of insurance (Article 37)
- The person shall have his/her benefit only from the Member state whose legislation was applicable at the time of incapacity for work (Article 39)

A-model systems combined with B/C-model systems, chapter 3

- A person who has been subject to the legislation of two or more Member States of which at least one is not an A-model system shall instead receive benefits according to chapter 3 (article 40)
- All A-systems of MS must be listed in Annex IV, part A of Regulation 1408/71
- The Polish legislation on invalidity benefits is considered as B-system

Pro rata calculation of pensions article 46 (52) (chapter 3)

The competent institution shall calculate the pension according to

- national legislation, if possible and
- the pro rata method

Calculation according to national legislation, chapter 3

- **A Pole has worked in Sweden 10 years. He has also worked in Poland 14 years. He gets an income-related sickness compensation 90 500 SEK and 20 000 SEK from Poland.**
- **$90\ 500 - 20\ 000 = 70\ 500$ SEK**

Pro rata calculation of pensions

(chapter 3)

The competent institution shall calculate the pension in two steps

- a ***theoretical amount*** as if all periods of insurance/residence which have been completed under the legislation of the MS to which the person was subject have been completed in the State in question and
- an ***actual amount*** where the theoretical amount is multiplied with the number of periods completed in the competent State and divided with all the periods completed

Pro rata calculation- chapter 3

- The Swedish sickness compensation according to national legislation = 70 500 SEK
- Theoretical amount: 90 500
- Actual amount: $90\,500 \times 10/24 = 37\,708$ SEK
- To be compared with the amount calculated according to national legislation.

Pro rata calculation of pensions - chapter 3

According to the Swedish legislation: a full guarantee compensation in the form of an invalidity benefit is $2,40 \times \text{price base amount}$ (in the example 40×300) \times number of years of residence. It takes 40 years for a full guarantee compensation. Minimum requirement is 3 years.

Pro rata calculation of pensions – chapter 3

A Polish worker has worked in Sweden for 10 years. He has worked in Poland for 14 years. He becomes disabled at the age of 40 and claims an invalidity benefit. As he fulfils the requirements for both a Polish a Swedish benefit there is no need for aggregation of insurance periods according to article 45.1. This means that we calculate the benefits according to national legislation and according to the pro rata method.

Pro rata calculation of pensions - chapter 3

Guarantee compensation according to national legislation

- $23/40 \times 2,40 \times 40\,300 = 55\,614 - 70\,500 \text{ SEK} = 0 \text{ SEK}$
- *Theoretical amount:*
- $40/40 \times 2.40 \times 40\,300 = 96\,720 - 90\,500 = 6\,220 \text{ SEK}$
- *Actual amount:* $10/24 \times 6\,220 = 2\,592 \text{ SEK}$

The total amount is $70\,500 + 2\,592 = 73\,092 \text{ SEK}$

Chapter 3

Chapter 3 applies for legislation concerning

- old age pension
- survivor's pension
- invalidity pension where the person has been subject to different legislations of which at least one is not an A-model system

General provisions when a person has been subject to the legislation of two or more MS article 44 1408/71, (article 49)

A claim for a benefit from one MS shall have regard to all legislations to which the person has been subject...

(Regulation 574/72 articles 36 (90) and 41)

To be continued....

General provisions when a person has been subject to the legislation of two or more MS article 44, 1408/71 (article 49)

.....exceptions

- the person concerned expressly asks for postponement of old age pension
- or does not satisfy the conditions laid down by all the legislations he/she has been subject to

Consideration of periods of insurance/residence completed under the legislation of another MS, article 45.1, 1408/71

Where the acquisition of the right to a pension requires a certain number of periods of insurance/residence, such periods completed under the legislation of another MS must be taken into account.

Consideration of periods of insurance/residence completed under the legislation of another MS, article 15 regulation 574/72

If a period of compulsory insurance completed under the legislation of one Member State coincides with a period of voluntary (or optional continued) insurance under the legislation of another Member State, only the former shall be taken into account;

Consideration of periods of insurance/residence completed under the legislation of another MS, article 45.5, 1408/71

Where the acquisition of the right to a pension is conditional upon the person being insured at the time of the materialization of the risk this condition shall be regarded as having been satisfied if the person is subject to the legislation of any other MS at the time.

