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Condensed overview (I)

International accords on social security have the reputation of being complicated and only understandable by experts. But their importance is unquestionably growing as personal mobility increases.

The idea behind social security accords is to co-ordinate the national legislature of participating countries in order to eliminate or reduce the disadvantages people may suffer when changing their country of residence or employment.

Millions of foreigners work in Western European countries. A growing number of people are leaving their home country in order to find short-term or longer-term employment in another country. Nowadays they are often joined by members of their family. The number of pensioners deciding to live out their retirement years in another country is also increasing every year. Moreover, millions of people travel abroad at all times of the year as tourists.

Social security law has been forced to tackle the challenge of providing appropriate solutions which address this trend towards mobility.

Co-ordination

National legislatures in most European countries limit the scope of their social security law to their own boundaries (principle of territoriality). Depending on the circumstances, they extend the validity of specific areas to foreign territory or stipulate that specific foreign factors should be taken into account. They also regulate the statutory criteria, with the emphasis on the following areas:

- nationality (a number of states stipulate certain provisions which more or less restrict the rights of foreigners, for example by ex-

cluding them from certain benefits),

- domicile or place of residence (benefits are often granted only within national borders),
- place of employment or employer's domicile (often the only way of joining an insurance scheme),
- the relationship with a social security system (as the springboard to entitlement to benefits; for instance, pensions are only granted in most countries if a person has been paying contributions into the relevant pension scheme for a relatively long period).

Since social security laws differ from country to country, gaps or duplications may be encountered when moving countries. States therefore sign social security accords with one or more other states in the in-

terests of coordinating the relevant laws. The agreements are contracts under international law and take precedence over national law.

Area of validity

In terms of content, the agreements focus particularly on old age and survivors' insurance and invalidity insurance (AHV/IV), generally also on accident insurance, to a limited extent on health insurance as well as frequently also on family allowances.

The personal area of validity covers nationals of both parties to the agreement, their relatives and survivors, refugees and stateless persons. In individual cases, nationals of third-party states may also be entitled to social security coverage under the relevant agreement.

Reciprocity

The agreements entail an obligation to equitable treatment, whereby persons belonging to the partner state are entitled to the same Swiss social security arrangements as Swiss nationals, and vice versa. If, for example, a country provides a specific benefit for its own citizens, it is obliged under the terms of the agreement to grant Swiss nationals the same benefit and under the same conditions as its own citizens.

Coverage

The agreements define the applicable laws in order to prevent persons who live in one state but work in another or in both countries, paying contributions on the same income in both states. A person domiciled in Switzerland and working in Monaco (with whom no social security accord exists) must pay AHV contributions in both countries: in Switzerland as the place of residence, and in Monaco as the place of employment.

Generally speaking, a person is covered by the social security arrangements of the country of employment. Special provisions are laid down for certain employment categories, for instance employees sent by a Swiss employer on temporary assignment to a partner country.

Retirement pensions

In terms of the range of offerings (e.g. AHV/IV pensions, health and accident insurance, family allowances) the agreements are designed to ensure that persons who have paid contributions actually receive the relevant benefits as and when the need arises.

Entitlement to old age and survivors' pensions is ensured, for example, by a non-Swiss →

Revision of voluntary insurance scheme

During their summer session the National and State Councils ratified the revision of the voluntary AHV/IV. In the final vote the proposal was carried by 153:15 (National Council) and 40:0 (State Council). However, during the bill's passage through the two chambers several modifications were made to the original proposals submitted by the Federal and State Council (see "Swiss Review" No. 3/2000). The minimum contribution is to be doubled (CHF 756) rather than trebled. Only persons resident in EU countries are excluded from joining (i.e. other states with which Switzerland has a social security agreement, for instance the USA, Canada, Turkey, Ex-Yugoslavia etc., are exempt). This restriction on EU countries was uncontested in both chambers. Otherwise, under the terms of the bilateral accords, all EU residents would be entitled to membership – with unforeseen financial consequences for voluntary insurance. Membership is also restricted to Swiss and EU citizens who were insured for at least five consecutive years under the obligatory AHV/IV scheme immediately prior to joining the voluntary insurance scheme. A detailed report on the voluntary AHV/IV revision listing all the key points of the proposal will appear in the next issue of "Swiss Review". NYF



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retirement pension scheme treating Swiss AHV contribution years as if they were years spent in the relevant country, in order to make up the minimum number of years

for pension entitlement. Hence Swiss nationals who have only been working abroad for a few years can also claim foreign pensions.

