Polish social security institution's tasks in the area of co-ordination of social security schemes

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Migratory movements are inseparably connected with the history of Poland. Migratory movements had different backgrounds and reasons; these were mainly economic but also political, sometimes forced migrations. In the past as a rule the citizens (inhabitants) of Poland would emigrate, whereas the migrations into Poland were limited. Currently the scope of migrations into Poland is increasing. While the Poles migrate mainly to the West, to Poland come people from the East.

Traditionally Poles would emigrate to the Western European countries and to North America; mainly to West Germany and to USA.

Duration of migration varied. One can differentiate permanent migrations, periodic migrations (lasting for a few years’ time) as well as seasonal migrations.

Generally speaking migrations represented an important and numerically significant social phenomenon. In this context it was essential to regulate the rights to social benefits of migrating people. What was meant was that the persons changing their domicile and place of work should not lose their rights that they were entitled to, if they had not taken a decision to migrate to another place.

Poland signed with a few states bilateral agreements, regulating the question of rights to benefits of migratory people.

These agreements were signed for a limited territory and had a limited scope, but thanks to them the Polish institutions acquired wide experience in the collaboration in the area of co-ordination of social security benefits. It should also be noted that to a large extent the coordination of collaboration with European countries was performed based on rules effective in the European Union.

The bilateral agreements were signed, among others, with Czechoslovakia in 1948, with the French Republic in 1947, with Yugoslavia in 1958, with the Hungarian Republic in 1959, with the Kingdom of Belgium in 1965, with the Republic of Bulgaria in 1961, with the Federal Republic of Germany in 1973, with the Grand Duchy of Luxembourg in 1996, with the Republic of Austria in 1998. These agreements were modified frequently, to a various extent.
and for different reasons, if we take only political considerations like in the case of Czechoslovakia and Yugoslavia.

The executor of these bilateral agreements was primarily the Social Security Institution, the largest social insurance institutions in Poland. Thus, on the eve of EU accession our institution had a very practical expertise about the coordination of social security.

GETTING READY FOR SOCIAL SECURITY CO-ORDINATION

An obligation to implement the Community legislation about co-ordination of the social security systems after Poland’s accession to the European Union gave a stimulus to initiate preparatory efforts so that the institution could fulfil the designated co-ordination tasks. This would require from the institution managers the creation of the executive organisational model, the introduction of new procedures on the implementation of Community legislation, the preparation of relevant documents and primarily the preparation of the expert personnel and appropriate training of workers on the Community legislation and ways of its implementation.

During the overall phase of preparations to perform co-ordination tasks the Social Security Institution took advantage of the experience gathered earlier. As mentioned before, extremely useful to this extent turned out to be the experience of the Polish Social Security Institution gathered during co-operation with both domestic and foreign social security institutions.

POLISH COMPETENT AUTHORITY, LIAISON INSTITUTIONS, COMPETENT INSTITUTIONS

The social security systems are co-ordinated by many institutions in Poland. Pursuant to the Community legislation the institutions involved are divided into: competent authorities i.e. appropriate authorities to whom report social security institutions on the territory of a certain state, liaison institutions i.e. institutions authorised for direct communication with one another, competent institutions i.e. these institutions to whom the interested party reports to when it files an application for a certificate to be granted.

In the area of old-age pensions, disability pensions, accident benefits, health care and maternity benefits the competent authority is the Minister of Social Policy. The competent institutions including the branch offices of the Polish Social Security Institution (ZUS), Polish Social Security of Farmers Division (KRUS), and in the area of maternity and sickness benefits – also the employers who pay them. The liaison institution is the Polish Social Security Institution (ZUS).

In the area of health-care benefits – the competent authority is the Minister of Health and the competent institutions – the branch offices of the National Health Fund.

In the area of benefits for the unemployed – the competent authority is the Minister of Social Policy and the competent institutions – provincial labour offices.

Aleksandra Wiktorow
In the area of family benefits (and all non-contributory benefits) – the competent authority is the Minister of Social Policy, whereas the competent institutions – Marshall offices, Polish Social Security of Farmers Division (KRUS) and employers.

Thus, the Polish Social Security Institution (ZUS) performs many tasks within the institutional framework implementing legislation on the co-ordination of social security systems.