Calculation of pensions, article 46, 1408/71 (52)

The competent institution shall calculate the pension in two steps

- according to national legislation, if possible and
- according to the pro rata method

Pro rata calculation of pensions, article 46, 1408/71

The pro rata calculation is carried out in two steps

- a ***theoretical amount*** as if all periods of insurance/residence which have been completed under the legislation of any MS to which the person was subject have been completed in the State in question and
- an ***actual amount*** where the theoretical amount is multiplied with the number of periods completed in the competent State and divided with all the periods completed.

Pro rata calculation of pensions, article 46, 1408/71

According to the Swedish legislation a full guarantee pension in the form of an old age pension is $2,13 \times$ price base amount (in the example on next page 40 300) \times number of years of residence. It takes 40 years for a full guarantee pension. Minimum requirement is 3 years. Income pension reduces the guarantee pension.

Pro rata calculation of pensions, article 46, 1408/71

A Polish worker has worked in Sweden for 2 years. He has worked in Poland for 25 years and in Germany for 10 years. At 65 he claims an old age pension. As he fulfils the requirements for both a Polish and a German pension there is no need for these MS to aggregate insurance periods according to article 45.1. This means that they calculate their pensions according to national legislation and according to the pro rata method.

Sweden has to aggregate periods of insurance for the entitlement to a Swedish pension and can thus only calculate the pension according to the pro rata-method.

Calculation of pensions according to the Swedish legislation

Ex.

An Pole has **3 years** of periods of residence in Sweden and 15 years of periods of insurance in Poland. His Swedish pension according to national legislation

$$3/40 \times 2,13 \times 40\,300 = 6\,438 \text{ SEK}$$

according to pro rata

$$\textit{theor. amount: } 18/40 \times 2,13 \times 40\,300 = 38\,628$$

$$\textit{actual amount: } 3/18 \times 38\,628 = 6\,438 \text{ SEK}$$

Pro rata calculation of pensions, article 46, 1408/71

The person concerned shall be entitled to the highest amount of the benefits calculated in accordance with the provisions of paragraphs 1 and 2

General provisions relating to reduction, article 46a, 1408/71

Account shall be taken of

- benefits acquired under the legislation of another MS *only if the national legislation provides for the taking into account of benefits acquired abroad*
- the amount of such benefits before deduction of taxes etc.
- the amount of such benefits only if the benefits are not awarded on the basis of voluntary insurance.

General provisions relating to reduction, article 46a, 1408/71

Definition

- Benefits of the same kind=benefits provided on the basis of periods of insurance/residence completed by one and the same person *
- Benefits of different kind=benefits that cannot be regarded as being of the same kind

*Case 98/94 Schmidt

Special provisions applicable in the case of overlapping of benefits of the same kind, article 46b, 1408/71

Provisions on reduction shall not be applicable to a pro rata calculated benefit.

Special provisions applicable in the case of overlapping of benefits of the same kind, article 46b, 1408/71

Provisions on reduction **shall apply** to a benefit calculated according to **national legislation** but only if the benefit is

- either a benefit where the amount is independent of periods of insurance/residence or
- a benefit where the amount is calculated with assumed periods of insurance/residence **and if so**
- the benefit from the other MS is calculated in the same way or
- is independent of periods of insurance/residence.

Special provisions applicable in the case of overlapping of benefits of a different kind, article 46c 1, 1408/71

If the receipt of a benefit of a different kind entails the reduction of two or more benefits calculated in accordance with national legislation, the amount which would not be paid in strict application of the provisions provided for by that legislation shall be divided by the number of benefits subject to reduction.

Special provisions applicable in the case of overlapping of benefits of a different kind, article 46c 1, 1408/71

A person is entitled to an unreduced benefit from MS A with 5 000 Euro. He also gets a benefit of a different kind from MS B with 2 000 Euro. This second benefit reduces two benefits.

