

PENSIONS GRANTED AND PAYABLE
BY THE SOCIAL INSURANCE
INSTITUTION (ZUS)
WITH THE APPLICATION
OF THE EUROPEAN UNION LAW



WARSAW 2008

ZUS

Social Insurance Institution
Foreign Pensions Department

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1. Introduction



1.1. What do EU pension regulations apply to?

There is no single pension scheme in the European Union. EU law does not interfere with the rules applied by Member States to old-age, disability and survivors' benefits. Each Member State determines kinds of benefits as well as eligibility requirements, stipulates the mandatory retirement age, a period required for entitlement to benefits and benefits' amount. A person willing to be awarded a pension in a given EU Member State must satisfy the qualifying conditions under the legislation of that State.

EU legislation is intended to ensure that the application of the different national legislations does not adversely affect persons exercising their right to move freely in the European Union, that is persons who have worked and in this respect have been subject to insurance in two or more Member States, or transferred their residence from the territory of one State to that of another State, as compared to persons, who have worked or lived only in one Member State throughout their whole life. It relates in particular to persons who have been working (were insured) in more than one Member State and claim old-age, disability or survivors' benefits in this respect.

The European Union coordinates social security schemes of its Member States.

1.2. What does the EU co-ordination of social security schemes consist in?

The EU co-ordination of social security schemes consists in laying down such legal regulations, which would eliminate disadvantage in social security for persons moving within the European Union. The point is that a person who has worked in various Member States, or transferred his or her residence within EU from the territory of one State to that of another should not be disadvantaged in this respect as compared to a person, who has worked or lived only in one Member State throughout his or her whole life.

Community regulations on the coordination with regard to pension claimants govern only „international situations”, that is indicate a way of determining entitlements to benefits and calculating their amount, if the claimant has completed insurance periods (or residence periods – in countries where pension entitlement is subject to a condition of residence in the territory of a given State) in two or more Member States, or if he or she was insured in one State and is resident in another EU Member State.

1.3. Which EU legal acts govern co-ordination of social security schemes and what is their importance?

Coordination of social security schemes is governed by the following EU regulations:

- 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).

The above-mentioned regulations are applicable in Poland from 1 May 2004 inter alia by institutions investigating rights to old-age, disability and survivors' benefits, including ZUS. One can rely on the provisions of these regulations also before Polish courts.

In a situation of a conflict between Polish legislation and the Community regulations, Polish provisions contrary to EU legislation may not be applied. It means that Community regulations rank high in hierarchy of legal sources.

An important effect of Poland's membership in the European Union was that the Community regulations on the coordination of the social security schemes have replaced since 1 May 2004 – within the

framework of their personal and objective scope – the bilateral social security conventions, which had earlier bound Poland with several EU Member States (Austria, Belgium, Czech Republic, France, Spain, Germany, Luxembourg, Slovakia, Hungary). In relations with those States international conventions lost their applicability to be replaced with the provisions of the above-mentioned EU regulations.

In result of accession of Bulgaria to the European Union as from 1 January 2007, from this date Community regulations have replaced – in Polish-Bulgarian relations – provisions of the Convention on social security between the Republic of Poland and the Republic of Bulgaria of 9 June 2005 (Journal of Laws of 2006 No. 172, Text 1231).

It should be however noted that – on the strength of explicit reservations – selected provisions of some international conventions remain applicable. These are the provisions of:

- the Convention of 9 October 1975 between the Polish People's Republic and the Federal Republic of Germany on old-age and work-injury provisions (Journal of Laws of 1976 No. 16, Text 101) within the scope defined by Art. 27 par. 2-4 of the Convention of 8 December 1990 between the Republic of Poland and the Federal Republic of Germany on social security (Journal of Laws of 1991 No. 108, Text 468) – with regard to persons who transferred their residence from the territory of Poland to that of Germany or from the territory of Germany to that of Poland by 31 December 1990, and with regard to persons who have completed insurance (employment) periods before 1 January 1991 and have not changed their State of residence, under the condition that these persons will not change their place of residence after 1 May 2004 and will not transfer their residence to the territory of another State – party to the Convention or of the third State;

- the Convention of 8 December 1990 between the Republic of Poland and the Federal Republic of Germany on social security (Journal of Laws of 1991 No. 108, Text 468): • Art. 11 par. 3 and Art. 19 par. 4 – with regard to persons who have acquired the right to benefits from accident and disability insurance under the national German legislation (however the German party ceased applying these provisions in view of the judgement of the European Court of Justice of 18 December 2007 in joined cases C 396/05, C 419/05 and C 450/05 Doris Habelt, Martha Möser, Peter Wachter v. Deutsche Rentenversicherung Bund) • Art. 27 par. 5 – with regard to persons who have acquired the right to old-age, disability or survivors' benefits on the basis of an agreement of 13 July 1957 on cooperation in the field of social policy between Po-

land and German Democratic Republic • Art. 28 par. 2 – with regard to persons who have been employed in GDR enterprises on the basis of the Convention of 5 September 1988 between the government of the Polish People’s Republic and the government of the German Democratic Republic on cooperation in the field of employment of Polish employees in GDR enterprises;

■ Art. 33 of the Convention of 7 September 1998 between the Republic of Poland and the Republic of Austria on social security (Journal of Laws of 2000 No. 104, Text 1105) – with regard to persons who have completed insurance periods in the territory of Poland before 27 November 1961 and these periods are regarded as Austrian insurance periods for the purpose of acquiring the right to Austrian old-age, disability or survivors’ benefits.

IMPORTANT

Since the above-mentioned provisions of the Polish-German Conventions and the Polish-Austrian Convention remain applicable, a part of regulations described in this booklet will not apply to certain categories of persons who have completed Polish and German insurance (employment) periods, and who are resident in Poland or in Germany, as well as to certain categories of persons who have completed Polish insurance periods before 27 November 1961, which are regarded as Austrian insurance periods for the purpose of establishing the right to benefits.

Apart from EU Member States, Community regulations on the coordination of social security schemes are also applicable:

- in non-EU Member States belonging to the European Economic Area (presently Norway, Iceland and Liechtenstein), on the basis of the Agreement on the European Economic Area. The Agreement has been also applicable to Poland since 1 May 2004;

- in Switzerland, on the basis of the Agreement between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons. The Agreement has been also applicable to Poland since 1 April 2006.

Council Regulation (EC) No. 859/2003 extended the provisions of Regulation (EEC) No. 1408/71 and Regulation (EEC) No. 574/72 to nationals of third countries who are resident in the territory of a Member State and are in a situation, which is not confined in all respects

within a single Member State (for example have worked/been insured in two Member States). This Regulation, however, is not applicable to Denmark, Norway, Iceland, Liechtenstein and to Switzerland.

After Poland's accession to the European Union, the bilateral conventions on social security concluded with States from outside the European Union are still applicable to old-age, disability and survivors' benefits. At present it relates to Bosnia and Herzegovina, Croatia, Macedonia, Serbia and Montenegro. EU regulations are not applicable to these countries.

1.4. Which legal acts are applied to calculate pensions payable by ZUS after Poland's accession to the European Union?

As mentioned above, as from 1 May 2004 Poland has been covered by the EU coordination of the social security schemes.

While establishing the right to benefits, the Social Insurance Institution – as one of the institutions responsible for granting old-age, disability and survivors' benefits in Poland – is also obliged to apply in specific situations the EU law, beside the Polish legislation. However, this does not apply to all persons insured in Poland, only migrants, that is persons moving within the European Union, the European Economic Area or Switzerland.

After 1 May 2004 pensions have been still awarded in Poland in accordance with the Polish legislation (mainly the law of 17 December 1998 on pensions from the Social Insurance Fund – Journal of Laws of 2004 No. 39, Text 353 with further amendments). However, in certain „international situations” its provisions are modified by EU regulations. These modifications are aimed to improve legal situation of pension claimants, who have been economically active in different Member States. If not for EU regulations, such persons could be in less favourable situation than persons who have worked or lived only in one Member State throughout their whole life.

1.5. Which countries are covered by the EU co-ordination of old-age, disability and survivors' benefits?

The EU co-ordination of old-age, disability and survivors' benefits concerns:

- 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, as well as the following dependent, overseas and autonomous territories:

- Gibraltar – with regard to the United Kingdom,
- Azores and Madeira – with regard to Portugal,
- French Guyana, Reunion, St. Pierre-et-Miquelon, Guadeloupe and Martinique – with regard to France,
- Balearic Islands, Canary Islands, Ceuta and Melilla – with regard to Spain;
- non-EU Member States belonging to the European Economic Area – Iceland, Liechtenstein, Norway and
- Switzerland.

Community regulations on the coordination of social security schemes, however, are not applicable to the territories of:

- Greenland and Faroe Islands – with regard to Denmark,
- Channel Islands and the Isle of Man – with regard to the United Kingdom.

1.6. Who is covered by the EU co-ordination of social security schemes in respect of pensions?

EU regulations on co-ordination of social security schemes cover pension rights of persons who pursue widely conceived professional activity, including workers, persons performing work on a basis of civil law contracts, self-employed persons, who are in a specific „international situation” (for example who have completed employment/insurance periods in Poland and in other Member States) and persons who are resident in another Member State and claim or receive the Polish pension in respect of employment (insurance) only in Poland.

IMPORTANT

EU regulations on social security schemes co-ordination in respect of old-age, disability and survivors' benefits are not applicable to persons who have been employed or resident only in Poland.

EU co-ordination of social security schemes covers: • persons who are nationals of one of Member States of the European Union, the

European Economic Area or Switzerland • stateless persons or refugees resident in the territory of one of Member States • members of the families of the above persons, as well as • survivors of the above persons (e.g. spouse, children).

IMPORTANT

EU co-ordination of social security schemes covers Polish nationals – as the European Union nationals – who perform work or are resident in the territory of another Member State, and their family members.

Example 1

Community regulations on the coordination of social security schemes cover a Polish national, who had been working in Poland for 14 years and then was working in the United Kingdom for 11 years, and upon reaching an age of 60 years claims an old-age pension.