THE ORGANISATIONAL STRUCTURE OF THE POLISH SOCIAL SECURITY INSTITUTION IN THE CONTEXT OF IMPLEMENTATION OF THE TASKS UNDER COMMUNITY LEGISLATION

With the accession of Poland to the European Union, effective from 01.05.2004 the Polish Social Security Institution became one of major competent institutions and the liaison institution in Poland.

In the social security area the major legal acts to be implemented by the social security institutions include the following:

- Regulation (EEC) No. 1408/71 of 14.06.1971 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community;
- Regulation (EEC) No. 574/72 of 21.03.1972 laying down the procedure for implementing Regulation (EEC) No. 1408/71 on the application of the social security schemes to employed persons, self-employed persons and members of their families moving within the Community;
- Regulation (EC) No. 859/03 of 14.05.2003 extending the provisions of Regulation (EEC) No. 1408/71 and Regulation (EEC) No. 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality.

The Polish Social Security Institution is responsible both for the income and expenditures sides within its scope of responsibilities for social insurance. Therefore the execution of tasks under the Community regulations is performed by the Polish Social Security Institution in two areas: insurance and contribution area and benefit area. The responsibilities were divided into selected Departments of the Polish Social Security Institution.

The responsibilities in the insurance and contribution area are performed by the following organisational units at the Head Office of the Polish Social Security Institution:

- the Insurance and Contribution Department in the area of application of proper legislation;
- the Income Generation Department with regard to the settlement and collection of the social security contributions from the foreign entities that are not domiciled in Poland, nor they have a representative office and from the employees of these entities who based on agreements with the employers pay contributions on their own.

The competent institution, collaborating with foreign institutions competent in the area of settlement and collection of social security contributions from foreign entities doing business in Poland, but not domiciled in Poland, is First Branch Office of the Polish Social Security Institution based in Warsaw.

Aleksandra Wiktorow
The benefits paid by the Social Security Institution within the framework of co-ordination of social security systems:

**Cash benefits in the event of sickness and maternity:**
- sickness benefit;
- maternity benefit;
- child care benefit;
- compensatory allowance;
- rehabilitation allowance.

**Old-age and disability benefits:**
- old-age pension;
- disability pension, including training allowance for the disabled;
- disability pension for injury at work or for occupational disease;
- family pension;
- nursing supplement;
- supplement to the family pension for the complete orphan;
- funeral allowance.

The tasks in the benefit areas are performed by:
- The Foreign Pension Department in the area of old-age and disability pensionary benefits, disability benefits under accident insurance covered by the co-ordination and family benefits for old-age and disability pensioners;
- The Doctor’s Certification Department in the area of applicant’s health certification process;
- The Old-age and Disability Pensionary Benefit Department in the area of execution of the so called territory-based agreements;
- The Short-Term Benefit Department in the area of short-term cash benefits paid under social insurance system in the event of sickness and maternity and under the accident insurance as well as in the area of family benefits.

The competent institutions that are in charge of processing applications for short-term cash benefits in the event of sickness and maternity are all branch offices of the Polish Social Security Institution on a nation-wide basis. Meanwhile the competent institutions processing long-term benefit applications i.e. applications for old-age and disability benefits are the branch offices of the Polish Social Security Institution located all over Poland and responsible for individual groups of European Union Member States. The examined applications include applications of the persons who have exclusively Polish contributory periods, living in one of the listed Member States or persons who have combined Polish and foreign insurance periods including recent insurance periods in one of the Member States. The table below presents the mechanism of assigning individual Member States to the geographical structure of the branch offices of the Polish Social Security Institution (ZUS).
Table 1. ZUS organisational units processing applications for old-age and disability pensionary benefits covered by co-ordination

