



# DISABILITY PENSION FROM ZUS SUBJECT TO COMMUNITY COORDINATION

S o c i a l   I n s u r a n c e   I n s t i t u t i o n

Persons employed and covered by social insurance in the territory of Poland who lose earning capacity may acquire the right to a pension in respect of incapacity for work (disability pension), if they satisfy the requirements under the Law of 17 December 1998 on pensions from the Social Insurance Fund<sup>1</sup>. Information on qualifying conditions for ZUS disability pensions as well as the rules governing calculation of benefits may be found in a separate leaflet titled: *Disability pension*, which is available in each ZUS unit.

Persons who have lost earning capacity and who had been employed not only in Poland, but have also completed insurance or residence periods under the legislation of other Member States of the European Union, European Economic Area or in Switzerland, are covered by the Community coordination of social security schemes.

The EU regulations on coordination concern migrants for employment moving within the European Union (see: p. 2). These regulations are inter alia aimed at helping the aforementioned persons to acquire pension entitlements and to receive benefits from Member States.



## Who is the leaflet addressed to?

The leaflet is addressed to **persons who exercise their right to move freely within the European Union, the European Economic Area or Switzerland and who:**

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<sup>1</sup> Journal of Laws /Dz.U./ of 2004 No 39, Text 353 with further amendments.

- reside abroad in the territories of those States and claim a disability pension from ZUS on the basis of periods of coverage (employment or insurance) completed only under the legislation of Poland,
- claim a disability pension from ZUS on the basis of periods of employment (insurance) completed under the legislation of Poland and under the legislation of other Member States, irrespective of their place of residence,
- reside abroad in the territories of Member States and are interested in transfer of ZUS disability pension to their State of residence.

Information contained in the leaflet does not relate to disability pensions in respect of accidents at work or occupational diseases because coordination of these benefits is based on different rules.



## Which States are covered by the Community coordination of the social security schemes?

Community coordination of the social security schemes covers **EU Member States**, that is: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Spain, the Netherlands, Ireland, Lithuania, Luxembourg, Latvia, Malta, Germany, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Hungary, United Kingdom and Italy.

For coordination purposes also the **non-EU States belonging to the European Economic Area**: Iceland, Liechtenstein and Norway, as well as **Switzerland** are regarded as EU Member States. They have been covered by the Community regulations on coordination.

All the aforementioned States are further referred to as „Member States”.



## Who takes advantage of the Community coordination in the field of disability pensions?

Beneficiaries of the Community coordination in the field of disability pensions include:

- nationals of Member States (including Polish nationals),
- stateless persons (i.e. persons not being nationals of any State), persons holding a refugee status in the territories of Member States and nationals of third states, i.e. of non-Member States, if they reside in the territory of a Member State (however the coordination does not cover nationals of third States residing in the territories of Denmark, Iceland, Liechtenstein, Norway or Switzerland).

*Thus, the disability pension – subject to Community coordination – may be claimed for example by a Polish national who has been employed and covered by social insurance in Poland, Czech Republic and Germany. However, a national of Belarus residing in Belarus, who has been employed and covered by social insurance in Poland and Czech Republic will not take advantage of the Community coordination, as a national of the third State.*

Regulations on coordination concern persons who have been subject to insurance in Member States, pursuing widely conceived occupational activity – in particular as employees and self-employed persons, persons performing work on a basis of civil law contracts – or on a basis of other social insurance titles.

*Thus the Community coordination in the field of disability pensions will cover e.g. a person who had been first covered by social insurance in the territory of Czech Republic – for 5 years as a person employed, and then in Poland – for 10 years as a self-employed person outside agriculture and for 3 years as a freelancer.*



## Equal treatment

In accordance with the principle of equal treatment, a person covered by the Community coordination of social security schemes should be treated in each Member State as if he or she were a national of that Member State – both when claiming the disability pension in that State and while receiving the awarded benefit.