Example 2

Community regulations on the coordination cover survivors of the Polish national, who has worked for 22 years in the Netherlands and for 6 years in Poland, and namely his spouse and children, who are of Russian nationality and claim survivors' pension.

The EU co-ordination of social security schemes also covers survivors of persons who, not being the nationals of Member States, have worked in Member States, if those survivors are nationals of a Member State or stateless persons or refugees resident in the territory of one of Member States.

Example

A Lithuanian national, resident in Lithuania (being EU Member State) may claim survivors' (widow's) pension after the death of her husband who was a Russian national and has worked for 12 years in Lithuania and for 10 years in Poland. Her entitlement will be established pursuant to the Community law.

As mentioned above, the Agreement was concluded between the European Community and its Member States, of the one part, and Switzerland, of the other, on the free movement of persons. Pursuant to

this Agreement, the scope of EU regulations on coordination has been extended to relations between EU Member States and Switzerland, being the State, which has not joined the EU. The Agreement has been also applicable to Poland since 1 May 2004. It means that EU regulations on coordination may be also applicable to pension claimants who have completed insurance or residence periods in Poland, in other EU Member States and in Switzerland.

Example

The EU co-ordination of social security schemes covers a Polish national claiming pension who has completed an employment (insurance) period of 15 years in Poland, 2 years in the Netherlands and 10 years in Switzerland. In this case the right to Polish, Dutch and Swiss old-age pensions will be established pursuant to the Community law.

Pursuant to the Agreement on the European Economic Area the Community coordination of social security schemes has been also extended to non-EU Member States belonging to the European Economic Area, that is Norway, Iceland and Liechtenstein. The Agreement has been also applicable to Poland since 1 May 2004, and to Bulgaria and Romania since 1 August 2007. It means that EU regulations on coordination may be also applied to pension claimants who have completed insurance or residence periods in Poland and in other EEA Member States.

Example

The EU co-ordination of social security schemes covers a Swedish national claiming pension who has completed an employment (insurance) period of 7 years in Poland, 2 years in Sweden and 15 years in Norway (being an EEA Member). In this case the right to Polish, Dutch and Swiss old-age pensions will be established pursuant to the Community law.

By virtue of the above mentioned Council Regulation (EC) No. 859/2003 the scope of regulations on the coordination of social security schemes has been extended to nationals of non-EU Member States (third States) who are legally resident in a Member State and are in a legal situation which is not confined in all respects within a single Member State – that is e.g. have been employed in two Member States, or have been employed in one but are resident in another Member State.

Example 1

The EU coordination covers a Ukrainian national legally resident in Poland who had been employed in Czech Republic for 3 years and then was running a business in Poland for 2 years where he was taken seriously ill and now claims a disability pension.

Example 2

The EU coordination does not cover a pension claimant being the national and resident of Moldova who had been employed for 9 years in Sweden and then for 12 years in Poland. Her pension rights may be established only under the national legislations of States where she was insured (Sweden and Poland), without application of EU regulations on coordination, due to the fact that she is resident outside the EU territory.

EU regulations on the coordination are not applicable to nationals of third States resident in Denmark, Iceland, Norway, Liechtenstein and in Switzerland, or persons claiming pensions in respect of insurance or residence periods in these States.

Example

EU regulations on the coordination of social security schemes are not applicable to an Egyptian national living in Poland (Egypt is not a EU Member State) who has been employed for 15 years in Norway and for 15 years in Poland and upon reaching the age of 65 years claims an old-age pension. His pension rights may be established only under the national legislations of States, where he has been employed (Norway and Poland), without application of EU regulations on coordination, due to the fact that extension of coordination with regard to nationals of third States (for example a national of Egypt) does not relate to Norway.

Until the Agreement on the free movement of persons between the European Community and Switzerland enters into force with regard to Bulgaria and Romania, pension rights of nationals of these two States – claiming a Polish pension in respect of insurance periods completed in Poland and in Switzerland – will be established by Polish institutions only under Polish legal regulations, without application of rules for insurance and residence periods' aggregation, resulting from the Community law.

Example

EU regulations on the coordination will not be applicable with regard to a national of Romania claiming disability pension who has completed employment periods in Poland and in Switzerland. To establish the right to a Polish old-age pension, ZUS will take into account only periods of employment (insurance) completed by the claimant in Poland. To establish the right to a Polish benefit ZUS will not take into account periods of employment in Switzerland.

1.7. Which old-age, disability and survivors' benefits is the EU coordination concerned with?

EU regulations on the coordination of social security schemes concern social security benefits, in particular the long-term cash benefits in respect of old-age, invalidity, death as well as accidents at work and occupational diseases.

The following old-age, disability and survivors' benefits effected by ZUS are subject to EU coordination: • old-age pension • pension in respect of incapacity for work (including a training pension) • survivors' pension • nursing compensatory allowance • supplementary allowance to survivors' pension for complete orphans • pension in respect of incapacity for work due to accident at work or occupational disease with supplements • survivors' pension connected with accident at work • death grant.

However, the Community coordination does not cover benefits for victims of war, inter alia including benefits for veterans (such as veterans' allowances, energy allowance) as well as pensions in respect of war invalidity. If the person resident in other Member State is entitled to such a benefit (in some cases there is no right to benefits because of residence outside Poland), under the Polish legislation, the payment may be – on beneficiary's request – carried out to his/her bank account in Poland or delivered to a Polish resident whom the beneficiary had authorised to receive the benefit.

2. Basic principles of the EU co-ordination of social security schemes in respect of old-age, disability and survivors' benefits



2.1. Equal treatment

In accordance with the equal treatment principle, persons covered by Community coordination of social security schemes have the same responsibilities and enjoy the same rights resulting from pension legislation of each Member State as nationals of that State. EU legislation prohibits discrimination of such persons both in access to social insurance in any Member State and in exercising the right to benefits under legal regulations of these States.

Example

A Polish national claims old-age pension under the Danish legislation. In accordance with the Community law he enjoys the same rights and has the same responsibilities as a Danish national. He should be treated by the Danish institution investigating his pension claim as if he were a Danish national.

2.2. Aggregation of insurance or residence periods to establish the right to benefits

In accordance with the principle of aggregation of insurance or residence periods, in the event if the legislation of any State requires completion of insurance or residence periods of specified duration to acquire pension entitlement, the institution which establishes the right to the benefit will also take into account qualifying periods completed in other Member States, unless they overlap.

IMPORTANT

In the event if a benefit is claimed under the legislation of a given Member State by a person whose insurance or residence periods in this State are insufficient to acquire the right to benefit, the institution of this State will also take into account insurance (or residence) periods completed by the claimant in all other Member States.

2.3. Retention of acquired rights and export of benefits within the European Union

According to the rule of retention of acquired rights, benefits granted by the institution of one of Member States may not be harmed in any way, in particular they may not be reduced, changed, suspended or abrogated on the grounds that the beneficiary stays or is resident in the territory of a Member State other than that responsible for benefits payment.

It means that amount of benefit payable to a pensioner may not be reduced or entitlement thereto may not be suspended on account of pensioner's residence in the territory of a Member State other than that whose institution has awarded this benefit.

Pensioners have the right to receive their benefits in their place of residence/stay irrespective of the Member State of their residence.

2.4. Equal treatment of certain episodes and circumstances covered by protection

Social insurance institutions of each Member State are obliged to consider certain episodes and circumstances affecting the award of benefits (such as the death of a person insured, a pensioner or a member of his or her family, conclusion, continuation and termination of employment relationship) even if these episodes have occurred in the territory of another Member State.

IMPORTANT

Death of a person covered by the Polish social insurance legislation, which occurred in the territory of another Member State, will be deemed to have occurred in the territory of Poland.

Conclusion, continuation and termination by a person claiming a Polish old-age pension of employment relationship with a foreign employer from another Member State will be equally treated with conclusion, continuation and termination of employment relationship with the Polish employer.

3. A person claiming Polish old-age, disability and survivors' benefits subject to EU coordination



Entitlements of pension claimants are governed by EU regulations on the coordination of social security schemes in a situation if:

- the claimant was employed in two or more Member States or
- he or she was employed in one Member State but is resident in another Member State, under the condition that such person is covered by EU regulations (i.e. is a national of one of Member States, a stateless person or a refugee resident in the EU territory or a national of the third State resident in the territory of a Member State, who was employed in Member States, etc.).

3.1. Pensions

3.1.1. *Establishing the right to benefits under the national legislation*

To acquire pension rights in a Member State one should satisfy all the qualifying conditions for entitlement thereto in that State.

IMPORTANT

To be awarded a pension in a Member State one should satisfy the requirements under the legislation of that State.

A person who has completed insurance periods in Poland may claim Polish pension if he or she satisfies the qualifying conditions for entitlement thereto under the Polish legislation.

EU regulations on the coordination are intended to facilitate satisfaction of these conditions, for example by means of a mechanism of aggregation of insurance and residence periods completed in Member States.

It should be mentioned that a person who has never been insured in Poland only in another Member State, will not be awarded Polish old-age, disability or survivors' benefits.

3.1.2. Only Polish insurance – only Polish benefits

Pension claim of a person who was covered by insurance only in Poland and has never completed any insurance or residence periods in another Member States, is investigated only by the Polish institution. To be awarded a specific benefit the claimant should meet all the qualifying conditions for entitlement thereto under the Polish legislation.

3.1.3. Insurance in two or more Member States – benefits from each of States where insurance or residence periods were completed

A person who was insured (employed) in various Member States may simultaneously claim pension in each of them. Benefits are established in parallel by insurance institutions of each of States where the claimant was insured. In result, the insured person may receive for example three old-age pensions, granted and payable by the competent institutions of each of Member States, where he or she had completed insurance or residence periods. In each of these States, however, all the qualifying conditions for entitlement to the benefit must be satisfied. EU legislation facilitates satisfaction of the qualifying conditions under the legislation of each country, but does not waive them.

It should be born in mind that to initiate the award procedure in all the States where the claimant was insured it is sufficient to lodge a claim with the institution of one of those States (unless the person insured expressly requests deferment of the award of old-age benefits under the legislation of one of Member States). A date of submission of the claim to the competent institution of a given State is binding upon all the institutions which establish the right to benefits.