The amount that will not be paid in strict application of the provisions in MS A is 2 000 Euro. This means that it is $2\ 000:2=1\ 000$ Euro that shall reduce the benefit and he gets 4 000 Euro from MS A.

If the benefit from MS B in stead had been 6 000 Euro the amount that will not be paid in strict application of the provisions in MS A is 5 000 and thus 5 000 is the amount that will be divided by 2. He gets $5\ 000 - (5\ 000:2)= 2\ 500$ Euro.

Special provisions applicable in the case of overlapping of benefits of a different kind, article 46c 2, 1408/71

Where the benefit is pro rata calculated, benefits of different kind from another MS shall be taken into account in proportion to the periods of insurance/residence. This means that if the benefit is calculated with 40/40 the reduction also is 40/40 meaning that the full amount can be deducted.

Additional provisions, article 47, 1408/71

When the total length of actual periods of insurance/residence is longer than the maximum period required by the legislation of a MS for receipt of a full benefit the maximum period is to be considered.

Example, article 47, 1408/71

A Pole residing in Sweden has been subject to the legislation in

- Sweden 25 years, pensionable age 65
- Finland 20 years, pensionable age 65.

At the age of 65 he/she claims an old age pension from Sweden.

Sweden calculates according to **national legislation**

$25/40 \times 2,13 \times 40\ 300 = 53\ 649$ SEK

Theoretical amount: $40/40 \times 2,13 \times 40\ 300 = 85\ 839$ SEK

Actual amount: $25/40 \times 85\ 839 = 53\ 649$ SEK

Periods of insurance/residence less than a year, article 48, 1408/71

- If a person has been subject to the legislation of a MS for a period less than a year this MS does not have to award benefits if this period alone does not give entitlement to a benefit according to its legislation but.....
- If the person doesn't have at least one year in any MS benefits shall be provided exclusively under the legislation of the last of those MSs whose conditions are satisfied, as if all the periods of insurance/residence completed had been completed under the legislation of that MS.

Calculation of pensions where the person does not simultaneously satisfy the conditions laid down by all the legislations he/she has been subject to, article 49, 1408/71

Each institution administering a legislation whose condition are satisfied shall calculate the amount in accordance with article 46.

Exception

If the person satisfies the conditions of at least two legislations without taking into account periods completed under the legislation whose conditions are not satisfied these periods shall not be taken into account....

to be continued....

Calculation of pensions where the person does not simultaneously satisfy the conditions laid down by all the legislations he/she has been subject to, article 49, 11408/71

Main rule: The pension shall be calculated according to article 46 in all MS where there is a right without applying article 45. This means that all periods in all MS completed are to be taken into account.

Exception: If the claimant satisfies the conditions in at least two MS without applying article 45, periods in MS where the conditions are not fulfilled shall be taken into account.

Example, article 49, 11408/71

A person residing in Sweden has been subject to the legislation in

- Sweden 15 years, (min req. 3 y*, pensionable age 65)
- Germany 10 years, (min req. 5 y, pensionable age 65)
- Norway 4 y (min req. 3 y, pensionable age 67)

At the age of 65 he/she claims an old age pension from Sweden.

*y=years

Example, article 49, 11408/71

Sweden calculates the

- **theoretical amount:** $25/40 \times 2,13 \times 40\,300 = 53\,649$ SEK
- **actual amount:** $15/25 \times 53\,649 = 32\,189$ SEK.
- When the person reaches the age of 67 the Swedish pension must be recalculated.
Now the
- **theoretical amount** will be $29/40 \times 2,13 \times 40\,300 = 62\,233$ SEK and the
- **actual amount** will be $15/29 \times 62\,233 = 32\,189$ SEK.

Award of supplement, article 50, 1408/71

Where the total of benefits payable according to the legislations in the MS which a person has been subject to does not amount to the minimum laid down by the MS in whose territory the recipient resides this MS has to pay a supplement.

Accidents at work and occupational diseases, article 52, 1408/71,

Competent MS is the state where a person is insured (due to work) at the time when the accident happens or the occupational disease occurs.