*It means that e.g. discrimination of a Polish national who claims the disability (invalidity) benefit in Sweden is prohibited. A foreign institution which establishes a pension for such person may not impose on him or her qualifying conditions different from those required of Swedish nationals.*



## Disability pension for persons who have accumulated periods of insurance in Poland and in the territories of other Member States

### ► Establishment of the disability pension entitlement in each of Member States, where the person concerned was insured

The European Union has not yet established any supranational scheme that would guarantee disability (invalidity) pensions. Each of Member States independently defines persons eligible for a disability (invalidity) pension after satisfying the qualifying conditions.

A person who has been employed and insured in Poland and in other Member States **may acquire the disability pension both from Poland and from another Member State** where he or she has been insured, after satisfying the qualifying conditions for the acquisition of the right to the pension under the legislation of these States.

*Thus if a pension claimant has completed employment (insurance) periods under the legislation of Poland and of other Member States, e.g. the Netherlands, Greece and Norway, the pension entitlement is established in parallel by insurance institutions of each of these four States.*

It is thus possible that a person concerned satisfies the qualifying conditions in several Member States where he or she has been covered by the social insurance and so he or she receives pensions from those States.

### ► Taking into consideration (aggregation) of foreign periods of insurance

It happens that a person applying for a disability (invalidity) pension under the legislation of one Member State has not accumulated sufficient periods of insurance (residence) to satisfy the requirements for entitlement to this benefit. In this situation, to award the pension, a competent institution also takes into account (aggregates) foreign periods of coverage (insurance or residence) completed in all other Member States.

*If for example a 40-year old person claiming a pension from ZUS has not completed a 5-year insurance period in Poland (contributory and non-contributory) required to be awarded the disability pension under the Polish legislation, ZUS will also take into account (aggregate) foreign periods of insurance (residence) that the person concerned*

*has completed under the legislation of other Member States (e.g. Austria, Germany or Ireland) and will check if – after aggregation – the eligibility requirements for the Polish pension are satisfied.*

Foreign residence periods may be taken into account by ZUS only if the legislation of the State where such periods have been completed makes the disability pension entitlement dependent on the period of residence in the territory of that State (as for example in Denmark or Sweden).

Both insurance and residence periods completed abroad are aggregated by ZUS in rate certified by a social insurance institution of the State where they have been completed. These periods must be certified on EU form E 205, issued by a social insurance institution of the Member State where the insurance or residence periods have been completed, and sent to ZUS.

**► Taking into account incapacity for work which occurred during foreign insurance periods**

It may happen that a person who has been employed in several Member States may not be awarded the disability (invalidity) pension in one of them because he or she became incapable of work during employment (insurance) in other State than the State whose institution is determining the pension entitlement. In this case, pursuant to EU regulations, ZUS – while establishing pension entitlement – must also take into consideration the incapacity for work that occurred during foreign insurance period in other Member State or within certain time after termination of this period.

It means that a qualifying condition for award of the disability pension under the Polish legislation, i.e. that incapacity for work should occur within the period of insurance in Poland or within other periods listed in the Law, or within 18 months after the cessation of these periods, will be satisfied if incapacity for work occurred during the period of insurance abroad in other Member State (e.g. in France) or not later than within 18 months after the cessation of this period.

*For example ZUS will consider that the qualifying condition of incapacity for work occurring during the period of insurance in Poland is satisfied if ZUS evaluating doctor or ZUS medical board confirms that a given person, who has not been covered by social insurance in Poland during the recent 10 years, became incapable of work during his or her employment and social insurance coverage in Ireland (EU Member State).*

In each case incapacity for work must be evaluated by ZUS evaluating doctor or ZUS medical board, that is by the Polish (not foreign) evaluating body.

## ► Calculation of amount of the pension established with consideration of foreign periods of insurance

Pursuant to EU regulations, where entitlement to a disability (invalidity) pension under the legislation of a given Member State is established with consideration of foreign periods of insurance (residence) completed by a person concerned under the legislation of other Member States, the amount of the benefit is calculated in the following way:

- first, a competent institution of the State which has established pension entitlement must determine a theoretical (full) amount of the benefit which would be awarded if all periods of insurance (residence) were completed under the legislation of that State,
- subsequently, based on the theoretical amount, the competent institution must calculate the actual amount of the pro-rata benefit corresponding to the ratio of insurance periods accumulated under the legislation of the State which has established the entitlement to the sum of all insurance periods completed under the legislation of all Member States concerned.