IMPORTANT

The claimant may expect so many old-age, disability or survivors' benefits as there were States of his or her insurance.

3.1.4. Entitlements in respect of insurance or residence periods of less than one year

In the event if the duration of the insurance (or residence) period of a pension claimant in a given Member State is less than one year, thus not giving any entitlement to benefit under the national legislation of that State, the institution of that Member State will not award such

benefit. This short period will be taken into account by institutions of other Member States when establishing the amount of pensions.

It means that a person who was employed in a given State for a period less than one year should not expect any pension from this State, unless the national legislation of this State provides for entitlement to benefits in respect of such short periods.

Example

A woman claiming an old-age pension was employed in Poland for 11 months, in Slovakia for 9 months, and in Germany for 38 years. No Polish benefits are awarded in respect of insurance periods in Poland (equal to 11 months). Similarly no Slovak benefits are awarded in respect of insurance periods completed in Slovakia (9 months). For this reason the Polish and the Slovak institution will not grant and will not pay any benefits.

In this situation the German institution will take into consideration Polish and Slovak insurance periods while calculating the amount of the German old-age pension.

3.1.5. Aggregation of insurance or residence periods to establish the right to benefits

In the event if the legislation of any State requires insurance or residence periods of specified duration to be completed in order to acquire the right to a pension, the institution, which establishes the entitlement will also take into account (aggregate) qualifying periods completed in other Member States.

IMPORTANT

The pension qualifying period in any Member State aggregates insurance or residence periods completed in all the Member States.

Thus, if a person claiming pension in Poland has completed contributory and non-contributory periods which are too short to acquire the right to benefits by virtue of the Polish legislation, insurance or residence periods completed in all other Member States are added to Polish insurance periods.

Example

To establish the right to the old-age pension of the 65-year old man who has completed an insurance period of 18 years in Poland (insufficient to acquire the right to a Polish old-age pension) and an insurance period of

7 years in France, ZUS will aggregate both periods. It will allow the claimant to satisfy a qualifying condition of 25-year contributory and non-contributory period, required to be awarded the Polish old-age pension.

In the event if the right to Polish benefits is established taking into consideration insurance or residence periods completed in other Member States, all insurance periods completed in these States are aggregated irrespective of whether they have been completed prior to or after the date of Poland's accession to the European Union.

3.1.6. Benefits' calculation if foreign qualifying periods' aggregation was necessary for acquisition of rights (pro rata temporis principle)

The principle of aggregating insurance or residence periods completed in other Member States means that the benefit is calculated and paid in pro-rata amount corresponding to the ratio between the duration of the qualifying periods completed in a given Member State and the total duration of the qualifying periods completed in all the Member States concerned.

In such situation the pension amount is calculated – in accordance with the *pro rata temporis* principle – in two stages:

- first – theoretical (full) amount of the benefit is calculated, which is an amount that would be awarded to the claimant should he or she complete all insurance or residence periods under the legislation applied by the institution of a given Member State,
- then – on the basis of theoretical (full) amount of the benefit an actual (pro-rata) amount is calculated by applying to the theoretical amount the ratio between the duration of the insurance or residence periods completed in a given Member State and the total duration of the insurance and residence periods completed by the claimant in all the Member States concerned.

Example

ZUS has established the right to the old-age pension of a 60-year old woman who had completed insurance periods in three States: in Poland – 9 years, in Czech Republic – 4 years and in Lithuania – 7 years.

Due to the fact that to satisfy a condition of completing the 20-year contributory and non-contributory period it was necessary to aggregate insurance periods completed by the claimant in Czech Republic and in Lithuania, the pension amount will be calculated in two stages:

— first – theoretical (full) amount of the benefit will be calculated, that is an amount, which would be awarded to the claimant should she complete the whole 20-year period in Poland,

— then – an actual (pro-rata) amount will be calculated by multiplying the ratio of insurance periods (9/20) and an amount of full benefit calculated for 20 years of insurance.

For example: if the old-age pension calculated for 20 years' employment amounted to 1000 PLN, an actual (pro-rata) amount of the pension would be 450 PLN ($1000 \text{ PLN} \times 9/20 = 450 \text{ PLN}$).

Czech and Lithuanian institutions will also investigate the pension claim. The claimant who satisfies the qualifying conditions for acquisition of the right to the old-age pension in all three States where she or he has been employed, will receive three pro-rata old-age pensions granted by the Polish, the Czech and the Lithuanian institution.

IMPORTANT

If to establish the right to the benefit ZUS takes into consideration – beside Polish insurance periods – also insurance and residence periods completed in other Member States, it will calculate the pro-rata amount of the pension taking into account the ratio between the duration of the insurance periods completed in Poland and the total duration of the insurance periods completed in Poland and in other Member States.

3.1.7. Granting a more advantageous benefit to a person who has completed required insurance or residence periods in a given State but was also insured in other States

If a person claiming pension has completed insurance or residence periods sufficient to acquire the right to benefits in a given State, and apart from these periods has also completed insurance or residence periods in other Member States, an institution, which established the right to benefits, is obliged to proceed as follows:

- first it should calculate an amount of the benefit taking into consideration qualifying periods completed only in its own State;
- then it should calculate a pro-rata amount of the benefit, taking into consideration a total duration of qualifying periods completed in its own country and foreign periods, in accordance with the *pro rata temporis* principle;

● finally it will have to compare amounts of benefits calculated as described above and to award benefit in amount, which is more advantageous to the claimant.

Example

ZUS is investigating a pension claim of a 65-year old man who has completed insurance periods: in Poland – 26 years and in the United Kingdom – 6 years.

Taking into consideration only the insurance period completed in Poland (26 years), the claimant satisfies the qualifying conditions for the Polish old-age pension, thus an amount of this pension will be calculated by ZUS in two variants:

● *variant I – an amount of a Polish pension for 26 years of insurance in Poland (national pension);*

● *variant II – an amount of a Polish pension taking into consideration aggregated insurance periods, completed in Poland and in the United Kingdom (pro-rata pension) – in accordance with the pro rata temporis principle, that is in two stages:*

— *first – theoretical (full) amount of the Polish old-age pension will be calculated, that is the pension that would be awarded if all insurance periods (32 years) were completed under the Polish legislation,*

— *then an actual amount will be calculated – a pro-rata amount of the Polish old-age pension, taking into account the ratio between the duration of the insurance periods completed in Poland and the total duration of the insurance periods completed in Poland and in the United Kingdom (that is 26/32), and finally it will compare amounts of benefits calculated in both variants and will award the old-age pension in amount, which is more advantageous to the claimant.*

A UK institution will also establish entitlement to and calculate an amount of the old-age pension in accordance with British regulations, in application – where necessary – of EU regulations on aggregation of insurance or residence periods completed in other Member States (in this case – insurance periods completed in Poland).

If the claimant satisfies the qualifying conditions for pension entitlement in both States, he will receive benefits granted by institutions of both States (Polish old-age pension and British old-age pension).

Different rules will govern the so called new old-age pensions, which will be granted starting from 1 January 2009. The right to these pensions will be independent of the length of contributory and non-

-contributory periods completed in Poland. The aforementioned pensions will be awarded to persons born after 31 December 1948 who do not qualify for the early retirement pension.

The right to the old-age pension under the new principles will be enjoyed by people covered by the Polish social insurance system irrespective of the length of their insurance periods.

Pensions will be calculated without having recourse to foreign periods of insurance or residence in amount resulting from the Polish legislation. The old-age pension under the new principles will be calculated on the basis of amount of contributions paid to the old-age pension insurance after indexation, recorded on individual account of the person insured by the end of the month preceding the month from which the pension is payable, and the amount of the indexed initial capital. The amount of the pension will be the quotient resulting from dividing the calculation basis by average life expectancy for persons in the age equal to the retirement age of the claimant.

People born after 31 December 1948 and not affiliated to the Open Pension Fund, who will reach the retirement age within the period from 2009 to 2013, will be awarded the so called mixed pension (unless they retired earlier under Articles 46 or 50 of the law of 17 December 1998 on pensions from the Social Insurance Fund). The amount of their pension will depend on the amount of the old-age pension calculated under earlier rules (benefit dependent on the insurance periods' duration) and on the pension amount calculated in accordance with the new rules (pension amount not depending on the insurance periods' duration but only on the balance of their account with ZUS and their initial capital). For example the old-age pension claimed by a person born after the aforementioned date, who reached the retirement age in 2009, will amount to:

— 80% of the pension calculated in accordance with Article 53 of the law on pensions from the Social Insurance Fund (benefit amount dependent on the insurance periods' duration)

and

— 20% of the pension calculated in accordance with Article 26 of the law on pensions from the Social Insurance Fund (pension amount not depending on the insurance periods' duration but only on the balance of a given person's account with ZUS and his or her initial capital).

In its part established under earlier rules the mixed pension will be calculated with having recourse to foreign periods of insurance

and residence. Therefore, with regard to people for whom aggregation of foreign periods was obligatory or only more advantageous, this part of the old-age pension is established with having recourse to foreign qualifying periods and with calculation of a pro-rata amount of the benefit, taking into consideration a total duration of insurance periods completed in Poland and aggregated periods completed by the claimant in all Member States in accordance with the *pro rata temporis* principle (see p. 20-21). However, this principle does not relate to a part of the mixed pension which is calculated under the new rules.

3.1.8. Special rules for granting disability pensions

Due to the differences in pension schemes of individual Member States, Community regulations on the coordination of social security schemes differentiate legal situation of a person claiming an invalidity (disability) pension who has been successively insured in Member States of different pension schemes.

Depending on the scheme that a given person was subject to, it may happen that the invalidity (disability) pension will be awarded only from the social insurance scheme of one Member State, i.e. the scheme that a given person was subject to when invalidity (disability) occurred. It may also happen that such pensions will be simultaneously awarded by institutions of more than one Member State, as it happens with old-age pensions (awarded by institutions of each Member State in which the claimant was insured).