Residence in another MS

If the person is residing in another MS he/she is entitled to

- benefits in kind from the MS where he/she is residing at the expense of the competent MS
- benefits in cash from the competent MS

Accidents while travelling, article 56, 1408/71

If an accident occurs while a person is travelling in another MS the accident shall be deemed to have occurred in the competent MS

Occupational disease, article 57, 1408/71

When a person who has contracted an occupational disease has, under the legislation of two or more MS, pursued an activity which by its nature is likely to have caused that disease, the benefits that he or his survivors may claim shall be awarded exclusively under the legislation of the last of those states whose condition are satisfied.

Calculation of benefits, article 58, 1408/71

If the legislation of the competent MS provides that the calculation of the cash benefit shall be based on average earnings such earnings shall exclusively be determined by reference to earnings having been paid during periods completed in that MS.

Costs of transporting a person, article 59, 1408/71

If the legislation of the competent MS provides for meeting the costs of transporting either to the place of residence or to a hospital the same applies if the person is residing in another MS than the competent one.

Aggravation of an occupational disease, article 60, 1408/71

In the event of aggravation for which a person has received benefits in MS A he has taken up work in MS B and this work is not likely to have caused the aggravation MS A has to pay all costs.

If the work in MS B is likely to have caused the aggravation MS B shall pay a supplement.

Benefits for dependent children of pensioners art. 77 and 79, 1408/71

Pensioners receiving old age pensions, invalidity pensions and pensions for accidents at work or occupational diseases are entitled to family allowances for their children irrespective of residence.....

This means that the competent MS may have to export the benefits to another MS .

Chap. 8 Benefits for dependent children of pensioners and for orphans art. 77-79, 1408/71

Chapter 8 applies for orphans if the deceased parent has been subject to the legislation of

- Belgium,
- Denmark,
- France,
- Ireland
- United Kingdom and Northern Ireland

(**Annex VIII** Schemes concerning MS that provide only for family allowances or supplementary or special allowances for orphans)

Benefits for dependent children of pensioners art. 77 and 79, 1408/71

A pensioner who draws a pension from only one MS shall have his/her benefits according to the legislation of that MS irrespective of residence.....

Benefits for dependent children of pensioners art. 77 and 79, 1408/71

A pensioner who draws a pension from two or more MS shall have his/her benefits from the MS of residence provided that there is a right to family benefits from that MS (N.B. art. 79).

If this is not the case the MS where he/she has been insured for the longest period of time shall grant family benefits according to its legislation.....

Benefits for orphans art. 78 and 79, 1408/71

An orphan whose deceased parent was subject to the legislation of only one MS shall have family allowances, supplementary or special allowances or orphan's pension according to the legislation of that MS irrespective of residence..... I

Benefits for orphans art. 78 and 79, 1408/71

An orphan whose deceased parent was subject to the legislation of two or more MS shall have family allowances, supplementary or special allowances or orphan's pension from the MS of residence provided that there is a right to these benefits from that MS (N.B. art. 79).

If this is not the case the MS where the deceased parent was insured for the longest period of time shall grant family benefits according to its legislation.....

Benefits for orphans art. 78 and 79, 1408/71

The length of the periods in two or more MS being equal, benefits should be granted in accordance with the legislation of the MS to which the deceased parent was last subject.

Transitional rules, article 94, 1-2

- No right is acquired under the Regulation in respect of periods prior to 1 May 2004
- A right shall be acquired even though it relates to a case prior to the date of implementation to this regulation
- All periods of insurance/employment/residence completed in a MS before 1 May 2004 must be taken into consideration for the determination of rights acquired under the Regulation.

Transitional rules, article 94, 4-5

- Any benefit which has not been awarded by reason of place of residence or of the nationality shall on application be awarded with effect from
- A benefit which has been awarded prior to..... may on the application the person concerned be reviewed.

Transitional rules, article 94, 6-7

- If such an application referred to in paragraph 4 or 5 is submitted within two years from.....it shall have effect from that date.
- If such an application is submitted **after** the two-year period it shall have effect from the date of submittance or according to the provisions of the MS in question if these are more favourable.