The pro-rata pension, calculated in this way, is the benefit which is due to the person concerned.

Amount of the disability pension awarded under the Polish legislation depends on the so called base amount, the basis of pension assessment and the length of contributory and non-contributory periods.

To calculate the pro-rata pension ZUS first calculates a theoretical (full) amount of the pension on the basis of aggregated periods of insurance or residence completed under the legislation of Poland and abroad in Member States. This amount equals:

- 24% of the base amount,
- 1.3% of the basis of pension assessment for each contributory year completed under the legislation of Poland and abroad,
- 0.7% of the basis of pension assessment for each non-contributory year completed under the legislation of Poland and abroad,
- 0.7% of the basis of pension assessment for each year short of full 25 years of Polish and foreign contributory and non-contributory periods, from the day of claiming the benefit to the day when the pensioner would reach 60 years of age (the so called hypothetical periods).

Subsequently, based on such theoretical amount, ZUS determines the actual amount of pro-rata benefit corresponding to the ratio of Polish periods of insurance to the sum of Polish and foreign periods of insurance.

*In 2008 ZUS determined pension entitlement of 50-year old woman in respect of disability, taking into consideration foreign insurance periods completed in Austria.*

*The woman has accumulated the following periods of insurance:*

- *in Poland – 4 years, of which 3 years of contributory periods and 1 year of non-contributory periods,*
- *in Austria – 2 years of contributory periods.*

*In this case the pension will be calculated in the following way:*

- *first, ZUS will determine a theoretical (full) amount of the pension that would be awarded to the person concerned if a total period of insurance of 6-year duration (in Poland and in Austria) was completed in Poland; for this purpose it will take into consideration contributory periods completed in Poland and in Austria (a total of 5 years) and non-contributory periods (1 year in Poland) and will determine: an amount corresponding to 1.3% of the basis of pension assessment for each contributory year, an amount corresponding to 0.7% of the basis of pension assessment for each non-contributory year, and an amount corresponding to 0.7% of the basis of pension assessment for each year of a period short of full 25 years of Polish and foreign contributory and non-contributory periods, from the day of claiming the benefit to the day when the pensioner would reach 60 years of age (the so called hypothetical periods).*
- *subsequently, based on the theoretical amount, ZUS will determine an actual amount of the pro-rata benefit corresponding to the ratio of Polish periods of insurance to the sum of Polish and foreign periods of insurance; in the described case it will be 4/6 of the theoretical amount, because the person concerned has accumulated 4 years of insurance periods under the legislation of Poland, and a total of 6 years of insurance periods under the legislation of Poland and of Austria; hypothetical periods are not taken into account here.*

*Assuming that the hypothetical amount of the pension would equal in this case PLN 1800, actual amount of the pro-rata pension will equal:  $PLN\ 1800 \times 4/6 = PLN\ 1200$ .*

*In effect the person concerned will be awarded the pro-rata pension determined in this way in amount of PLN 1200.*

### **► Calculation of amount of a pension established without consideration of foreign insurance or residence periods**

Disability pensions are determined by ZUS in accordance with a principle that if foreign insurance (residence) periods are not necessary to acquire the right to the pension, pension amount is calculated only on the basis of insurance periods completed under the Polish legislation (national pension),

without consideration of foreign periods of coverage accumulated in other Member States.

However, in this case ZUS also determines pension amount that would be awarded on the basis of aggregated periods of insurance (a pro-rata pension). If it is higher than the amount of the national pension calculated only on the basis of insurance periods completed under the legislation of the State where the pension is determined – the person concerned will be awarded the pro-rata pension.