Entitlement to disability pension from ZUS and amount of this pension is established in the same way as entitlement to and amount of the old-age pension. Beside Polish pension, the claimant may be awarded invalidity (disability) pensions also from other Member States of his or her insurance, if the qualifying conditions laid down in regulations of those States have been met.

The right to the Polish pension will be established by virtue of regulations on aggregation of foreign qualifying periods and on calculation of a pension amount in accordance with the *pro rata temporis* principle.

Thus, entitlement to the invalidity (disability) pension of a person who has completed insurance or residence periods in various Member States, including insurance periods in Poland, is established in parallel by institutions of each of States where qualifying periods have been completed, including the Polish institution.

Example

A man who had completed insurance periods successively in Poland and in Slovakia, has submitted a claim for a pension in connection with his incapacity for work which occurred in the period of employment in Slovakia.

His pension entitlement will be established by institutions of Poland and of Slovakia pursuant to their national legislations and Community regulations, similarly as in the case of the old-age pension (that is by virtue of regulations on aggregation of insurance periods to establish the right to benefits, calculate benefits in accordance with pro rata temporis principle, etc.). In result, the claimant may be awarded the right to pro-rata invalidity (disability) pensions from two Member States: Poland and Slovakia.

IMPORTANT

The disability pension from ZUS for a person who has completed insurance periods in Poland and in other Member States will be determined by virtue of the same coordination rules as are applicable with regard to the old-age pension from ZUS.

3.1.9. Granting survivors' pensions and different situation of an orphan of a person deceased who has been employed not only in Poland, but also in the State whose legislation does not provide for survivors' pensions for orphans

Entitlement to survivors' pension is investigated by institutions of all States where the person deceased was insured, under the same principles as in the case of the old-age pension. These rules are also applicable in the case of claiming Polish survivors' pension.

Example

A widow of an Austrian national, who had completed insurance periods in Austria and in Poland, has submitted a claim for a survivors' pension.

Her entitlement to the survivors' pension will be established by institutions of Austria and Poland pursuant to their national legislations, considering the Community regulations, similarly as in the case of the old-age pension (that is by virtue of regulations on aggregation of insurance periods to establish the right to benefits, calculate benefits in accordance with pro rata temporis principle, etc.).

In result, the claimant may acquire the right to the pro-rata survivors' pensions from two Member States.

IMPORTANT

Special regulations on survivors' pensions are applicable where a pension is claimed from ZUS by an orphan (a child) of the deceased person who was subject not only to the Polish legislation, but also – at any time – to legislation of such Member State, which does not provide for orphan pensions (survivors' pensions for orphans), but only for family allowances or special allowances for orphans. Such allowances are provided for in the legislation of Belgium, Denmark, France, Ireland and United Kingdom.

EU regulations provide special rules for establishing and paying benefits to children (orphans) being the survivors of a person who has completed insurance or residence periods in Member States, including at least one Member State where only family allowances or special allowances for orphans are provided for. Under the aforesaid special regulations payment of benefits to orphans is the responsibility of the institution of only one of Member States where the deceased has completed qualifying periods.

The institution of the State of orphan's residence is responsible for payment of the benefit if entitlement to benefits is acquired under the legislation of that State.

If the deceased was not subject to social insurance system in the State of orphan's residence, benefits are payable by the institution of the State where the deceased has completed the longest qualifying periods, and if the qualifying periods in various Member States were of equal duration – the institution of the State where the deceased has recently completed his qualifying periods.

Thus, if the deceased has completed insurance or residence periods in Poland and in Member State where only family allowances or special allowances for orphans are provided for (e.g. in the United Kingdom, France or Belgium), and the orphan claiming the benefit is resident:

— in Poland – the orphan is awarded the survivors' pension calculated in accordance with the Polish legislation,

— abroad in another Member State – the orphan is awarded the survivors' pension or the family allowance/special allowance for orphans under the legislation of the State of residence.

Nevertheless, the institutions of other Member States where the deceased has completed insurance or residence periods will be also responsible for the award of benefits under the legislation of their respective States and then they will have to suspend payment of these benefits in part equal to the amount of benefits for orphans awarded in the State responsible for their payment. The aforesaid institutions will pay orphan supplementary allowances in amount equal to a difference between the amount of their own benefit and the amount of benefit awarded in the State responsible for their payment.

Example

A claim for survivors' pension has been submitted by a French resident being an orphan of a person who had been successively employed in Poland, in Germany and in France.

French legislation does not provide for survivors' pensions for orphans, but Polish and German legislations do.

The claim was investigated by the French institution as the institution of the place of residence of the orphan. It granted French orphan's allowance under the French legislation.

In this case the Polish and German institutions will suspend the right to survivors' pensions for the orphan, resulting from the Polish and German legislations, to the amount of French orphan's allowance. It means that if the amount of Polish or German survivors' pension is higher than that of French orphan's allowance, the Polish or German institution will be obliged to pay a differential supplement for the sum, which exceeds the amount of French orphan's allowance.

EU legislation on coordination also contains further regulations on benefits for orphans, which – on account of their detailed character – have not been described here. Information regarding these regulations is available in ZUS organisational units.

3.1.10. Medical certificates issued by ZUS for pension purposes to residents of Member States other than Poland

A person claiming disability pension from ZUS (or other benefit whose award is subject to a condition of certified incapacity for work), resident in another Member State, need not visit ZUS evaluating doctor (or ZUS medical board) in each case. Incapacity for work of such person is assessed by ZUS evaluating doctor (or ZUS medical board) on the basis of medical opinion from the competent institution (doc-

tor) of his or her State of residence or basing on documents supplied by this person.

IMPORTANT

Medical reports and opinions issued by foreign doctors or institutions are binding upon ZUS when establishing the right to Polish benefits in respect of incapacity for work. They are subject to appraisal by ZUS evaluating body.

ZUS may arrange for medical examinations to be carried out, or medical documentation to be supplied by a foreign institution of the Member State where the person claiming Polish pension is resident, for the purposes of assessing incapacity for work of the claimant.

3.2. Special rules for granting pension in respect of accident at work or occupational disease

3.2.1. General rules covering persons

who have been subject to insurance in one single Member State

A person who has been subject to insurance in one single Member State is entitled to the pension in respect of accident at work or occupational disease only from the institution of that Member State, even if accident at work was sustained or occupational disease was contracted in another Member State.

Example 1

In the period of employment (insurance) in Spain a worker, being the Polish national, sustained an accident at work and submitted, in this connection, a claim for disability pension.

In this case the Spanish institution will be competent to establish his pension rights, because at the moment of accident at work the person concerned was subject to insurance in Spain.

Example 2

A national of Estonia – employed in a Lithuanian enterprise – was posted to work in Poland for a period of 8 months, however he continued to be subject to insurance in Lithuania. In the period of performing work in Poland he sustained an accident at work and in this connection submitted a claim for disability pension.

In this case the Lithuanian institution will be competent to establish his pension rights, because at the moment of accident at work the person concerned was subject to Lithuanian insurance.

3.2.2. Establishing the right to pensions in respect of accidents at work or occupational diseases with regard to persons who have been subject to insurance in two or more Member States

A person who was subject to insurance successively in two or more Member States is entitled to pension in respect of accident at work or occupational disease only from the institution of the Member State whose legislation was applicable at the time when the accident at work was sustained or the occupational disease was contracted.

Example

A woman was employed successively: • in the United Kingdom – in the period 1987-1992 • in Sweden – in the period 1995-1999 • in Poland – in the period 2000-2006.

In 2006 she sustained an accident at work and submitted a claim for the disability pension in connection with this accident.

In this case only the Polish institution will be competent to establish the right to the pension, because at the moment of accident at work Polish accident insurance was applicable.

IMPORTANT

Even if the person concerned was subject to insurance in several Member States, the pension in respect of accident at work or occupational disease will be granted only by one Member State, whose legislation was applicable at the time when the accident was sustained.

3.2.3. Special rules for pensions in respect of occupational disease for a person who has successively worked in various States in conditions likely to cause the disease in question

A person with diagnosed occupational disease who performed work likely to cause the disease in question successively in two or more Member States, is covered by special rules.

Benefits that the mentioned person or his/her survivors may claim are granted only under the legislation of the last of States where the work likely to cause the disease was performed.

If the qualifying conditions for benefits' entitlement laid down in the legislation of that State have not been satisfied, the claim will be investigated by the institution of the State where the claimant had earlier performed work likely to cause the disease in question, and in the case of non-satisfaction of its requirements – institutions of subsequent States where the claimant had earlier performed such work.

Example

A man was employed as a steelworker successively in the following States: • in Czech Republic – in the period 1984-1989 • in Poland – in the period 1990-1997 • in Spain – in the period 1998-2006.

During his work in Spain he contracted an occupational disease connected with his work in metallurgy.

He submitted a claim for pension in respect of occupational disease.

In this case the Spanish institution is competent to investigate the pension claim, because the claimant has recently pursued an activity likely to cause the occupational disease in question in Spain (was subject to Spanish legislation).

In the event if all the qualifying conditions for pension in respect of occupational disease have been satisfied under the Spanish legislation, the institution of that State will award appropriate benefits to the claimant. If the Spanish institution refuses the right to benefits, the pension claim will be further investigated by the Polish institution because the claimant had performed, directly before his employment in Spain, work in Poland in capacity of a steelworker, that is had pursued an activity likely to cause the occupational disease in question.

3.3. Death grant in respect of death of a pensioner or his or her family member

The right to death grant in respect of death of a pensioner or his or her family member is established by the institution which had earlier paid the pension to the person deceased. This rule also covers situations where the pensioner (at the moment of death) was resident in a different State than that from which he acquired the right to the pension, or where the death occurred in another Member State.

The rule is that the death grant may be received only from one single Member State.

Example

ZUS pensioner resident in France died during her stay in Spain. Her son resident in Spain, who covered the cost of the funeral, claims a death grant.

In this case the Polish institution (ZUS) will be competent to establish the right to the death grant.

Polish death grant awarded by ZUS will be paid to the son resident in Spain.

