



The scope and purpose of benefits coordination

The EU coordination of social security systems encompasses, among others, benefits in respect of incapacity for work due to sickness and maternity. These are both benefits in kind and in cash. Only coordination of cash benefits falls under the competence of the Social Insurance Institution (ZUS), while coordination of benefits in kind is the responsibility of the National Health Fund.

Nationals of Member States (see definition below) have the right to move freely within the European Union. The coordination of social security systems is intended to enable persons moving within the Community to exercise this right by providing them with social protection.

In the area of cash benefits in respect of incapacity for work, the EU coordination is aimed to ensure acquisition or retention of the right to benefits in respect of sickness or maternity by persons who are moving, in particular those who change jobs or take up self-employment in various Member States, thus being subject to social security systems of different countries, which in different manner – as specified in their national laws – define the right to these benefits, the rules to acquire them or to calculate their amount.

The coordination of cash benefits in respect of incapacity for work covers all persons subject to social insurance in respect of sickness and maternity (sickness insurance) or social insurance against accidents at work

and occupational diseases (accident insurance), inter alia, the employed persons, self-employed persons or those performing work on the basis of civil law contracts.

Polish nationals have been enjoying rights arising from the EU coordination of social security systems starting from 1 May 2004, i.e. the day of Poland's accession to the European Union.



Which States are covered by the coordination of social security systems

The EU coordination of social security systems, including cash benefits in respect of incapacity for work due to sickness and maternity, covers **EU Member States**, i.e.: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.

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

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



Who is the leaflet addressed to:

- Polish nationals taking up employment or self-employment in another Member State,
- nationals of other Member States taking up employment or self-employment in Poland,
- persons insured in Poland, who became incapable of work due to sickness or maternity in another Member State,

- persons insured in another Member State, who became incapable of work due to sickness or maternity in Poland,
- workers posted by Polish employers to work in another Member State,
- workers posted by foreign employers to work in Poland and
- Polish employers.



Who may take advantage of the EU coordination of cash benefits in respect of incapacity for work due to sickness and maternity

The following persons may take advantage of the EU coordination provided for in Regulations Nos 883/2004 and 987/2009 as regards cash benefits in respect of incapacity for work due to sickness and maternity:

- nationals of the European Union Member States (including Polish nationals) from 1 May 2010 (also nationals of Croatia – from 1 July 2013, i.e. the date of Croatia's accession to the EU), nationals of the non-EU States being members of the European Economic Area (Norway, Iceland, Liechtenstein) from 1 June 2012, and nationals of Switzerland from 1 April 2012, as well as family members of all those nationals,
- stateless persons (i.e. persons not being nationals of any States) and refugees residing in a Member State who are or have been subject to the legislation of one or more of the Member States, as well as members of their families,
- survivors, entitled to benefits after the deceased persons who have been subject to the legislation of one or more Member States, irrespective of the nationality of such persons, if such survivors are nationals of a Member State or stateless persons or refugees residing in one of the Member States,
- nationals of Third States, i.e. non-Member States, residing in the territory of a Member State (however the coordination does not cover nationals of Third States residing in Denmark, Iceland, Liechtenstein, Norway or Switzerland).

Prior to the dates mentioned above those persons had been covered by coordination of cash benefits in respect of incapacity for work due to sickness and maternity pursuant to Regulations Nos 1408/71 and 574/72.

After these dates the coordination of cash benefits in respect of incapacity for work due to sickness and maternity under the provisions of Regulations Nos 1408/71 and 574/72 is applied for cases in which a claim for benefit had been filed prior to the entry into force of Regulations Nos 883/2004 and 987/2009.



Polish sickness and maternity benefits subject to the coordination

The coordination of social security systems in Poland covers cash benefits in respect of sickness, also caused by an accident at work or an occupational disease, and maternity benefits, to which all groups of persons insured in Poland are entitled.

Cash benefits in respect of sickness and maternity subject to EU coordination include:

- sick pay,
- sickness allowance from sickness or accident insurance,
- rehabilitation allowance from sickness or accident insurance,
- compensatory allowance from sickness or accident insurance,
- maternity allowance,
- care allowance.



Situations in which the coordination of cash benefits in respect of sickness and maternity applies

EU coordination of cash benefits in respect of sickness or maternity may apply in the situations described below:

- A person insured in one Member State is staying temporarily in another Member State, for example as a tourist, and during this stay s/he becomes ill.