*Thus, if for example ZUS accepts the 10-year insurance period completed by a 38-year old man in Poland as sufficient to acquire the right to the disability pension and awards the pension upon the claim that the man concerned filed in 2009, and it turns out that the man has also accumulated a 2-year period of insurance in Ireland and a 3-year period of insurance in Sweden, ZUS will calculate the pension amount in the following way:*

- *on the one hand it will determine the national (full) pension – based only on periods of insurance completed under the legislation of Poland, equal to 10 years,*
- *on the other hand it will determine a pro-rata pension – on the basis of aggregated insurance periods in Poland, in Ireland and in Sweden, equal to 15 years, i.e. first it will calculate a theoretical amount of the pension taking into consideration insurance periods completed abroad and subsequently it will calculate the pro-rata pension (in the described case – 10/15 of the theoretical amount),*
- *subsequently ZUS will compare both amounts: of the national pension and of the pro-rata pension and will award the benefit in amount more favourable to the person concerned.*

### ► **Periods of insurance of less than one year**

Where a person concerned has accumulated in a Member State an insurance period of less than one year, no pension entitlement is established in this State if its legislation does not provide for awarding the pension in respect of so short insurance period. However this period will not disappear. If a competent institution of other Member State awards the pension, it will be obliged to aggregate also such short foreign period while calculating the amount of the pension and to pay the benefit for this period.

Thus, if the pension is established for a person who has accumulated also foreign periods of insurance of less than 1 year in other Member State, not giving any right to benefits in that State, ZUS will take into consideration the value of such period in amount of the Polish pension.

*Thus, if a pension claimant has completed, beside the employment (insurance) periods in Poland, also 5-month insurance period (thus less than 1 year) in Lithuania, not giving any right to the pension under the Lithuanian legislation, ZUS, having awarded the disability pension in Poland, will take into consideration – when calculating its amount – also the Lithuanian insurance period, without calculating the pro-rata pension.*

### ► Receiving foreign pensions by ZUS pensioner

The fact that a person with established entitlement to ZUS disability pension is also a recipient of the pension from other Member State does not result in reduction in or suspension of the right to the pension from ZUS.



### **Disability pension for persons residing in the territories of Member States other than Poland, who have accumulated only Polish insurance periods**

Where a person applying for a disability pension, who has accumulated only insurance (employment) periods in Poland, resides abroad in other Member State, only the Polish institution will be competent to establish the right to the pension, i.e. ZUS or KRUS respectively or a pension body of the so called uniformed services.

The mentioned person may be granted the pension in Poland if he or she satisfies the requirements under the Polish legislation.



### **Evaluation of incapacity for work for pension purposes**

Evaluation of such incapacity, assessment of the degree of disability, date of its occurrence, permanency or expected duration as well as other circumstances related to incapacity for work affecting the right to the pension, fall within the competence of ZUS evaluating doctor, and if the decision of ZUS doctor is

appealed against – within the competence of the medical board of the Social Insurance Institution. ZUS evaluating doctor issues a decision also when the pension claimant permanently resides in other Member State. In such case ZUS evaluating doctor evaluates incapacity for work on the basis of medical opinion drawn up by a competent institution (medical practitioner) in the State of residence of the person concerned or on the basis of documentation supplied by the pension claimant.

A person incapable of work means a person who has lost, completely or partly, earning capacity due to disturbance of body fitness and retraining does not promise the restoration of his or her earning capacity.

In accordance with the Polish legislation the following degrees of incapacity for work are distinguished:

- complete incapacity for work – certified in a case of a person who has lost capability for any work, or
- partial incapacity for work – certified in a case of a person who has lost – to a considerable degree – capability for work corresponding to his or her level of qualifications.

The inability for independent existence is certified in a case of body impairment which requires permanent or long-term care and assistance of other person in satisfaction of primary living needs.



## Acquisition of the pension entitlement

The disability pension entitlement is acquired after all qualifying conditions have been satisfied.

If the person concerned is a recipient of a sickness allowance, rehabilitation benefit or remuneration for the period of incapacity for work payable under the Labour Code, the right to the disability pension (or training pension) is acquired since the day when the person concerned ceased to receive this allowance, benefit or remuneration. In this case it is also necessary to cease the receipt of similar benefits in respect of foreign insurance in a Member State other than Poland.