In the event of death of a person entitled to pension (or his/her family member) under the legislations of two or more Member States – where one State was pensioner’s State of residence at the moment of death (the pensioner died in the territory of the State of residence) – the right to death grant is established only under the legislation of the State where the person concerned was resident at the moment of death. Entitlement to death grant resulting from the legislations of other Member States will expire.

Example

A person resident in Poland has received three pro-rata old-age pensions in respect of work in Poland, in Spain and in Czech Republic: Polish (from ZUS), Spanish and Czech.

Entitlement to death grant (death occurred in Poland) will be established in this case by the Polish competent institution (ZUS). Entitlement to death grant resulting from Spanish and Czech legislations will expire.

EU regulations contain further provisions, of special nature, on awarding death grants. Information regarding these regulations is available in ZUS organisational units.

3.4. Where and under which procedure old-age, disability and survivors’ benefits subject to EU coordination should be claimed

3.4.1. Polish institutions obliged to investigate claims for pensions subject to EU coordination

A claim for old-age, disability or survivors’ benefits pursuant to EU regulations on the coordination is investigated by the so called competent institution.

The competent institution means an insurance institution of a Member State, which is competent to investigate a given claim.

The following institutions are obliged to investigate claims for pensions subject to EU coordination in Poland:

- Social Insurance Institution (ZUS),
- the Agricultural Social Insurance Institution (KRUS),
- Military Pension Office in Warsaw,
- Pension Unit of the Ministry of Internal Affairs and Administration in Warsaw,
- Pension Office of Prison Service in Warsaw,
- Ministry of Justice.

When assessing which of them is competent to investigate a given claim for benefits in accordance with the EU regulations on the coordination it is important to determine the type of activity pursued by the claimant in Poland (has he or she been insured with ZUS, KRUS or has completed periods of service, etc.). The type of activity pursued by the claimant in other Member States is meaningless here. To indicate the Polish institution responsible for investigating pension claim it is not important whether the claimant was insured abroad in a workers' scheme, farmers' scheme or for example was an officer of uniformed services.

3.4.2. In which cases ZUS is competent to investigate a claim for Polish old-age, disability and survivors' benefits

The Social Insurance Institution is competent to investigate claims for Polish old-age, disability and survivors' benefits under EU regulations on coordination with regard to persons who were employed or self-employed (run a business outside agriculture). It is not competent to investigate claims for old-age, disability or survivors' benefits with regard to persons who were covered in Poland by the social insurance scheme for farmers, pension schemes for uniformed services or judges and public prosecutors.

Besides, ZUS is competent to investigate pension claim with regard to:

- persons who have completed insurance and residence periods in Poland and abroad, including periods completed as employed or self-employed persons (run a business outside agriculture) and as farmers, if the period of insurance as an employed or a self-employed person has been recently completed in Poland,
- professional soldiers claiming old-age pension, if their total period of service is less than: • 10 years – for soldiers dismissed from the service before 1 January 1983 • 15 years – for soldiers dismissed from the service after 31 December 1982,

■ professional soldiers claiming disability pension, if the period of employment or self-employment has been recently completed in Poland,

■ officers of the Police, Citizens Militia, Office of State Protection, Internal Security Agency, Foreign Intelligence Agency, Military Counterintelligence Service, Military Intelligence Service, Central Anti-Corruption Bureau, Border Guards, Government Security Bureau, State Fire Service, claiming old-age pension, if their total period of service is less than: • 10 years – for officers who have finished their service before 1 April 1983 • 15 years – for officers who have finished their service after 31 March 1983,

■ officers of the Police, Citizens Militia, Office of State Protection, Internal Security Agency, Foreign Intelligence Agency, Military Counterintelligence Service, Military Intelligence Service, Central Anti-Corruption Bureau, Border Guards, Government Security Bureau, State Fire Service, claiming the disability pension, if the period of employment or self-employment has been recently completed in Poland,

■ officers of the Prison Service claiming old-age pension, if their total period of service is less than: • 10 years – for officers dismissed from the service before 1 April 1983 • 15 years – for officers dismissed from the service after 31 March 1982,

■ officers of the Prison Service claiming the disability pension, if the period of employment or self-employment has been recently completed in Poland.

A claim for disability pension in respect of accident at work or occupational disease is investigated by ZUS in the event if the claimant was subject to work accident insurance in ZUS at the moment when the accident or the occupational disease occurred.

A claim for disability pension in respect of occupational disease for a person who was also insured with social security schemes of other Member States is investigated by ZUS in the event if the claimant has recently pursued an activity likely to cause the occupational disease in question and in this period was subject to insurance in ZUS.

3.4.3. Organisational units designated by ZUS President to investigate claims for pensions subject to EU coordination

Six units have been designated within the Social Insurance Institution to cooperate with the competent institutions of Member States in investigation of claims for old-age, disability and survivors' benefits on the basis of Regulation (EEC) No. 1408/71 and Regulation (EEC) No. 574/72. They are the following:

- The Social Insurance Institution – Branch in Łódź
Division for Implementation of International Agreements
Zamenhofa 2, 90-431 Łódź
tel. No.: +48 (42) 638-29-67

This unit is competent with regard to:

- persons who have completed solely Polish insurance periods, resident in **Cyprus, Greece, Spain, Malta, Portugal, Italy** and
- persons who have completed Polish and foreign insurance periods (aggregated), of which recently completed in **Cyprus, Greece, Spain, Malta, Portugal, Italy** – irrespective of their State of residence.

- The Social Insurance Institution – Branch in Nowy Sącz
Division for Implementation of International Agreements I
Węgierska 2, 33-300 Nowy Sącz
tel. No.: +48 (18) 443-78-48 ext. 3315, 3316

This unit is competent with regard to:

- persons who have completed solely Polish insurance periods, resident in **Czech Republic** or **Slovakia** and
- persons – who have completed Polish and foreign insurance periods (aggregated), of which recently completed in **Czech Republic** or **Slovakia** irrespective of their State of residence.

- The Social Insurance Institution – Branch in Nowy Sącz
Division for Implementation of International Agreements II
with head office in Inspectorate in Tarnów
Kościuszki 32, 33-100 Tarnów
tel. No.: +48 (14) 622-05-85,
+48 (14) 621-43-71 to 74 ext. 306

This unit is competent with regard to:

- persons who have completed solely Polish insurance periods, resident in **Austria, Liechtenstein, Slovenia, Hungary, Switzerland** and
- persons who have completed Polish and foreign insurance periods (aggregated), of which recently completed in the following States:

Austria, Liechtenstein, Slovenia, Hungary, Switzerland – irrespective of their State of residence.

- The Social Insurance Institution – Branch in Opole
Division for Implementation of International Agreements
Wrocławska 24, 45-701 Opole
tel. No.: +48 (77) 451-15-12, +48 (77) 451-16-00,
+48 (77) 451-14-86, +48 (77) 451-16-81,
+48 (77) 451-15-40, +48 (77) 451-17-58,
+48 (77) 451-17-61

This unit is competent with regard to:

- persons who have completed solely Polish insurance periods, resident in **Germany** and
- persons – who have completed Polish and foreign insurance periods (aggregated), of which recently completed in **Germany** irrespective of their State of residence.

- The Social Insurance Institution – Branch in Szczecin
Division for Implementation of International Agreements
Matejki 22, 70-530 Szczecin
tel. No.: +48 (91) 459-65-24, +48 (91) 459-69-28

This unit is competent with regard to:

- persons who have completed exclusively Polish insurance periods, resident in **Denmark, Estonia, Finland, Iceland, Lithuania, Latvia, Norway, Sweden** and
- persons who have completed Polish and foreign insurance periods (aggregated), of which recently completed in **Denmark, Estonia, Finland, Iceland, Lithuania, Latvia, Norway, Sweden** – irrespective of their State of residence.

- The Social Insurance Institution – Branch I in Warsaw
Central Bureau for Servicing International Agreements
Kasprówicza 151, 01-949 Warszawa
tel. No.: +48 (22) 569-36-04, +48 (22) 569-36-74,
+48 (22) 827-36-46

This unit is competent with regard to:

- persons who have completed exclusively Polish insurance periods, resident in **Belgium, Bulgaria, France, the Netherlands, Ireland, Luxembourg, Romania, United Kingdom** and
- persons who have completed Polish and foreign insurance periods (aggregated), of which recently completed in **Belgium, Bulgaria, France, the Netherlands, Ireland, Luxembourg, Romania, United Kingdom** – irrespective of their State of residence.

The above mentioned units – within the Social Insurance Institution structure – play the role of the competent institutions in respect of old-age, disability and survivors' benefits subject to coordination. They are obliged to investigate pension claims under EU regulations on coordination, and to cooperate with relevant institutions of other Member States in benefit issues.

Current addresses and telephone numbers of these units are available in the nearest ZUS unit and under the following address: **www.zus.pl**.

The mentioned units also investigate claims for pensions in respect of occupational disease and claims for pensions in respect of accident at work submitted to ZUS by persons resident outside Poland.

Claims of Polish residents for pensions in respect of accident at work are investigated by local ZUS unit competent for the place of residence of the claimant, which – if such pension is awarded – will also pay the benefit.

3.4.4. The rules for submitting to ZUS claims for old-age, disability or survivors' benefits awarded under the Community regulations on the coordination

The procedure for award of pensions subject to EU coordination is initiated in the Social Insurance Institution on the basis of a claim by the person concerned or his/her proxy. The claim should be submitted to the competent ZUS organisational unit.

Award of a Polish pension pursuant to Community regulations on the coordination takes place not earlier than from a month when the claim was submitted, in any case not earlier than from 1 May 2004, that is from the date when Community regulations entered into force in Poland (• with regard to Switzerland – not earlier than from 1 April 2006 that is from entry into force of the Agreement between the Eu-

ropean Community and its Member States, of the one part, and the Swiss Confederation, of the other, on the free movement of persons

- with regard to Bulgaria and Romania – not earlier than from 1 January 2007 that is from the date of accession of these States to the European Union).

When the claimant is resident in Poland...