By the same token citizens of the partner state receive Swiss retirement pensions if they have been paying contributions for the minimum period defined in Switzerland (one year) and fulfil the other conditions (pensionable age or special conditions for survivors' pensions).

one, a Swiss Abroad who has contributed in both countries is entitled to a partial pension from Switzerland and one from the partner state, provided he is certified as disabled under the provisions of both countries and qualifies under their contribution terms. In Switzerland the contribution period is one year, and in the partner state the minimum insurable period must be fulfilled taking into account the Swiss period.

For insured periods in both states, each state grants a partial pension proportional to the insured years. If, for example, a Swiss Abroad has paid contributions for ten years in Switzerland and 30 years in Italy, on reaching the defined pensionable age in Italy he receives a partial Italian pension defined under Italian law for his 30 years of employment in Italy, and on reaching the Swiss retirement age a partial Swiss pension for the ten years spent working in Switzerland. The agreements also guarantee payment of pensions abroad (in partner states as well as most third-party states), provided the beneficiary is resident there.

According to the second type of accord (risk principle), a person only receives a pension from the country under whose insurance scheme he was a member at the onset of disability. If a person becomes disabled in Switzerland, his Swiss pension is calculated based on Swiss and foreign contribution periods. If he becomes disabled in France, for instance, he receives a French pension which is calculated also taking into account his Swiss contribution period.

Since the pension amount is based on the going rate in the paying country, it can be higher or lower than a Swiss disability pension paid out for the same insurable period. The agree-

Disability pensions

There are two types of accord on disability insurance. According to

Current popular initiatives

The following popular initiatives are still open for signature:

Against abuse of the right of asylum

(until 25 November 2000)
Swiss People's Party, Aliki Panayides, Brückfeldstrasse 18 PO Box, CH-3000 Berne 26

For popular initiatives to be put to the vote within six months, excluding the Federal Council and parliament

(until 22 December 2000)
Flavio Maspoli, National Councillor, Medeag SA, CH-6648 Minusio

For redirecting surplus gold reserves to the AHV fund (gold initiative)

(until 10 February 2001)
Swiss People's Party, Peter Kneubühler, Brückfeldstrasse 18 PO Box, CH-3000 Berne 26.

Moratorium on taxes

(until 1 March 2001)
Liberal Democratic Party of Switzerland, Johannes Matyassy PO Box 6136, CH-3001 Berne.

Avanti – for safe and efficient motorways

(until 11 July 2001)
Touring Club of Switzerland TCS Rudolf Zumbühl, chemin de Blandonnet 4, PO Box 820 CH-1214 Vernier GE

Animals are not objects!

(until 29 August 2001)
Fondation Franz Weber Villa Dubochet 16 CH-1815 Clarens VD

For better animal rights (animal initiative)

(until 14 September 2001)
Dr. A.F. Goetschel, Postfach 218 Ilgenstrasse 22, CH-8030 Zürich

ments guarantee pension payment abroad (partner state as well as third-party states) provided the beneficiary is resident there.

Health insurance

In the health insurance area, the agreements provide for the inclusion of contribution periods in order to facilitate admission to an insurance scheme or entitlement to benefits. For Switzerland this

applies only to loss-of-earnings insurance, since health insurance schemes define no restrictions on membership.

Every Swiss Abroad is admitted to the obligatory Swiss health insurance scheme when returning to Switzerland, irrespective of health status or age. Exceptions exist for obligatory membership of a foreign health insurance scheme. In turn, the agreements facilitate admission to the health insurance

schemes run by partner states, in the absence of any obligatory coverage for specific job categories.