*For example, the right to ZUS disability pension for a person who is a recipient of a sickness allowance from the Austrian social insurance scheme is acquired since the day when the person concerned ceased to receive this allowance.*



## **The basis of pension assessment for persons who have accumulated – apart from the Polish periods of insurance – also foreign periods of insurance**

The disability pension from ZUS, established for a person who has accumulated Polish periods of insurance and insurance periods under the legislation of other Member States – is assessed based on an average basis of assessment of a contribution to pension insurance (before 1 January 1999 – to social insurance), pursuant to the Polish legislation, from the period of 10 consecutive calendar years selected by the person concerned from the recent 20 calendar years directly preceding the year when the person concerned filed the pension claim. The mentioned 10 calendar years are selected without consideration of years when the person concerned was covered (for the full year) by insurance abroad in Member States.

If during the period of 20 years directly preceding the year when the person concerned filed the pension claim, he or she had not been covered by insurance under the legislation of Poland, an amount of the pension is based on an average basis of assessment of a contribution to pension insurance (before 1 January 1999 – to social insurance) pursuant to the Polish legislation, from the period of 10 consecutive calendar years directly preceding the year when the person concerned for the first time joined insurance abroad in a Member State.

If incapacity for work had occurred before a person concerned reached the age of 30 years, and it was not possible to determine the basis of pension assessment from the period of 10 consecutive calendar years, pension assessment is based on the basis of assessment of contributions from actual insurance period, although it is shorter than 10 consecutive calendar years.

If incapacity for work occurred after a person concerned had reached the age of 30 years, but there were breaks in insurance due to undergoing substitute military service, active military service, or due to parental leave, and additionally the person concerned has accumulated insurance periods abroad which prevent from determination of the basis of pension assessment under the general rules, pension assessment is based on the basis of assessment of contributions from actual insurance period in Poland.

On the request of the person concerned an amount of the pension may be also based on an average basis of assessment of a social insurance contribu-

tion, pursuant to the Polish legislation, from the period of 20 calendar years preceding the year when the person concerned filed the pension claim, selected from the whole period of coverage by the social insurance in Poland.



## Special rules for establishing pensions under the Polish-German Convention of 1975

In Polish-German relations, beside the Community regulations governing the coordination of social security schemes, the Polish-German Convention of 1975 on old-age and work-injury provisions is still in force.

Under the provisions of this Convention, pension insurance benefits (including disability pensions) for persons who have completed insurance periods under the legislation of the other State-Party before 1 January 1991 and who have not moved to the other State-Party after 31 December 1990, are determined by the social insurance institution of only one State, i.e. the State of residence (Poland or Germany respectively). This institution takes over a burden of financing benefits for the aforementioned insurance periods completed in the other State.

If the pensioner has moved to the other State-Party to the Convention after 31 December 1990, his pension must be re-established in both States: in Poland and in Germany. It may result in establishment of the pension entitlement in each of these States basing only on its own insurance periods, or basing on aggregated insurance periods – in pro-rata amount, corresponding to the ratio between the duration of own insurance periods and the total duration of insurance periods completed under the legislation of Poland and of Germany.

*Thus if a woman residing in Poland (who has never moved abroad) has accumulated a 17-year period of insurance (employment) in Poland and a 10-year period of insurance (employment) in Germany, before 1 January 1991, ZUS will determine her disability pension in amount based on the aggregated period of 27 years, because in this case the burden of the whole benefit due to the woman concerned is born – under the Convention of 1975 – by the Polish party.*

*However, if the woman later moves to Germany, the pension awarded by ZUS will have to be recalculated based on insurance periods in Poland, and the competent German pension body will have to determine the pension based on insurance*

periods completed under the legislation of Germany. Each of the mentioned institutions would determine the right to the pension respectively: only on the basis of own insurance periods, or on the basis of aggregated insurance periods – in pro-rata amount, corresponding to the ratio between the duration of own insurance periods and the total duration of insurance periods completed under the legislation of Poland and of Germany.