Example

A Polish employee went on holiday to France, where he had a traffic accident and stayed in hospital for three months. In the course of his illness he retains the

right to sickness benefits (sick pay and sickness allowance), which will be paid by the competent Polish institution (employer or ZUS).

- The employer posts his employee to work in another Member State and during the posting period the employee is still subject to insurance in the country where his or her employer has its registered office. In this period s/he may become incapable of work due to sickness, maternity or childcare.

Example

A Polish employee has been posted by his employer to work in Italy for a period of 6 months. During this period he is subject to Polish legislation, including the sickness insurance. During his work in Italy the employee became incapable of work due to sickness. The Polish employer established the right to sickness benefits in accordance with Polish law and paid the employee the sick pay and then the sickness allowance.

- A national of a Member State takes up employment with an employer in another Member State or self-employment in another Member State and is subject to insurance in that State; it may happen that the employee becomes ill or gives birth to a child during the stay in the State of residence.

Example

A Polish national took a job in the Netherlands, and is subject to Dutch legislation. He is permanently resident in Poland. During his stay in Poland, he became ill and received from the Polish doctor a medical certificate of incapacity for work. His sickness related benefits will be paid by a Dutch institution responsible for payment of such benefits.

- A frontier worker resident in a State other than the one in which s/he is insured, can become incapable of work due to sickness or maternity in his/her place of residence.

Example

A Polish woman has entered into an employment contract with a German employer and is subject to German legislation. She commutes between Poland and Germany – comes back to Poland for weekends. While staying in Poland, she had a baby. She will acquire the right to maternity benefits under the German legislation, even though she lives in Poland.

- A person insured in one Member State who is ill, has been authorised by a competent institution of that State to go to the territory of another Member State for the purpose of receiving there the medical care.

Example

A Polish national, who is self-employed (runs a business outside agriculture) in Poland, has been authorised by an institution in charge of benefits in kind to go to Germany to undergo treatment. During this treatment s/he retains the right to cash sickness benefits under Polish legislation, and these benefits will be paid by a competent institution under the Polish regulations, in this case it will be ZUS.

In contrast to previous EU regulations, in order to acquire the right to cash benefits it is not necessary to receive an authorisation of an institution competent for benefits in kind to go to the territory of another Member State for the purpose of receiving there the medical care.

- A person, who is covered by insurance in another Member State than the State of his/her permanent residence, during sickness or maternity returned to the State of his/her permanent residence.

Example

A Polish national went to Spain and started there a business outside agriculture. In this respect he was subject to Spanish legislation. During his self-employment in Spain he fell ill and receives cash benefits in respect of sickness under Spanish law. Due to prolonging illness he decided to return to the State of residence, i.e. to Poland. Cash sickness benefits will still be granted under the Spanish legislation, and will be paid directly by a Spanish institution responsible for payment of such benefits.

In contrast to previous EU regulations, in order to acquire the right to cash benefits it is not necessary to receive an authorisation of an institution competent for benefits in kind to return to the State of permanent residence.

- A person subject to insurance in one Member State has changed his or her place of residence during sickness or maternity, by moving to another Member State.



Basic principles of benefits coordination

The principle of equal treatment

This principle ensures that the nationals of one Member State will enjoy the same rights to benefits and will be subject to the same obligations under the legislation of each Member State, as nationals of that Member State. It excludes any discrimination based on nationality, also as far as the award of benefits in respect of sickness and maternity is concerned.

If a Polish national takes up employment with a foreign employer or starts self-employment in another Member State, s/he will be subject to the laws of that State. When s/he becomes ill or gives birth to a child, s/he will be eligible for sickness or maternity cash benefits, respectively, under the laws of that State, under the same principles as those applied to nationals of that State.

If a national of another Member State takes up employment in Poland, s/he will be subject to insurance in Poland under the same principles as Polish nationals, and in terms of the right to sickness benefits s/he will be treated as employees who are Polish nationals. Thus, s/he will be eligible for benefits under the principles laid down in Polish legislation.

The principle of unity of the applicable legislation

As a general rule, a person covered by the provisions of Regulation No 883/2004 is subject to the legislation of only one Member State at a time. This means that – in the case of sickness and maternity – s/he will be eligible for benefits in cash only under the legislation of one Member State.

The principle of aggregation of periods of insurance, self-employment, employment or residence

In many EU Member States the right to cash benefits in respect of sickness or maternity is dependent on completing a certain period of insurance, employment, self-employment, and sometimes residence.