In the event if ZUS is the Polish competent institution, and the claimant is permanently resident in Poland after having completed insurance periods in Poland and in other Member States, the pension claim should be submitted to one of units of the Social Insurance Institution, designated by ZUS President – according to its competence (see: p. 34-36). The claim may be also submitted to ZUS branch of the claimant's place of residence, which will forward it – after its completing – to the competent ZUS organisational unit for investigation (if the claimant is resident in Poland the claim for pension in respect of accident at work will be investigated by ZUS branch of claimant's place of residence).

Example

A person resident in Białystok who has completed insurance periods in Poland, in Lithuania, in Belgium and in Portugal, claims old-age pension.

Due to the fact that she has completed insurance periods in Poland and in other Member States, of which recently in Portugal, ZUS Branch in Łódź will be competent to investigate the pension claim (its Division for Implementation of International Agreements).

The claim may be submitted directly to Łódź ZUS Branch or to ZUS Branch in Białystok (or to an inspectorate closest to claimant's place of residence), which will forward the claim – after its completing – to the competent ZUS Branch in Łódź. Upon termination of the pension procedure, a decision on award or refusal of the old-age pension will be taken in this case by ZUS Branch in Łódź.

When the claimant is resident in another Member State...

The person concerned who is permanently resident in a Member State other than Poland and has completed insurance periods only in Poland, may submit a claim for Polish pension directly to ZUS organisational unit designated as competent for such cases.

The claim may be also submitted through the social insurance institution of the State of residence, which will forward it to the competent ZUS organisational unit for investigation.

Example

A resident of the Netherlands, who has completed insurance periods only in Poland as a self-employed person outside agriculture, claims Polish disability pension.

He may submit his pension claim directly to the designated Polish organisational unit of ZUS, i.e. in this case to the Central Bureau for Servicing International Agreements in ZUS Branch I in Warsaw, or to the Dutch insurance institution, which will forward the claim to the Central Bureau for Servicing International Agreements.

A person concerned who is permanently resident in other Member State and has completed insurance periods in Poland and in the State of residence, should submit the pension claim to the competent foreign institution of the place of residence.

Example

A Hungarian resident who has completed insurance periods in Poland, in Czech Republic and in Hungary, claims old-age pension.

He should submit his claim to the competent Hungarian social insurance institution of his place of residence, which will forward it inter alia to ZUS Branch in Nowy Sącz – Division for Implementation of International Agreements II, with head office in Inspectorate in Tarnów, that is to a ZUS organisational unit competent for investigating the claim for Polish old-age pension.

A resident of a Member State other than Poland where he has not completed any insurance periods, who has completed insurance periods in other Member States, including recently in Poland, may submit the pension claim directly to the competent institution, in this case to the designated ZUS organisational unit, or to the insurance institution of the State of residence.

Example

A resident of Malta, who has completed insurance periods in Lithuania, in Sweden and recently in Poland claims old-age pension.

She should submit her pension claim directly to the designated ZUS organisational unit, in this case ZUS Branch in Szczecin – Division for Implementation of International Agreements.

She may also submit her claim to the institution of the State of residence, that is Malta, which will forward it for investigation to ZUS Branch in Szczecin.

Under Community regulations the pension claim submitted to the institution of one of the Member States will be deemed to be submitted to institutions of all Member States, where insurance (or residence) periods have been completed. It means that a person claiming the old-age pension in several Member States need not submit several separate claims to the competent institutions of various States, but a single claim to the institution of one State. This claim will be binding upon all other institutions where the claimant was insured.

IMPORTANT

A date of submitting the claim to the institution of one Member State is binding upon the competent institutions of all other Member States where the claimant was insured.

3.4.5. Which documents should be attached to the claim submitted to ZUS for old-age, disability or survivors' benefits subject to EU coordination

Submission to ZUS of a claim for Polish pension subject to EU coordination is governed by rules laid down in the Polish pension legislation (that is the law of 17 December 1998 on pensions from the Social Insurance Fund).

The claim should be submitted on one of ZUS forms:

- **ZUS Rp-1** – a claim for old-age or disability pensions,
- **ZUS Rp-2** – a claim for survivors' pensions.

An appropriate form should be completed in a precise and legible way and endorsed with the signature. To facilitate claim investigation, provided information should be valid, complete and reliable.

The claimant should append the following documents to his or her claim drawn up on the national form ZUS Rp-1 or ZUS Rp-2:

1) EU form **E 207 PL** – „Certificate concerning the insured person's insurance history” (the claimant should complete item 7 precisely and legibly, providing a detailed information relating to all insurance periods completed in individual Member States; the form should be legibly signed by the claimant),

2) documents justifying the award of Polish benefits and calculation of their amount, specified in the Polish regulations on procedure for award of old-age, disability or survivors' benefits (i.e. such available documents as: insurance cards, certificate ZUS Rp-7, employment certificates, excerpts of registry office records; and in relevant situations

– an accident report, an accident card, a decision taken by competent bodies of sanitary inspection certifying the occurrence of occupational disease),

3) documents certifying insurance periods completed in Member States other than Poland, and in their absence – information relating to a foreign institution where the claimant was insured, a number of foreign insurance or names and addresses of employers.

In the event if the claimant may be also entitled to benefits from a Member State other than Poland, ZUS will complete the claim for foreign benefits and forward it to the competent institutions of Member States where the claimant has completed foreign insurance periods.

On this basis the competent institutions of all Member States where the claimant has completed insurance periods, will investigate the claim to establish the pension entitlement in accordance with their national legislations, pursuant to the Community regulations on the coordination.

A death grant in respect of death of a pensioner or his/her family member should be claimed on form **ZUS Z-12**. If the claimant is resident in another Member State, the claim may be submitted on form **E 124** – „A claim for death grants”. In both cases the claim should be accompanied with documentation necessary to award Polish death grant, including an excerpt of a certificate of death and invoices certifying the incurred costs of the funeral.

National forms of claims (ZUS Rp-1, ZUS Rp-2 and ZUS Z-12) and EU forms (E 207 PL and E 124) are available in each local ZUS organisational unit, and also – in an electronic format – at a website: **www.zus.pl**.

The detailed information relating to these issues is available in ZUS organisational units.

4. A recipient of Polish old-age, disability or survivors' benefits resident abroad in another Member State



4.1. Effects of the rule for the retention of acquired rights with regard to Polish pensioners resident abroad in another Member State

Thanks to application of EU regulations on the coordination, a Polish pension received by a beneficiary resident in other EU Member State, in Switzerland, or in a State belonging to the European Economic Area not being a EU Member (Iceland, Liechtenstein, Norway), may not be reduced or suspended due to beneficiary's residence outside Poland.

It means that a Polish pension should be paid to a person resident in another Member State (for example in the United Kingdom, in Lithuania, in Bulgaria, in Switzerland, in Norway) in the same amount as if it was paid to a Polish resident. Residence in another Member State may not result in reduction or suspension of the right to a Polish benefit.

This rule does not infringe tax regulations, also the provisions of agreements to avoid double taxation concluded by Poland, which indicate the country – of beneficiary's residence or pension origin – where the benefit is subject to personal income tax.

4.2. Transfer of pensions to the State of residence

Retention of acquired rights is also connected with transfer – on the beneficiary's request – of pensions granted by the insurance institution of a given State to beneficiaries resident in another Member State.

IMPORTANT

ZUS pensioner may receive his/her benefits in the country of residence in the territory of the European Union, the European Economic Area or in Switzerland.

The right to receive Polish old-age, disability and survivors' benefits in the State of residence may be exercised both by persons who had

been already resident abroad at the moment of acquiring the right to the benefit and persons who left Poland for permanent residence in another Member State already after the award of Polish benefits.

Transfer of Polish pensions to persons resident in other Member States is carried out directly by ZUS – mainly via bank to beneficiaries' bank accounts.

Payment of Polish pensions is carried out in monthly cycles, on a day fixed in a decision of the pension body as the date of benefits' payment.

If Polish pensions have been established in amounts lower than the minimum old-age pension, their payment may be carried out in other than monthly cycles (for example on a quarterly basis).

If Polish old-age, disability and survivors' benefits are transferred to another Member State, the date of bank transfer is considered as the date of payment.

Polish pensions are transferred to beneficiaries resident in other Member States in gross amounts (without deduction of the personal income tax advance payment in Poland) or in net amounts (that is after such deduction), subject to the provisions of an international agreement to avoid double taxation concluded by Poland with the beneficiary's State of residence.

A pensioner resident in Poland, who intends to leave Poland for permanent residence in another Member State, should inform the competent ZUS paying body thereof. The pensioner should advise this body of the manner of further payment. After departure to another Member State, further payment of the pension may be – on beneficiary's request – carried out to his/her bank account in Poland or delivered to a Polish resident whom the beneficiary has authorised to receive the benefit. The pensioner may also request ZUS to transfer the benefit to a new State of residence.

4.3. Control of pension entitlement in the case of residence in another Member State

A beneficiary resident in another Member State must inform ZUS organisational unit transferring his/her pension of any change in his/her place of residence and of any other circumstances affecting his/her right to the benefit or its amount.

Polish legislation regarding reduction or suspension of the pension right on account of receiving income is also applicable to persons re-

ceiving incomes from other Member States. The persons concerned are obliged to notify such incomes to ZUS paying bodies.

Pensioners resident in other Member States must inform ZUS paying bodies of such circumstances as: • change of the place of residence • taking up employment or self-employment • restoration of earning capacity • higher school graduation by a child entitled to the survivors' pension • change of bank account, etc. Delivery of such information to ZUS is important. For example, the change of the State of residence may be connected with the change of taxation rules governing the benefit.

ZUS organisational unit, which transfers Polish old-age, disability and survivors' benefits to beneficiaries resident in Member States other than Poland, checks on a periodic basis if the beneficiary is still entitled to the benefit. For that purpose it sends to ZUS pensioners a form titled „Declaration of living and residence” to be completed and signed by the pensioner him/herself. Should the pensioner be not able to sign the Declaration personally, further entitlement to benefit may be endorsed with the signature of a person who actually takes care of him or her.

Authenticity of the signature made on the „Declaration of living and residence” by the pensioner living abroad or by the authorised person actually taking care of him/her should be certified by a competent body or a person authorised in the State of residence of the persons concerned, or by an authorised person representing the Polish diplomatic or consular office.