The agreement with Germany also covers reciprocal coverage of costs related to illness and non-industrial accidents in either state, should a person fall ill during his stay in the partner country, with subsequent billing by the insurers (supplementary benefits).

Accident insurance

In the accident insurance field the agreements cover mutual benefits. For example, a person who is insured in Switzerland and has an accident abroad is treated in the same way as an insured member in that country. The costs are subsequently invoiced to the accident victim's insurer. Some agreements also contain special provisions on restricted benefits, for example if someone has suffered an industrial illness due to exposure to a hazardous material in the course of his work in both countries.

Agreements on social security

| Country | Year of signing | Revisions | Branch of insurance |
|-----------------|-----------------|------------------------|-------------------------------|
| Austria | 1967 | 1973, 1977, 1987, 1996 | AHV/IV/UV/FZ/KV ¹⁾ |
| Belgium | 1975 | | AHV/IV/UV/FZ/KV |
| Canada/Quebec | 1994 | | AHV/IV |
| Chile | 1996 | | AHV/IV/KV ²⁾ |
| Croatia | 1996 | | AHV/IV/UV/FZ/KV ¹⁾ |
| Cyprus | 1995 | | AHV/IV/KV ¹⁾ |
| Czech. Republic | 1996 | | AHV/IV/KV |
| Denmark | 1983 | 1985, 1996 | AHV/IV/UV/FZ/KV |
| Ex-Yugoslavia | 1962 | 1982 | AHV/IV/UV/FZ/KV |
| Finland | 1985 | | AHV/IV/UV/FZ/KV |
| France | 1975 | | AHV/IV/UV/FZ/KV ¹⁾ |
| Germany | 1964 | 1975, 1989 | AHV/IV/UV/FZ/KV |
| Greece | 1973 | | AHV/IV/UV/FZ/KV ¹⁾ |
| Hungary | 1996 | | AHV/IV/KV ¹⁾ |
| Ireland | 1997 | | AHV/IV/KV ¹⁾ |
| Israel | 1984 | | AHV/IV |
| Italy | 1962 | 1963, 1969, 1974, 1980 | AHV/IV/UV/FZ/KV ¹⁾ |
| Liechtenstein | 1989 | 1996 | AHV/IV/UV/FZ/KV ¹⁾ |
| Luxembourg | 1967 | 1976 | AHV/IV/UV/FZ/KV ¹⁾ |
| Netherlands | 1970 | | AHV/IV/UV/FZ/KV ¹⁾ |
| Norway | 1979 | | AHV/IV/UV/KV ¹⁾ |
| Portugal | 1975 | 1994 | AHV/IV/UV/FZ/KV ¹⁾ |
| Rep. San Marino | 1981 | | as in Italy |
| Slovak Republic | 1996 | | AHV/IV/KV |
| Slovenia | 1996 | | AHV/IV/UV/FZ/KV ¹⁾ |
| Spain | 1969 | 1982 | AHV/IV/UV/FZ/KV ¹⁾ |
| Sweden | 1978 | | AHV/IV/UV/KV |
| Turkey | 1969 | 1979 | AHV/IV/UV/FZ/KV ¹⁾ |
| UK | 1968 | | AHV/IV/UV/FZ/KV ¹⁾ |
| USA | 1979 | 1988 | AHV/IV |

¹⁾ Essentially covers only vested benefits
²⁾ Covers only health insurance for retired persons

Family allowances

Persons with children normally also receive family supplements to their salary, financed either by the employer or the state depending on the country. In Switzerland the agreement covers only federal allowances for those working in agriculture. Cantonal benefits for employees in other sectors of the economy are not generally covered by such agreements.

However, partner states cover not only regulations for agriculture but also benefits for other categories and entitle persons working in one country to continue receiving family benefits even if their children live in another country.

For further information, contact the Federal Office of Social Security, International Department, State Agreements Section, Effingerstrasse 20, CH-3003 Berne.

NYF 

(To be continued)

Switzerland has signed bilateral (reciprocal) agreements on social security with a large number of states.