If the qualifying conditions for the pension are satisfied both in Poland and in Germany, the person concerned may receive pensions from both States.



## Where to file the disability pension claim?

A person who has completed periods of insurance (residence) under the legislation of more than one Member State should file a disability pension claim with an insurance institutions of **one Member State**.

Such application automatically triggers off **the procedure of pension entitlements'** investigation in all Member States where the person concerned has been covered by insurance, and the date of the application is binding upon the institutions of all concerned Member States.

- If a person concerned **resides in the territory of Poland** and has accumulated periods of insurance in Poland and in other Member States, he or she should file his or her pension claim with the Polish social insurance institution (ZUS, KRUS or a pension body of the so called uniformed services).
- If a person concerned **resides abroad in the territory of a Member State** and has accumulated periods of insurance in Poland and in other Member States, including the State of residence, he or she should file his or her pension claim with the social insurance institution competent for pensions in the State of residence.
- If a person concerned **resides abroad in the territory of a Member State** where he or she has not accumulated periods of insurance but has accumulated periods of insurance in Poland and in other Member States, he or she should file the pension claim with the social insurance institution competent for pensions in the State where he or she was last insured. The pension claim may be also filed through the social insurance institution of the State of residence of the person concerned, which will send it to the competent institution.

- If a person concerned **resides abroad in the territory of a Member State** and has completed periods of insurance only under the legislation of Poland, he or she should file his or her pension claim with a Polish institution competent to investigate his or her pension claim in Poland. The pension claim may be also filed through the social insurance institution of the State of residence of the person concerned, which will send it to the competent Polish institution.

The date of filing the application with a foreign institution will be in each case binding upon the Polish institution.

A foreign institution of a Member State where the disability pension claim was filed, is obliged *inter alia* to complete the application for a pension to be awarded under the Polish legislation and to transmit it to the competent institution in Poland.

Where the disability pension claim should be investigated in Poland, it is necessary to identify a Polish institution competent for a given case.

The pension claim is **examined by ZUS** if the person concerned has been **employed or self-employed (ran a business outside agriculture)** in the territory of Poland.

But ZUS is not always competent to examine the application. It is not competent to investigate claims for disability pensions with regard to persons who were covered in Poland by the social insurance scheme for farmers or pension schemes for uniformed services. It is also not competent to investigate claims for disability pensions filed by judges and public prosecutors. However, ZUS investigates disability pension claims:

- filed by persons who have accumulated periods of insurance in Poland as persons employed and self-employed outside agriculture and as farmers, if the last Polish period was the period of insurance as a person employed or self-employed outside agriculture,
- filed by persons who claim a pension as an officer of the so called uniformed services (e.g. professional soldiers, officers of the Police, State Fire Service), if the last Polish period was the period of insurance as a person employed or self-employed outside agriculture.

If ZUS is recognized as the competent institution, pension entitlement is established by one of local ZUS bodies designated to deal with pension issues subject to Community coordination, i.e. :

- **I ZUS Branch in Łódź** – Division for Implementation of International Agreements (Zamenhofa 2, 90-431 Łódź, tel. +48 42 638 29 67) – competent for persons who have accumulated Polish and foreign insurance (residence)

periods, of which recently completed under the legislation of Cyprus, Greece, Spain, Malta, Portugal or Italy, or have completed only Polish insurance periods;