4.4. What about health care entitlement in pensioner's State of residence?

In certain cases, pursuant to the EU legislation, ZUS pensioners and members of their families may take advantage of health care benefits in Member States other than Poland at the expense of the Polish National Health Fund (NFZ).

As regards ZUS pensioners resident in Member States other than Poland, the Mazowiecki Branch of the National Health Fund is a competent unit to establish the right of the pensioner concerned (or his/her family member) to take advantage of health care benefits in the State of residence at the expense of the National Health Fund.

After having confirmed the right of the pensioner to health care benefits at the expense of the National Health Fund, the mentioned

Branch of the Fund will issue a relevant certificate on form E 121 PL, enabling the pensioner to undergo medical treatment in that State.

In that case the National Health Fund informs ZUS paying body of the necessity to deduct health insurance contributions from the pension payable in Poland.

ZUS pensioner, who intends to leave Poland for permanent residence abroad, should contact the Mazowiecki Branch of the National Health Fund for the purpose of certifying his/her rights to treatment in a new State of residence.

The detailed information relating to the principles of granting and financing health care benefits to pensioners in the territory of the European Union is available in the National Health Fund.

National Health Fund – Head Office
02-390 Warszawa
Grójecka 186
tel. No.: +48 (22) 572-60-00
fax (22) 572-63-33
www.nfz.gov.pl

IMPORTANT

ZUS is not competent to establish pensioners' rights to health care benefits and to issue certificates of the right to medical treatment abroad, in EU Member States, at the expense of the Polish National Health Fund. Such certificates are issued exclusively by the National Health Fund.

5. Answers to frequently asked questions



- 1. I had been employed in Poland for 14 years. Then I left for the United Kingdom, where I was legitimately employed for 12 years. Last year I came back to Poland. Upon reaching 60 years of age in October 2006 I wish to claim old-age pension. Will I be awarded the old-age pension from Poland or from the United Kingdom?***

Pursuant to EU regulations, old-age pensions claims are investigated by insurance institutions of each of States where the claimant was insured (employed, self-employed or resident – with regard to States making entitlement to the pension subject to the residence in their territory).

In your case, both the Polish institution (ZUS), and the British one are competent to investigate your pension claim. If you satisfy the conditions for entitlement to the old-age pension under the national legislations of both States, in particular regarding the pensionable age and required qualifying period, you may be granted two pensions: from Poland and from the United Kingdom.

Due to reaching the pensionable age required of a woman in Poland (60 years) and taking into account the total duration of periods of Polish and British employment (26 years), you may be awarded a Polish old-age pension by ZUS.

The pension claim should be submitted to ZUS Branch I in Warsaw – the Central Bureau for Servicing International Agreements, which is competent with regard to persons with periods of employment (insurance) in Poland and in the United Kingdom, irrespective of their State of residence.

- 2. I had been employed in Poland for 10 years, then I left for Spain, where I am still employed. I shall reach the pensionable age for men in Poland, that is 65 years, the next year and I want to claim old-age pension. As I calculated, I had completed an employment period of 21 years in Spain. I have heard that in respect of employment period completed in Poland I may be awarded an old-age pension in Poland. Is it true, and will the Spanish employment period be taken into account when the qualifying period for the Polish old-age pension is calculated?***

Yes. While investigating your pension claim, ZUS will take into account 21 years of your employment (insurance) in Spain, apart from the 10-year employment (insurance) period in Poland. Thanks to aggregation of Polish and the Spanish insurance periods you will satisfy the condition of at least 25-year contributory and non-contributory period required in the Polish legislation of the insured man born before 1 January 1949.

The Spanish institution where you have been insured, will investigate – in parallel to ZUS – your right to the Spanish old-age pension, taking into account – if needed or more advantageous to you – your insurance period in Poland.

The claim and the old-age pension in respect of periods completed in Poland and in Spain should be submitted to the Spanish institution with which you are currently insured, and this institution will also forward the claim to ZUS for investigation.

3. *In 2005 ZUS refused me an old-age pension due to insufficient qualifying period in Poland, that is 13 years, because it did not take into account my 9-year employment period in Romania. I must add, that as a woman I reached the pensionable age already in 2003.*

I heard that since 1 January 2007, that is after Romania had joined the European Union, employment period in this country may be added to my insurance period in Poland. How should I proceed to have these 9 years added by ZUS?

Persons who – before Romania joined the European Union – had been refused old-age, disability or survivors' benefits by ZUS on account of their insufficient Polish contributory and non-contributory period, who – however – beside the qualifying periods in Poland had also completed insurance periods in Romania, may – after 31 December 2006 – renew their pension claim in respect of aggregated insurance periods. If the aggregated insurance periods in Poland and in Romania are of sufficient duration, the old-age pension will be granted.

If the claim is submitted within 2 years from the date of integration of Romania to the European Union, that is by 31 December 2008, the benefit will be established since 1 January 2007.

It means that you should submit to the competent ZUS unit (in your case – ZUS Branch I in Warsaw – the Central Bureau for

Servicing International Agreements) a claim for re-establishment of your old-age pension taking into account the insurance period in Romania.

Basing on information that you have provided, one may suppose that ZUS would award the old-age pension, because an aggregate qualifying period in Poland and in Romania amounts to 22 years.

- 4. *I have heard that I may claim an old-age pension from Poland in respect of employment periods in the Netherlands, the United Kingdom and in Poland. What will be the amount of such pension? I have been employed in Poland for 15 years, in the United Kingdom for 8 years, and in the Netherlands for 2 years.***

Because your insurance period in Poland equals 15 years, which means that it is less than the period required of a man to acquire the right to an old-age pension in Poland, award of the pension will be possible only after aggregating insurance periods in the Netherlands and in the United Kingdom, which will give a total qualifying period of 25-years.

In such situation you will be awarded the so called pro-rata pension in Poland, in proportion to the share of Polish insurance periods in an aggregate insurance period completed in all the Member States. The amount of the pension will be calculated by multiplication of a ratio of periods (15/25) and the pension amount that you would be granted if you were insured for 25 years in Poland. For example: if the amount of the old-age pension from ZUS calculated for the 25-year period of insurance in Poland equalled 1000 PLN, a pro-rata pension awarded to you in Poland would amount to 600 PLN ($1000 \text{ PLN} \times 15/25 = 600 \text{ PLN}$).

- 5. *I have been resident in Italy for 15 years now. I have completed a 11-year employment period in Poland, a 14-year employment period in Italy and additionally I have been working for more than 4 years in Spain under the contract (I know that contributions were paid in Spain). I have heard that upon reaching the age of 65 years I may claim an old-age pension in Poland. Where should I submit my claim?***

In your case the pension claim should be submitted to the institution of the place of residence, that is to the Italian institution, with which you have been insured in respect of employment in Italy. That institution will accept your claim and forward it also to Poland (to ZUS) and to Spain for investigation. Thus, your claim will be regarded as the pension claim submitted to each of those three States where you have been insured, that is Poland, Italy and Spain.

In each of the mentioned States the competent insurance institution will investigate your pension rights and will take a decision on granting or refusal of the old-age pension. You will receive this decision from the Italian insurance institution. It is thus possible that you will acquire the right to three pensions if you satisfy the qualifying conditions in each of the mentioned States.

- 6. *I had run a business for 14 years in Poland (all the time paying contributions), and I had been also employed for 3 years in the Netherlands and recently for 2 years in Lithuania. Presently I am resident in Wrocław. I would like to claim old-age pension, but I do not know where to apply. Should I submit my claim to ZUS or elsewhere? Please advise me.***

Since you are resident in Poland you should submit your pension claim to the Polish institution, in your case to the Social Insurance Institution.

Old-age pension claims under the EU legislation are investigated by the Social Insurance Institution bodies designated by ZUS President.

In your case ZUS Branch in Szczecin – Division for Implementation of International Agreements will be the competent ZUS body to investigate your pension claim due to the fact that the recent insurance period abroad was completed in Lithuania.

Your pension claim may be also accepted and completed by ZUS Branch in Wrocław, which will forward it to ZUS Branch in Szczecin for investigation and for a decision regarding the Polish benefit. The latter body will also transfer the claim to the Dutch and Lithuanian institution.

The Dutch and Lithuanian institutions will be also obliged to investigate your old-age pension rights. If you have satisfied the qualifying conditions pursuant to Dutch and Lithuanian legislations, institutions of those States will award you benefits.

7. *I am a recipient of a Polish disability pension. I have been employed for 8 years in Greece where my insurance contributions were paid. Where should I submit a claim for the benefit from Greece?*

You may apply directly to ZUS Branch in Łódź – Division for Implementation of International Agreements, or submit your claim to the mentioned ZUS Branch through ZUS paying body.

ZUS Branch in Łódź will transmit your claim to the competent Greek institution, which will investigate your entitlement to benefits from Greece.

8. *I live in Opole. I want to apply for a disability pension. I have been employed in Poland for 3 years, for one year in Germany and recently for 2 years in Slovakia. I have been informed that the claim should be submitted to ZUS Branch in Nowy Sącz. In what format should my claim be submitted and which documents should be attached? I wish to add that I have all necessary documents certifying my employment in Germany and in Slovakia.*

A claim for the Polish disability pension should be submitted on form ZUS Rp-1. The claim should be accompanied with form E 207 PL, which is available in each ZUS unit. You should only fill in box 7 in this form, providing the detailed information on all insurance periods completed in all Member States, that is in Poland, in Germany and in Slovakia. The form must be legibly signed.

You should also attach documents and declarations justifying Polish benefits and enabling their calculation, which are specified in the Polish regulations regarding the procedure in pension issues. They inter alia include documents certifying: date of birth, Polish insurance periods (contributory and non-contributory), amount of remuneration received in Poland for the purpose of establishment of the assessment basis, incapacity for work.

You should also append documents certifying insurance periods completed abroad – in Germany and in Slovakia.

You may also submit your claim to ZUS Branch in Opole (which is competent for your place of residence in Poland), which will forward it to ZUS Branch in Nowy Sącz – Division for Implementation of International Agreements I (that is to ZUS unit competent to investigate your pension claim).