<table>
<thead>
<tr>
<th>ZUS Branch Office</th>
<th>Member States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Łódź-based ZUS Branch Office International Agreement Performance Department</td>
<td>Cyprus, Greece, Spain, Malta, Portugal, Italy</td>
</tr>
<tr>
<td>Nowy Sącz-based ZUS Branch Office International Agreement Performance Department I</td>
<td>Czech Republic, Slovakia</td>
</tr>
<tr>
<td>Nowy Sącz-based ZUS Branch Office International Agreement Performance Department II based on the Tarnów Inspectorate</td>
<td>Austria, Liechtenstein, Slovenia, Hungary</td>
</tr>
<tr>
<td>Opole-based ZUS Branch Office International Agreement Performance Department</td>
<td>Germany</td>
</tr>
<tr>
<td>Szczecin-based ZUS Branch Office International Agreement Performance Department</td>
<td>Denmark, Estonia, Finland, Iceland, Lithuania, Latvia, Norway, Sweden</td>
</tr>
<tr>
<td>First Branch of the Polish Social Security Institution in Warsaw Head Office for Processing International Agreements</td>
<td>Belgium, France, Netherlands, Ireland, Luxembourg, United Kingdom</td>
</tr>
</tbody>
</table>

INFORMATION ABOUT IMPLEMENTATION OF TASKS TO DATE IN THE CO-ORDINATION AREA

Applicable legislation, contribution settlement and collection

In the period from 01.05.2004 to 30.06.2005 approximately 10 thousand E 101 forms were issued. The largest group of people applying for such forms were posted workers.

Cash benefits in the event of sickness and maternity

In the period from 01.05.2004 to 30.06.2005 the benefit sections of the ZUS departments within the co-ordination framework issued:

- 1550 E 115 forms, the application for cash benefit due to inability to work;
- 450 E 117 forms, granting of cash benefits in the event of maternity and inability to work;
- 150 E 118 forms, notification about failure to recognize or end of inability to work;
- 50 E 001, correspondence forms, request for information;
- 10 E 104 forms, certificate regarding summing-up insurance, employment or living periods.

Additionally, 150 E 116 forms were dispatched – doctor’s certificate about inability to work, issued by the ZUS doctors examining health of applicants and 30 applications processed for funeral allowance lodged by persons living in another Member State.
It should be also noted that due to the specific breakdown of benefits in Poland, under which material and cash benefits in the event of sickness and maternity are dealt with by separate institutions, the ZUS branch offices receive a lot of cases concerning the entitlement to material benefits that are handed over to the competent unit: either Head Office or branch offices of the National Health Fund.

Old-age and disability pension benefits

In the area of old-age and disability benefits subject to Community co-ordination in the period from 01.05.2004 to 30.06.2005, 28,400 applications were lodged including:

- 20,100 applications concerning the determination of entitlement to the Polish benefits lodged by the persons having insurance periods abroad, regardless of the place of residence;
- 8,300 applications for foreign benefits from European Union Member States, the European Economic Area and Switzerland, lodged by the persons living in Poland.

Table No. 2 presents specific information about the number of applications for old-age and disability pensionary benefits covered by the Community social security co-ordination.

Table 2. Applications for Polish and foreign old-age and disability benefits from May 2004 to June 2005

<table>
<thead>
<tr>
<th>Applications for Polish old-age and disability benefits</th>
<th>Applications for foreign old-age and disability benefits</th>
<th>Total number of applications</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of applications: 20,128</td>
<td>Total number of applications: 8,240</td>
<td>28,368</td>
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<tr>
<td>of which:</td>
<td>of which:</td>
<td></td>
</tr>
<tr>
<td>1) Poland or in a third state</td>
<td>1) Poland or in a third state</td>
<td>8,240</td>
</tr>
<tr>
<td>2) EU member states</td>
<td>2) EU member states</td>
<td>28,368</td>
</tr>
<tr>
<td>– by place of residence of which:</td>
<td>– by place of residence of which:</td>
<td></td>
</tr>
<tr>
<td>Austria 748</td>
<td>Austria 655</td>
<td></td>
</tr>
<tr>
<td>Belgium 368</td>
<td>Belgium 90</td>
<td></td>
</tr>
<tr>
<td>Cyprus 6</td>
<td>Cyprus 30</td>
<td></td>
</tr>
<tr>
<td>Czech Republic 277</td>
<td>Czech Republic 1,897</td>
<td></td>
</tr>
<tr>
<td>Denmark 92</td>
<td>Denmark 33</td>
<td></td>
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<tr>
<td>Estonia –</td>
<td>Estonia 2</td>
<td></td>
</tr>
<tr>
<td>Finland 29</td>
<td>Finland 34</td>
<td></td>
</tr>
<tr>
<td>France 2,550</td>
<td>France 718</td>
<td></td>
</tr>
<tr>
<td>Greece 213</td>
<td>Greece 55</td>
<td></td>
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<tr>
<td>Spain 73</td>
<td>Spain 109</td>
<td></td>
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<tr>
<td>Netherlands 488</td>
<td>Netherlands 166</td>
<td></td>
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<tr>
<td>Ireland 6</td>
<td>Ireland 10</td>
<td></td>
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<tr>
<td>Iceland 1</td>
<td>Iceland 6</td>
<td></td>
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<tr>
<td>Liechtenstein 1</td>
<td>Liechtenstein 1</td>
<td></td>
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<tr>
<td>Lithuania 47</td>
<td>Lithuania 53</td>
<td></td>
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<tr>
<td>Luxembourg 62</td>
<td>Luxembourg 44</td>
<td></td>
</tr>
<tr>
<td>Latvia 12</td>
<td>Latvia 10</td>
<td></td>
</tr>
<tr>
<td>Malta –</td>
<td>Malta 21</td>
<td></td>
</tr>
<tr>
<td>Germany 5,089</td>
<td>Germany 3,711</td>
<td></td>
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<tr>
<td>Norway 75</td>
<td>Norway 34</td>
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</tbody>
</table>

