

## FROM THE SOCIAL INSURANCE INSTITUTION (ZUS) IN THE LIGHT OF EUROPEAN UNION LAW

The Social Insurance Institution

Persons employed and covered by social insurance in Poland may acquire the right to an old-age pension from ZUS if they satisfy the requirements under the Act of 17 December 1998 on pensions from the Social Insurance Fund<sup>1</sup> hereinafter referred to as the Pension Act. Information on eligibility requirements for ZUS old-age pensions as well as the rules governing the calculation of benefits may be found in separate leaflets titled: *Old-age pension from the Social Insurance Fund* and *Old-age pension from the Social Insurance Fund awarded under the new rules*, which are available in ZUS units and at the ZUS website: [www.zus.pl](http://www.zus.pl).

Persons who have been also employed abroad in the Member States of the **European Union** or the **European Free Trade Association (EFTA)**, or who are or were living in these states, may be covered by the EU coordination of pension schemes.

The EU Regulations on coordination concern employment migrants moving within the EU/EFTA Member States (see: p. 2). Their provisions are aimed to facilitate the acquisition of pension entitlements and receipt of benefits from EU/EFTA Member States.



### Who is the leaflet addressed to?

The leaflet is addressed to **persons who exercise their right to move freely within the European Union, the European Free Trade Association** and who:

- reside abroad in EU/EFTA Member States and claim an old-age pension from ZUS, but have been insured (employed) only in Poland,
- reside in Poland or abroad in EU/EFTA Member States or abroad in third party countries and claim an old-age pension from ZUS because they have been employed in Poland or abroad in other Member States or have been living in other Member States,

<sup>1</sup> Journal of Laws of 2013, Text 1440 as amended.

- reside abroad in EU/EFTA Member States and apply for a ZUS pension transfer to their place of residence.



## Which States are covered by the EU coordination of pension schemes?

The EU coordination of pension schemes covers **European Union Member States**, that is: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Spain, the Netherlands, Ireland, Lithuania, Luxembourg, Latvia, Malta, Germany, Poland, Portugal, Romania, Slovakia, Slovenia, Sweden, Hungary, United Kingdom and Italy. For EU coordination purposes equally the **Member States of the European Free Trade Association**: Iceland, Liechtenstein, Norway and Switzerland are regarded as EU Member States.

The above mentioned Member States of the European Union and the European Free Trade Association are further referred to as the “Member States”.

The coordination of pension schemes of Poland and the aforementioned States is carried out pursuant to the EU Regulations (see: p. 23).



## Who takes advantage of the EU coordination of old-age pensions?

Beneficiaries of the EU coordination of old-age pensions include the following:

- nationals of the Member States of the European Union (including Polish nationals) and the European Free Trade Association,
- refugees and stateless persons (i.e. persons not being nationals of any of those States) residing in the Member States,
- nationals of third party countries, i.e. non-Member States, residing in the territory of a Member State (however the coordination does not cover nationals of third party countries residing in Denmark, Norway, Iceland, Liechtenstein and Switzerland).

### *Example*

*A British national, who during his professional career had completed a 9-year employment period in Poland, and then was employed in United Kingdom for 15 years, may take advantage of the EU coordination of social security systems – for example, the principles of aggregation of employment periods in Poland and in the United Kingdom may be applied while establishing the right to an old-age pension.*

### **Example**

*A Turkish national, residing and working in Poland, who – before coming to our country – had also worked in Germany, may take advantage of the EU coordination of social security systems to establish the right to an old-age pension, e.g. by the aggregation of insurance periods in both Member States.*

### **Example**

*A Belarus female national living in Denmark who, before going to that country, had lived and worked legally in Poland for 15 years, when applying for an old-age pension from ZUS will not be subject to the EU coordination of social security systems because she is not covered by the provisions of EU Regulations.*

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

However, it should be mentioned that coordination concerns only those persons who find themselves in the so-called EU situation relating to at least two Member States – i.e. have been employed in two Member States or have been employed in one Member State and reside in another Member State.



## **Equal treatment**

In accordance with the principle of equal treatment, a person covered by EU coordination should be treated in each Member State on the same rules as nationals of that Member State – both when claiming an old-age pension in that State and while receiving the awarded benefit.

It means that discrimination of a Polish national who claims an old-age pension in the United Kingdom, France or Sweden is prohibited.



## **Old-age pension for persons who have completed insurance periods in Poland and insurance or residence periods abroad in the Member States**

- ▶ **Establishment of the old-age pension entitlement in each of the Member States, where the person concerned was insured or resident**

EU/EFTA Member States have not yet established any supranational scheme that would guarantee old-age pensions. Each of the Member States independently defines

persons eligible for an old-age pension after reaching the retirement age and satisfying the eligibility requirements.

A person employed and covered by social insurance in Poland who has been also insured abroad in Member States, **may be granted an old-age pension both in Poland and in another Member State**, where s/he was insured, if s/he satisfies the qualifying conditions for the acquisition of the right to an old-age pension in these States.