The principle of aggregation of insurance, employment, self-employment or residence periods completed in another State allows to grant benefits to persons who have not completed the insurance period required

for entitlement to benefits in a given Member State, because they had been earlier covered by the legislation of another Member State.

According to this principle, the competent institution of the Member State whose legislation makes the acquisition, retention or recovery of the right to benefits conditional upon the completion of certain insurance, employment, self-employment or residence periods, takes into account, to the extent necessary, periods of insurance, employment, self-employment or residence completed in another Member State, as if they were completed in the competent Member State.

If a Polish national takes up employment in another Member State where the right to sickness or maternity benefits is dependent on the period of insurance, employment, self-employment or residence, and will not complete these periods in that State, periods of insurance entitling to these benefits, completed in Poland, will be added under the principles in force in that State.

This principle may also apply if the Polish employer recruits a national of another Member State or if a national of another Member State takes up self-employment in Poland. Under Polish legislation the insurance period is required to be granted the right to sick pay and to sickness allowance.

Aggregation of periods of insurance, employment, self-employment or residence is carried out according to the principles set out in the legislation currently applicable to the person concerned.

Aggregation of periods to establish the right to Polish benefits

If a person, who had previously performed gainful activity in another Member State, takes up employment or self-employed in Poland, periods completed in that other State will be reckoned towards the period of insurance required for granting benefits in Poland.

In the case of persons covered by Polish legislation, the principle of insurance periods aggregation is applicable to establish the entitlement to the sickness allowance and also to sick pay referred to in Article 92 of the Labour Code. Insurance periods aggregation is carried out under the principles laid down in Polish legislation.

The continuous period of insurance required to acquire the right to sickness allowance (sick pay) under Polish legislation will be increased by insurance periods completed by the person insured in another Member State. The mentioned period will be also increased by periods of employ-

ment, self-employment or residence in another Member State, if under the legislation of that State they gave the right to cash benefits in respect of sickness and maternity.

If the insurance period required for entitlement to sickness allowance or sick pay is not sufficient to grant the benefit, the competent institution – a branch of the Social Insurance Institution (ZUS) – applies to the competent institution of the Member State whose legislation had earlier covered the beneficiary, for certification of insurance, employment, self-employment or residence periods completed in that State, which established the right to cash benefits in respect of sickness, **both when it pays benefits** (e.g. to a self-employed person or an employee of the employer who notifies to sickness insurance not more than 20 persons insured) and when the **contribution payer** (notifying to sickness insurance more than 20 persons insured) **is competent to establish the right to and pay the allowance.**

Example

Mr. Jasinski had been employed in Italy for one year and five months, and then – after a two-week break – he started a business outside agriculture in Poland and is liable to sickness insurance in this respect. Before the expiry of 90 days from the date of acquiring the right to sickness insurance in respect of non-agricultural activity he became incapacitated for work due to sickness. ZUS branch requested a competent Italian institution (INPS) for confirmation of insurance period and for a certificate on form E 104. After receiving the certificate issued by the Italian institution, in which the person concerned was insured in Italy, the ZUS branch granted to Mr. Jasinski the right to sickness allowance, because it added the period of insurance in respect of employment in Italy to the insurance period in Poland.

Therefore, if the contribution payer needs to aggregate insurance periods completed in another Member State when establishing eligibility for sick pay payable by the employer on the basis of Art. 92 of the Labour Code, or to sickness allowance payable by the contribution payer, s/he will apply for certification of insurance, employment, self-employment or residence periods entitling to cash benefits in respect of sickness, via the branch of the Social Insurance Institution (ZUS) competent for the registered office of the contribution payer.

In contrast to the previous EU regulations, the insured person will not receive the certificate on form E 104 before departure to another Member State.

Aggregation of periods when establishing the right to benefits payable in another State

If a person, who had previously performed gainful activity in Poland, takes up employment or self-employment in another Member State, the Polish insurance periods – including those in respect of employment and self-employment – will be reckoned towards the insurance period required ZUS for entitlement to benefits in another State.

If a need arises to take into account Polish insurance, employment, self-employment or residence periods when granting benefits, an institution competent to pay benefits, will request a branch of the Social Insurance Institution (ZUS) for confirmation of periods of insurance in respect of employment or self-employment in Poland.