Aleksandra Wiktorow
The above data show that in the category of applications for Polish benefits, lodged by the persons living in the European Union Member States, European Economic Area and Switzerland – the largest number of applications came from Germany (25.3%), France (12.7%) and Sweden (6.6%). Meanwhile in the category of applications for foreign benefits lodged by the persons living in Poland – the largest number of applications referred to the insurance periods in Germany (45%) and in the Czech Republic (23%).

After 01.05.2004, in the light of still effective provisions of the Agreement dated 9.10.1975 between the Republic of Poland and the Federal Republic of Germany about old-age and accident benefits the Polish Social Security Institution (ZUS) retained the previous operational procedure of ZUS branch offices when performing the Agreement with account for Community legislation. The tasks under the Agreement are performed by the Old-Age and Disability Pension Department, at ZUS Head Office.

In the area of proceedings pertaining to issuing health certificates by expert doctors for the purposes of short- and long-term benefits, the Health Certification Department, at ZUS Head Office is responsible for coordination task implementation.

In the period from 01.05.2004 to 31.02.2004 the ZUS expert doctors issued the total of 1024 decisions on cases concerning the determining of entitlement to the Polish benefits within the Community co-ordination framework and 173 doctor’s opinions on the cases referring to the determination of entitlement to foreign benefits.

In the first quarter of this year 641 decisions were issued on the cases concerning the determination of rights to the Polish benefits under the Community co-ordination framework and 79 doctor’s opinions on the cases referring to the determination of entitlement to foreign benefits.

**ZUS COMMUNITY CO-ORDINATION-RELATED EXPERIENCE**

The execution of tasks under the co-ordination of social security systems is a complex process. The ever increasing scope of co-ordination activities performed by the Polish Social Security Institution brings new experience and new issues to be addressed. Below some problems are discussed that have been faced by our institution since the accession to the European Union. The problems vary a great deal and I hope that for the representatives of executive institutions such as ours these problems are interesting.

The most frequent hindrance in the application of legislation is the different interpretation of provisions of the Regulations by individual Member States.

Aleksandra Wiktorow
One of the examples was the insurance of seasonal workers migrating from Poland to Germany. It was necessary to address the issue of insurance of the persons who were insured in Poland, but performing a different job than that the one they performed during their stay in Germany. An agreement on the Polish seasonal workers was signed that covered the workers who entered into employment in Germany in the period from 01.05.2004 to 30.06.2005, with the application of two legislative systems: German legislation in relation to the work in Germany and Polish legislation due to work in Poland. In this case a departure from the rule of using a single legislation was applied. Meanwhile for the Polish workers entering into seasonal employment after 01.07.2005 the German employer is obliged to transfer relevant contributions to the Polish system.

Other divergences not addressed so far will be submitted to the Administrative Commission. A vital problem is also hardship one experiences when trying to collect from foreign employers receivables related to unpaid contributions. As of today Poland has not signed with other Member States agreements on the principles of collection of receivables related to insurance contributions.