- 9. *I retired 10 years ago. I receive my old-age pension from ZUS Branch in Kraków. It is paid to my bank account. It is my only income. What will happen to my pension if I leave Poland to live with my daughter in Ireland? Will I still receive my pension?***

Your fear is unfounded. After your departure to Ireland your pension will be still paid, you only need to inform ZUS of desired form of its delivery. ZUS may transfer your pension to Ireland. It may also – upon your request – pay it in Poland to the hands of a person authorised by you or transfer it to your present bank account in Poland.

You must notify your departure to ZUS unit, which presently pays your benefit.

It should be mentioned that after the change of State of residence your old-age pension will be paid in gross amount (without deduction of personal income tax advance payment), in accordance with the provisions of the international agreement to avoid double taxation concluded by Poland and Ireland. The payment of your Polish pension will be taken over by ZUS Branch I in Warsaw – Central Bureau for Servicing International Agreements, competent with regard to persons who have completed only Polish insurance periods and are resident in Ireland.

Before departure you are also advised to obtain form E 121 PL from Mazowiecki Branch of the National Health Fund, entitling you to medical treatment in a new place of residence, that is in Ireland, at the expense of the Fund.

- 10. *I am a recipient of a Polish disability pension. I plan to go with my wife to her family in Argentina for permanent residence. Will ZUS transfer my pension to this country?***

Unfortunately no. Argentina is not a member of the European Union nor the European Economic Area. Poland is not bound by any international agreement on social security with this country. Therefore in the event of your departure to Argentina ZUS will not have any basis to transfer your pension there.

It does not mean, however, that the pension will not be paid. It may be paid in Poland to the hands of a person authorised by you or transferred to your bank account in Poland.

You must notify your departure to ZUS unit, which presently pays your benefit, because this fact will affect taxation of your pension. Besides, after your departure the health insurance contribution will not be deducted from your benefit in Poland.

11. *My sister went to Switzerland. She receives an old-age pension granted by ZUS Branch in Gdańsk. What should she do to have her pension transferred to Switzerland?*

Your sister should apply to ZUS Branch in Nowy Sącz – Division for Implementation of International Agreements II, with head office in Inspectorate in Tarnów with a request for pension transfer to her place of residence in Switzerland. On this basis, ZUS Branch in Gdańsk, current paying body, will transfer her case to the above-mentioned ZUS unit in Tarnów, which deals with pensions for persons who have completed only Polish insurance periods and are resident in Switzerland.

She should refer in her application to a symbol and number of the Polish benefit that she receives. She should also give her current address and telephone data, and indicate bank in Switzerland and bank account number, where the benefit should be transferred to.

12. *May I receive an old-age pension from Poland if I have been receiving an Italian old-age pension for 4 years now? I wish to inform that I have been employed in Poland for 6 years, and in Italy for 28 years.*

The fact of receiving the Italian pension is no obstacle in being awarded the old-age pension in Poland. It means that you may claim the Polish pension.

To establish your entitlement to the Polish old-age pension ZUS will take into account (beside the employment period in Poland) also the 28-year insurance period in Italy and – if all other qualifying conditions are satisfied – it will award you the pension.

The amount of the pension payable by ZUS will be calculated in respect of Polish insurance periods, in proportion to their share in aggregated Polish and Italian insurance periods (6/34 of the amount that would be due from Poland if total insurance period, that is 34 years, was completed in that country).

- 13. *My husband died some time ago. He has been recently employed in Slovakia (for 2 years). May I, together with our 12-year old daughter, be awarded a survivors' pension? Where should we apply? My husband has earlier worked for 5 years in Poland. We are both resident in Warsaw.***

Both you and your daughter may claim survivors' pension. The pension claim should be submitted to ZUS Branch in Nowy Sącz – Division for Implementation of International Agreements I, but you may also submit it to the nearest ZUS Branch in Warsaw, which will forward the claim to ZUS Branch in Nowy Sącz.

For this purpose you should complete ZUS form Rp-2. You should attach form E 207 PL, where, in point 7, you should specify the insurance (employment) history of your husband in Poland and in Slovakia. You should also append documents justifying the right to Polish benefits and enabling calculation of their amount, set forth in Polish regulations regarding the procedure in pension claims, including documents certifying: your and your daughter's dates of birth, date of your husband's death, date of marriage, husband's insurance periods (contributory and non-contributory), amount of remuneration received by your husband in Poland for the purpose of establishing the basis of benefit assessment.

If you have any documents certifying insurance periods of your husband abroad, you should also append them to your claim. In their absence you should give the name of a Slovak institution where your husband was insured during his employment, a number of foreign insurance or names and addresses of his employers.

- 14. *I shall reach 60 years of age in 2009 and I wish to claim old-age pension. I have not joined any open pension fund. I am resident in Spain where I am also employed. Please advise me where I should claim old-age pension from Poland.***

You should submit your pension claim to the institution of the place of residence, i.e. to the Spanish institution, which will forward it – after its completing – to the competent Polish social insurance institution. If you have been recently subject to the universal system in Poland, the claim will be investigated by ZUS. With regard to persons who have completed insurance periods in Poland and abroad in

EU/EEA Member States and in Switzerland, including periods recently completed in Spain, I ZUS Branch in Łódź – Division for Implementation of International Agreements is competent.

As regards your pension rights it should be mentioned that being a person born in 1949 you will acquire the right to the old-age pension under the new principles. Thus you will not have to prove your contributory and non-contributory periods and the pension will be awarded by ZUS under the condition that you have been subject to social insurance in Poland at any time.

The old-age pension for people born after 31 December 1948 awarded under the new principles will be the quotient resulting from dividing the calculation basis by average life expectancy for persons in the age equal to the retirement age of the claimant. And the old-age pension under the new principles will be calculated on the basis of amount of contributions paid to the old-age pension insurance in Poland after indexation, recorded on individual account of the person insured by the end of the month preceding the month from which the pension is payable, and the amount of the indexed initial capital.

Therefore it is important to confirm that ZUS has calculated your initial capital. If not, you should apply to ZUS for calculation of your initial capital (ZUS form Kp-1) attaching documentation mainly concerning contributory and non-contributory periods completed in Poland before 1 January 1999 and the amount of remuneration being the basis of assessment of social insurance contributions in Poland before 1 January 1999.

As you will reach your pensionable age in 2009 in your case the amount of the pension will be calculated in accordance with the so called mixed rules. Thus the amount of the old-age pension will be equal to:

- 80% of pension calculated in accordance with Article 53 of the law of 17 December 1998 on pensions from the Social Insurance Fund (benefit amount dependent on the insurance periods' duration)

and

- 20% of pension calculated in accordance with Article 26 of the law on pensions from the Social Insurance Fund (pension amount not depending on the insurance periods' duration but only on the balance of a given person's account with ZUS and his or her initial capital).

To calculate the pension in part depending on the insurance periods' duration ZUS will need information about your foreign insu-

rance periods in France. ZUS will obtain this information directly from the competent French institution on form E 205 FR. However, you should append to your claim supporting documents confirming your work in France.

While establishing the old-age pension ZUS will check if aggregating insurance periods completed in France in a part of the pension calculated in accordance with Article 53 of the law on pensions from the Social Insurance Fund and pro rata calculation of this part of the pension is more advantageous to you than calculation of the whole benefit basing on insurance periods completed only in Poland.

6. If in doubt – where to seek the relevant information



Information contained in this booklet may seem complicated. However, the reader should not feel discouraged, because there exist institutions entrusted with the task of clearing out any doubts connected with the application of EU regulations on the coordination of social security schemes.

If in doubt – first of all feel free to apply to the nearest ZUS organisational unit (branch, inspectorate) where you may ask about your pension rights acquired under the Community regulations on the coordination.

In complex matters, concerning old-age, disability and survivors' benefits subject to EU coordination, you may contact one of ZUS units designated by ZUS President – competent in a given case. Names and addresses of these units are as follows:

- **I ZUS Branch in Łódź**
 - Division for Implementation of International Agreements, Zamenhofska 2, 90-431 Łódź, tel. No.: +48 (42) 638-29-67,
- **ZUS Branch in Nowy Sącz**
 - Division for Implementation of International Agreements I, Węgierska 11, 33-300 Nowy Sącz, tel. No.: +48 (18) 443 78 48 ext. 3315, 3316,
- **ZUS Branch in Nowy Sącz**
 - Division for Implementation of International Agreements II, with head office in Inspectorate in Tarnów, Kościuszki 32, 33-100 Tarnów, tel. No.: +48 (14) 622-05-85, +48 (14) 621-43-71 to 74 ext. 306,
- **ZUS Branch in Opole**
 - Division for Implementation of International Agreements, Wrocławska 24, 45-701 Opole, tel. No.: +48 (77) 451-15-12, +48 (77) 451-16-00, +48 (77) 451-14-86, +48 (77) 451-16-81, +48 (77) 451-15-40, +48 (77) 451-17-58, +48 (77) 451-17-61,
- **ZUS Branch in Szczecin**
 - Division for Implementation of International Agreements, Matejki 22, 70-530 Szczecin, tel. No.: +48 (91) 459-65-24, +48 (91) 459-69-28,

- ZUS Branch I in Warsaw
 - Central Bureau for Servicing International Agreements,
Kasprowicza 151, 01-949 Warszawa,
tel. No.: +48 (22) 569-36-04, +48 (22) 569-36-74,
+48 (22) 827-36-46.

Each Member State also designates the so called liaison bodies inter alia to give explanations in matters connected with EU regulations on the coordination of social security schemes.

Within the framework of the Social Insurance Institution the role of the liaison institution in matters connected with cash social insurance benefits is played by ZUS Head Office, whose tasks in respect of old-age, disability and survivors' benefits are performed by the Foreign Pensions Department (Senatorska 10, 00-082 Warszawa, tel. No. +48 (22) 826-05-53, e-mail: drz@zus.pl).

Information relating to old-age, disability and survivors' benefits subject to EU coordination and current address and telephone data of local ZUS units are available at a website: **www.zus.pl**.



SOCIAL INSURANCE INSTITUTION