Export of benefits

Cash benefits in respect of sickness and maternity are payable by a competent institution of the State in which the person is insured in accordance with the provisions of its applicable legislation. EU regulations define the competent institution, among others, as the one from which the person concerned is or would be eligible for benefits or the one in which the person concerned is insured at the time of claiming benefits. Institutions competent to pay cash sickness and maternity benefits – payable in accordance with Polish law – are ZUS local organisational units or contribution payers notifying to sickness insurance more than 20 insured persons.

By granting the right to cash benefits in respect of sickness and maternity in accordance with the legislation of the competent institution, even if the person eligible for these benefits resides or stays in another Member State, EU regulations introduce an opportunity to export these benefits to the State of residence (stay). If a person eligible for benefits under Polish legislation applies to the Polish competent institution, i.e. (respectively) to:

- a local unit of the Social Insurance Institution (ZUS), or
- a contribution payer

for transfer of the benefit to the State of residence (stay), the competent institution will be obliged to transfer cash benefits to that State. Payments will be made by the institution responsible for benefits payment, according to Polish legislation, directly to the recipient in the territory of another Member State, to the bank account specified by him or her.

The right to receive benefits in the State of residence may be also exercised by persons who are eligible for benefits under the legislation of another Member State and reside in Poland. Benefits will be paid by a foreign competent institution directly to the person concerned.



The procedure of claiming cash benefits in respect of sickness and maternity outside the competent State, i.e. in the Member State of residence or stay of the employed or self-employed person

- If the legislation of the competent Member State requires that the insured person presents a certificate in order to acquire the right to cash benefits in respect of incapacity for work in the Member State of his or her residence or stay, s/he must ask the doctor who has established his or her state of health, to certify his or her incapacity for work and its probable duration.
- The person concerned must send the certificate of incapacity for work issued by the doctor providing treatment in the Member State of his or her residence or stay to the competent institution within the period specified in the legislation of the competent Member State, **without assistance of the institution of the place of residence or stay**. In contrast to the previous provisions of EU regulations, the new regulations do not provide for a medical certificate to be submitted through the institution of the place of residence or stay.
- Where the doctors providing treatment in the Member State of residence or stay do not issue certificates of incapacity for work, and where such certificates are required under the legislation of the competent Member State, the person concerned must apply for them directly to the institution of the place of residence or stay. That institution will immediately arrange for a medical assessment of the person's incapacity for work and

for the certificate of incapacity for work to be drawn up. This certificate will be immediately forwarded by the institution of the place of residence or stay to the competent institution.

- Forwarding of the certificate of incapacity for work to the competent institution does not exempt the person insured from obligations resulting from the applicable legislation, in particular towards his or her employer. The employer or the competent institution may call upon the person insured to participate in activities designed to promote and assist his or her return to employment.
- For the purposes of establishing the right to and payment of benefits by the competent institution, the certificate of incapacity for work of the insured person drawn up in another Member State on the basis of the medical findings of the examining doctor or institution has the same legal value as the certificate drawn up in the competent Member State.
- The competent institution pays cash benefits directly to the person insured and, if necessary, notifies this fact to the institution of his or her place of residence or stay.
- If the competent institution refuses cash benefits, it must notify its decision to the insured person and at the same time to the institution of the place of residence or stay. The decision must indicate the reasons for refusal, legal remedies and the time limit for lodging an appeal.
- At the request of the competent institution, the insured person may be subjected to necessary medical examinations by the institution responsible for this type of cash benefits in the State of his or her residence or stay, according to the legislation which the latter institution applies. The competent institution informs the institution of the place of residence or stay of any special requirements to be followed and points to be covered by the medical examination. The report of the examining doctor concerning, in particular, the probable duration of the incapacity for work, is forwarded without delay by the institution of the place of residence or stay to the competent institution. The competent institution is bound by the findings of the institution of the place of stay or residence.
- The competent institution is entitled to subject the person insured, who is incapable of work due to sickness at the time of residence or stay in another Member State, to necessary medical examinations. The com-

petent institution may also commission an examination of the person insured to be conducted by the doctor of its choice. The beneficiary may be also asked by the competent institution to return to the competent State, but only if s/he is able to make the journey without prejudice to his/her health. In such a case, the competent institution bears the costs of travel and accommodation.