A vital issue in the area of task co-ordination is the obtaining of all kinds of documentation (insurance, old-age pension, disability pension, medical, family) concerning the co-ordinated area. Frequently, the documentation attached to the application transferred by a foreign competent authority or interested party is not valid and is not sufficient to process an application for determining the entitlement to benefits or for issuing a decision. Therefore, it is necessary to supplement documentation.

Another problem is a requirement of translation of documentation, attached to the application for determining benefit entitlement or for issuing a decision on the cases of persons applying for Polish benefits living or staying abroad. Under the procedures effective at the Polish Social Security Institution the documentation has to be translated by sworn translators. However, it should be noted that in many cases documentation is translated by the ZUS employees having a good command of foreign languages. The application of this solution allows to shorten application processing time, reduces processing costs and improves the quality of translation due to the knowledge of regulations.

The processing of applications for benefits covered by co-ordination system requires international proceedings that are subject to close co-operation of competent authorities from all Member States where the interested person had insurance periods. The procedures in this area require the application of formalised E forms and mutual communication of a lot of information vital to the institutions from another state. The overall procedure has impact on the application processing time. To obtain documentation from competent foreign authority

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1 An example of such divergence is the interpretation of the situation where a self-employed person in Poland undertakes a seasonal work in Germany. The German side believes that if such person is self-employed in Poland (e.g. runs a carpentry shop) and at the same time enters into seasonal employment in Germany (e.g. asparagus harvesting), he is subject to Polish legislation since work is performed in the period shorter than 12 months. Meanwhile the Polish side believes that such person should be subject to German law under Art. 14c of the Regulation (EEC) No. 1408/71. Additionally, it presents the position that in order to apply Banks’ judgement, one would have to consider the performance of the same job in another Member State.

Aleksandra Wiktorow
frequently takes long and lengthens the processing time of an application for determining benefit entitlement.

Given that in the Member States there are various systems for issuing decisions about inability to work due to sickness, in the relationship between Poland and Czech Republic problems occurred with regard to recognition of inability to work of Czech insured during their stay in Poland. At present talks are underway between Polish and Czech liaison institutions.

The experience to date related to application of Community legislation shows that in the health certification process there might be a problem of applying non-valid forms. Perhaps at further stages of task implementation in the area of social security system co-ordination there might be a need to apply in non-social security areas other forms or document specimens then universally binding.

Very helpful for co-ordination activities were the meetings and discussions with insurance institutions from some countries. To maintain already developed rules of co-operation and to apply "good practice" at the Polish Social Security Institution talks were organised of liaison institutions from 6 Member States - Austria, Belgium, France, Czech Republic, Slovakia and Germany. Earlier Poland held bilateral talks with these countries on social security matters. The talks held recently were concerned with establishing new mode of co-operation for handling matters under Community Regulations including but not limited to the application of E forms as well as interpretation of some provisions of the Regulations that have impact on bilateral joint actions.

Extremely valuable form of Polish-German co-operation are also the Polish-German Consulting Days and the Polish-German Consulting Days in the Border Area. The meetings under the Advisory Days framework are held 4 times a year and aim at providing information about possibilities offered by the co-ordination of social security systems to Polish and German employees and employers.

For proper application of Community legislation it is extremely vital to communicate the general public appropriately about social security rights and duties after the EU accession. Bearing this in mind the Polish Social Security Institution (ZUS) prepared information in various forms for various target groups (the insured, the beneficiaries, employers). General and specific booklets were published, information desks were opened to inform the general public about EU legislation. Relevant information was also published on the Web site.

Aleksandra Wiktorow
**Summing-up**

The employees of the Polish Social Security Institution started to apply the Community legislation on the social security system co-ordination having extensive theoretical knowledge as well as hands-on experience gathered through international co-operation.

We believe that for the reasons mentioned above the co-ordination process goes smoothly without major disturbances. Any doubts and divergent interpretation of legislation are identified and addressed.

It should be emphasized that an essential driver of operational efficiency of the Polish Social Security Institution (ZUS) acting in the capacity of liaison and competent institution is direct co-operation with other social security institutions in the Member States.