Regulation 574/72, article 111.1

If when awarding an old-age, invalidity or survivors pension an institution has paid an amount higher than a person is entitled to the institution may request the institution of any other MS responsible for payment of corresponding benefits to deduct the amount overpaid from the arrears which it pays to the said recipient.

The latter institution shall transfer the amount deducted to the creditor institution.



Regulation 574/72, article 111.2

If when awarding benefits an institution has paid a sum in excess of that to which a person is entitled the institution may, within the conditions and limits laid down by the legislation which it administers request the institution of any other MS to deduct the amount overpaid from the amounts which it pays to the said recipient.

The latter institution shall make the deduction under the conditions and limits laid down by the legislation which it administers as if the sum had been overpaid by itself and transfer the amount deducted to the creditor institution.

Regulation 574/72, article 111.3

If a person has received social assistance in MS A during a period in which he/she has right to benefits in MS B the body which gave the assistance may request the institution of MS B to deduct the amount of assistance from the amount which B pays to the person.

Regulation 574/72, article 118.1

If the entitlement to a pension arose before 1 May 2004 (when Poland became a member of the Union) and a claim for such a pension had not been awarded before that date the following applies:

1. for the time prior to 1 May 2004 award of benefit must be according to the actual legislation
2. for the time from 1 May award of benefit must be according to regulation 574/72
3. if the benefit according to 1) is better than according to 2) the person is entitled to 1).

Regulation 883/2004 (Basic regulation)

The 2 most important differences between regulation 1408/71 and 883/2004

- There is no longer a requirement for work, **article 2 883/2004**
- **All information between MS** shall be transmitted electronically from 1 May 2012

A **transitional period** of two (2) years during which MS can either use E-forms or paper SED:S

Regulation 883/2004 (Basic regulation)

- Other important differences between regulation 1408/71 and 883/2004
- **Art 2:** as there no longer is a requirement for work, the article has been reframed.
- **Art 3:** pre-retirement benefits
- **Art 5: *new!*** equal treatment of benefits, income, facts or events
- **Art 6:** aggregation of periods
- **Art 7: waiving of residence rules**

Other important differences between regulation 1408/71 and 883/2004

- Articles 11-16, (13-17) legislation applicable
- Art 11 (13) only one legislation applicable at the time *no exceptions* (11e for pensioners)
- Art 12 (14) posted workers **24 months**
- Art 13 (14) work in two or more MSs
- Art 16 (17) exceptions



Other important differences between regulation 1408/71 and 883/2004

New wording in article 52 (former 46)

Independent benefit = a benefit according to national law

N.B! it does not necessarily mean that the benefit is independent of periods of insurance or residence



Other important differences between regulation 1408/71 and 883/2004

Overlapping of benefits of a different kind

The competent institutions divide the amounts of the benefits by the number of benefits subject to the said rules.

Other important differences between regulation 1408/71 and 883/2004

Article 59.1 Recalculation and revaluation of benefits. **NEW** changes in a persons marital status for example

Other important differences between regulation 1408/71 and 883/2004

Family benefits and family allowances merge into one chapter, chapter 8

Important differences between regulation 574/72 and 987/2009

Article 4

transmission of all data between institutions shall be carried out by electronic means

During a transitional period for two (2) years E forms (electronically developed) or paper SEDs should be used.

Provisions in regulation 987/2009

Article 44, taking into account of child raising-periodsNEW!

If no child raising period is taken into account in the competent MS the MS whose legislation was applicable on grounds of work at the time the child was born shall continue to be responsible as if the child-raising took place in its own territory.

This shall not apply if the person concerned pursues activity as an employed or self-employed person in the competent MS.

Provisions in regulation 987/2009

Article 45. B, claim for benefits

The date of submission of the claim shall apply in all institutions concerned provided that the claimant has mentioned that he/she has worked or resided in other MS.

This provision is not applicable in cases of claims for survivors's pension.

New!!!!!!!!!!

Provisions in regulation 987/2009

Article 45. B, claim for benefits

If the claimant wants to postpone his/her the award of old age benefits the institution shall on request of the claimant notify him/her of the consequences.

New!!!!!!!