- **ZUS Branch in Nowy Sącz** – Division for Implementation of International Agreements (Węgierska 11, 33-300 Nowy Sącz, tel. +48 18 443 78 48, ext. 3315, 3314) – competent for persons who have accumulated Polish and foreign insurance (residence) periods, of which last completed under the legislation of Czech Republic or Slovakia, or have completed only Polish insurance periods and reside in the territory of one of the mentioned States;
- **ZUS Branch in Tarnów** – Division for Implementation of International Agreements (Kościuszki 32, 33-100 Tarnów, tel. +48 14 621 43 71 to 74 ext. 306, 362, 458, 459, 461) – competent for persons who have accumulated Polish and foreign insurance (residence) periods, of which last completed in Austria, Liechtenstein, Slovenia, Hungary or Switzerland, or have completed only Polish insurance periods and reside in the territory of one of the mentioned States;
- **ZUS Branch in Opole** – Division for Implementation of International Agreements (Wrocławska 24, 45-701 Opole, tel. +48 77 451 16 81, +48 77 451 17 58, +48 77 451 17 61) – competent for persons who have accumulated Polish and foreign insurance (residence) periods, of which last completed under the legislation of Germany, or have completed only Polish insurance periods and reside in the territory of Germany;
- **ZUS Branch in Szczecin** – Division for Implementation of International Agreements (Matejki 22, 70-530 Szczecin, tel. +48 91 459 65 24, +48 91 459 65 42, +48 91 459 65 35) – competent for persons who have accumulated Polish and foreign insurance (residence) periods, of which last completed under the legislation of Denmark, Estonia, Finland, Iceland, Lithuania, Latvia, Norway or Sweden, or have completed only Polish insurance periods and reside in the territory of one of the mentioned States;
- **I ZUS Branch in Warsaw** – Division for Implementation of International Agreements (Kasprowicza 151, 01-949 Warszawa, tel. +48 22 569 36 04, +48 22 569 36 13, +48 22 569 35 93, +48 22 569 36 50) – competent for persons who have accumulated Polish and foreign insurance (residence) periods, of which last completed under the legislation of Belgium, Bulgaria, France, the Netherlands, Ireland, Luxembourg, Romania or United Kingdom, or have completed only Polish insurance periods and reside in the territory of one of the mentioned States.

A person concerned who resides in the territory of Poland may file the pension claim **directly** with one of aforementioned ZUS bodies which is competent in a given case, **or through the nearest ZUS body in his or her place of residence.**



## **How to draw up the disability pension claim addressed to ZUS?**

Where the disability pension claim is filed with ZUS (e.g. a person concerned resides in the territory of Poland), it may be filed on form ZUS Rp-1R (*A claim for disability pension*), which must be accompanied with:

- EU form E 207 PL (*Certificate concerning the insured person's insurance history*)
  - completed in item 7 (information relating to all insurance and residence periods completed under the legislation of individual Member States) and legibly signed by the claimant,
- documents justifying the right to Polish benefits and enabling calculation of their amount (such as: insurance cards, employment certificates, certificates ZUS Rp-7, excerpts of registry office records, relevant medical documentation),
- documents proving insurance (employment, residence) periods under the legislation of Member States other than Poland, numbers of foreign insurance, names and addresses of employers and other information helping to identify foreign institutions where the claimant was insured.



## **Appeals against ZUS decisions in disability pension issues filed by persons who reside abroad in the territories of Member States**

Appeals against ZUS decisions in pension issues are filed with a competent Court for Labour and Social Insurance through ZUS pension body which has issued the decision, within one month from the day of receipt of the decision.

Persons who reside abroad in the territories of Member States may file an appeal against ZUS decision – within the above mentioned time limit – also through the social insurance institution of the State of residence, which will transmit the appeal to a competent ZUS unit.



## Payment of the disability pension to a person who resides abroad within the territory of a Member State

Disability pension from ZUS for an eligible person who resides abroad in the territory of a Member State may be transferred, depending on instructions given to ZUS:

- in Poland (to bank account of the pensioner or to an authorized person who resides in the territory of Poland), or
- in the State of residence (to pensioner's foreign bank account).

A pension awarded by ZUS may be transferred to the person residing in the territory of other Member State, at his or her request, to pensioner's State of residence. An application for pension transfer to the State of residence may be filed with ZUS branch which has awarded or has been earlier paying the benefit. The case is transmitted to **one of six local ZUS bodies designated to deal with pension issues subject to Community coordination**. The application for pension transfer may be also directly filed with a competent, designated ZUS body.

A pension is payable on a monthly basis on a day fixed in ZUS decision as the date of benefit's payment. If the pension amount transferred to the pensioner abroad to a Member State is lower than the minimum pension under the Polish legislation, its payment may be carried out on other than monthly basis (e.g. on a quarterly basis). If the Polish pension is transferred to another Member State, the date of bank transfer is considered as the date of payment.