Procedure to be followed when cash benefits in the State of residence are claimed by the person covered by Polish legislation

- The person covered by Polish legislation who will become incapable of work due to sickness at the time of residence or stay in another Member State and will receive a medical certificate of incapacity for work due to sickness, must forward that certificate directly to the entity which pays his or her benefits, i.e. the benefit payer which/who, in accordance with Polish law, is obliged to pay benefits in respect of sickness and maternity, or to the local organisational unit of the Social Insurance Institution (ZUS). There is no obligation to submit medical certificates through the institution of the place of residence or stay. The contribution payer must establish the right to sickness benefit, the basis for its assessment and its amount in accordance with Polish law.
- The medical certificate issued in another Member State should meet the requirements of Polish law, laid down in § 5 and § 6 of the Regulation of the Minister of Labour and Social Policy of 2 April 2012 on determination of evidence justifying the award and payment of social insurance benefits in respect of sickness and maternity (Journal of Laws of 2012, item 444), i.e. it should:
 - include the name of a foreign medical institution or the name and surname of a foreign doctor,
 - bear the date of issue and signature,
 - specify the start and end date of the incapacity for work.In addition, Polish Personal Identification Number PESEL and mailing address must be given.
- The person insured is not required to translate into Polish the medical certificate issued in other Member States in official languages of those States. The medical certificate will be, if necessary, translated by the benefit payer.

- ZUS branch may arrange for the medical check of the person insured in Poland, who has become incapable of work due to sickness in another Member State, to be carried out by an institution of the place of residence or stay. If the benefit payer is competent to pay sickness allowance in Poland, he/she/it must file the request for medical check of the person insured in the State of residence or stay to ZUS branch.

Procedure to be followed when cash benefits in Poland are claimed by a person covered by the legislation of another Member State

- A person subject to the legislation of another Member State who will become incapable of work due to sickness at the time of residence or stay in Poland and will receive a medical certificate of incapacity for work due to sickness on the form ZUS ZLA, must send the certificate directly to the competent institution, additionally specifying the social insurance number in the State, in which s/he is insured, and mailing address in Poland. Medical certificates are not submitted through ZUS branch. Only persons insured in the Czech Republic, Germany, Norway, Lithuania and Slovakia should submit medical certificates to the branch of the Social Insurance Institution (ZUS) appropriate for the place of residence or stay, giving information on the institution in which they are insured and the social insurance number – ZUS will forward the medical certificate and information to a competent foreign institution in which the person is insured with information on the statistical number of the disease.
- The competent foreign institution will establish the right to benefit and calculate its amount in accordance with its applicable law and will pay benefit directly to the person insured and, if necessary, will notify ZUS, as the institution of the place of residence or stay. If the competent institution refuses cash benefits, it must notify its decision to the insured person and at the same time to ZUS branch as the institution of the place of residence or stay.
- Persons entitled to cash benefits from the competent institution of another Member State, who become incapable of work during residence or stay in Poland, may be subject to check of the correctness of certifying temporary incapacity for work and of the medical certificates issuance only at the request of the competent institution, according to the same principles as those applicable to Polish insured persons. The check is carried out under the principles laid down in Polish legislation by certifying

doctors of the ZUS branch competent for the insured person's place of residence or stay in Poland.



More information is available:

- at ZUS website: www.zus.pl,
- in the nearest ZUS local unit,
- in ZUS Headquarters Allowances Department, executing tasks of the liaison body in the field of cash benefits in respect of incapacity for work due to sickness or maternity, accident at work and occupational disease and funeral grants after the death of the insured person or a family member of that person.

Contact details of all ZUS units are available at the above mentioned website. Information on benefits that particular Member States consider as sickness and maternity benefits and on eligibility requirements may be received in the institution competent for delivery of these benefits in each State. For this purpose, one may also contact the liaison body in the field of sickness and maternity benefits in that State. More detailed information in this regard is available at ZUS website.



Basic EU legal acts which govern co-ordination of social security systems

- Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (OJ No L 166 of 30.04.2004, as amended).
- Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ No L 284 of 30.10.2009, as amended).
- Regulation (EU) No 1231/2010 of the European Parliament and of the Council of 24 November 2010 extending Regulation (EC) No 883/2004

and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these Regulations solely on the ground of their nationality (OJ No L 344 of 29.12.2010, p. 1).

- 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, as amended).
- 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, as amended).
- Council Regulation (EC) No 859/03 of 14 May 2003 extending the provisions of Regulation (EEC) No 1408/71 and Regulation (EEC) No 574/72 to nationals of third countries who are not already covered by those provisions solely on the ground of their nationality (OJ No L 124 of 20.05.2003).

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