Pensions are transferred to beneficiaries who reside abroad without deduction – pursuant to the tax legislation – of advance payment to the personal income tax in Poland (in gross amount) or after deduction of advance payment to the personal income tax in Poland (in net amount) subject to the provisions of an international agreement to avoid double taxation concluded by Poland with the beneficiary's State of residence.

Should the National Health Fund (NHF) issue to a pensioner residing in the territory of other Member State a certificate on form E 121 PL, certifying his or her right to health care benefits in this State at the expense of the National Health Fund, the pension is transferred after deduction by ZUS of the health insurance contribution. The mentioned contribution is transferred to the National Health Fund, and the person concerned has the right to take advantage of health care benefits in the State of residence at the expense of the NHF. More detailed information in this regard is available in a competent NHF branch or in NHF headquarters.



## **Earnings from activity pursued in Member States – and the right to ZUS pension and its amount**

Earnings from activity pursued abroad by disability pension recipients may result in:

- reduction in pension amount – if income from activity pursued in Poland or abroad exceeds 70% of average monthly earning under the Polish legislation but is not higher than 130% of this earning,
- suspension of the right to pension – if income from activity pursued in Poland or abroad exceeds 130% of average monthly earning under the Polish legislation.

As regards recipients of a training pension in respect of incapacity for work (as a result of a decision on the advisability of vocational retraining due to incapacity for work in earlier occupation), any income from gainful activity constituting a social insurance title, also abroad, results in cessation of the right to the pension – irrespective of its level.

Pensioners are obliged to notify ZUS unit which pays their benefit of incomes from activity pursued in Poland and abroad.



## **Pensioners' obligations towards ZUS**

Pensioners are under obligation to notify ZUS body which is the payer of their benefits of any circumstances affecting their pension entitlement or payment. These circumstances include in particular: changes in personal data (e.g. name,

surname) and address data, change in place of residence, changes in a number of bank account, undertaking employment or other gainful activity, the fact of receiving income resulting in benefit reduction or suspension (applicable both to income from activity carried out in the territory of Poland and abroad).

ZUS pensioners are under obligation – on demand of the pension body – to certify with their own signature further entitlement to the benefit. ZUS body, which pays benefits to persons who reside abroad, periodically sends to pensioners a form titled *Certificate of life and residence of the pensioner*, to be completed and sent back to ZUS. The form should be signed by the pensioner him/herself. Should the pensioner be not able to sign it personally, the form should be signed by a person who actually takes care of the beneficiary. In both cases the signature should be certified by a competent body or an authorized person in the State of residence of the mentioned persons or by an authorized person in a Polish diplomatic or consular post.



## How to obtain more information?

- This leaflet has a general character. More detailed information is available at:
- the nearest local body of ZUS,
  - ZUS website: [www.zus.pl](http://www.zus.pl),
  - local ZUS bodies designated to deal with pension issues subject to Community coordination, i.e. in I Branch in Łódź, Branch in Nowy Sącz, Branch in Tarnów, Branch in Opole, Branch in Szczecin and I Branch in Warsaw,
  - Foreign Pensions Department in ZUS Headquarters, playing the role of the liaison body in pension issues subject to Community coordination, which cooperates with foreign liaison bodies of Member States (Senatorska 10, 00-082 Warszawa, tel. +48 22 826-05-53, e-mail: [drz@zus.pl](mailto:drz@zus.pl)).



## Basic EU legal acts governing the co-ordination of the social security schemes

- Council Regulation (EEC) No. 1408/71 of the Council of 14 June 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 (OJ No. L 149 of 5.07.1971, with further amendments).

- Council Regulation (EEC) No. 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community (OJ No. L 74 of 27.03.1972, with further amendments).
- Council Regulation (EC) No. 859/03 of 14 May 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 (OJ No. L 124 of 20.05.2003).

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Social Insurance Institution (Foreign Pensions Department)  
00-082 Warsaw, 10 Senatorska street

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