### *Example*

*If an old-age pension claimant has been employed in Poland and in other Member States, e.g. the Netherlands, Greece and Ireland, the old-age pension entitlement is established concurrently by the insurance institutions of each of these states.*

Thus if the person concerned who was covered by the pension schemes of several Member States satisfies the qualifying conditions for the acquisition of the right to an old-age pension in these States, s/he may receive old-age pensions from them.

### ► **Aggregation of foreign insurance or residence periods completed in the Member States**

Where a person applying for an old-age pension in one Member State does not have sufficient periods of insurance (residence) to satisfy the requirements for entitlement to this benefit, the competent institution also takes into account (aggregates), for the purpose of establishing entitlement to an old-age pension, the periods of insurance (residence) completed by the person concerned under the legislations of all other Member States unless those foreign periods overlap with the Polish insurance periods.

To establish the old-age pension entitlement ZUS will take into account foreign periods of insurance (residence) completed in other Member States if the old-age pension entitlement depends on the duration of the insurance periods and the insurance period completed only in Poland is insufficient to acquire the right to the benefit<sup>2</sup>.

*Where a man born before 1 January 1949 claims an old-age pension from ZUS, but has not completed a 25-year period of insurance in Poland (contributory and non-contributory period) required to be awarded the old-age pension upon reaching the statutory retirement age<sup>3</sup>, ZUS will also take into account (aggregate) periods of insurance (residence) that he has completed in other Member States (e.g. Austria, Germany or Ireland) and will check if – after aggregation – the man satisfies the eligibility requirements for a Polish old-age pension.*

Foreign residence periods may be taken into account by ZUS for old-age pension purposes only if the legislation of the Member State concerned makes old-age pension

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<sup>2</sup> This concerns persons claiming an old-age pension under the hitherto existing principles and persons claiming a partial old-age pension. Information on eligibility requirements for and rules governing calculation of a partial pension may be found at the website: [www.zus.pl](http://www.zus.pl).

<sup>3</sup> The statutory retirement age: 60 years – for women, 65 years – for men, is gradually increased to reach the age of 67 years for both sexes. Retirement age tables are available at the website: [www.zus.pl](http://www.zus.pl).

entitlement dependent on the period of residence of the person concerned in the territory of that State (as for example in Denmark or Sweden).

Insurance and residence periods completed abroad in Member States are aggregated by ZUS at a rate confirmed by the foreign social insurance institution of a given Member State, on an EU form.

The mentioned periods are not taken into account to establish the assessment basis of the old-age pension under the new rules granted from the Social Insurance Fund, applying to persons born after 31 December 1948, if the entitlement to this pension does not depend on the length of the insurance periods.

► **Determination of pro-rata old-age pension having recourse to foreign periods of insurance or residence in Member States**

Where entitlement to the old-age pension in a Member State is established taking into account foreign periods of insurance (residence) completed by a person concerned in other Member States, the amount of the benefit is calculated in the following way:

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

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

The amount of the old-age pension, dependent on the length of the insurance periods, payable by ZUS is calculated based on the aforementioned principles to persons whose entitlement was established through taking into account foreign periods of insurance (residence) completed in Member States or whose benefit will be higher after aggregating the foreign periods in calculating the old-age pension.

In the above described case the theoretical (full) amount of the old-age pension is established taking into consideration the following components:

- 24% of the base amount,
- 1.3% of the basis of assessment for each full contributory year of periods completed in Poland and periods of insurance or residence completed abroad in Member States – taking into account full months,
- 0.7% of the basis of assessment for each full non-contributory year of the periods completed in Poland and the periods treated as an insurance period abroad in Member States – taking into account full months.

Then, on the basis of the theoretical (full) amount of the old-age pension, calculated under the aforementioned rules, an actual (pro-rata) amount of the old-age pension payable by ZUS is calculated, corresponding to the ratio between the duration of the insurance periods in Poland and the total duration of the insurance (residence) periods in Member States.

### **Example**

*Where ZUS has established the old-age pension of a man born before 1 January 1949 based on 15 years of Polish insurance periods, taking into consideration 10 years of insurance in Belgium, the Polish old-age pension will be calculated in the following way:*

- *first, ZUS will determine a theoretical (full) old-age pension which would be awarded to the person concerned for a total insurance period of 25 years (in Poland and in Belgium),*
- *subsequently, based on the theoretical amount, ZUS will determine the actual (pro-rata) amount of the old-age pension, corresponding to the ratio between the duration of the Polish periods of insurance and the total duration of the Polish and Belgian insurance periods; in the described case it will be 15/25 of the theoretical amount, because the person concerned has accumulated a 15-year insurance period in Poland, and a total of 25 years of insurance periods in Poland and in Belgium.*

*The person concerned will be awarded the pro-rata old-age pension determined in this way.*

The above mentioned rules are not applicable to old-age pensions awarded under the new rules, where the old-age pension entitlement and amount are not dependent on the duration of insurance periods. **The amount of the old-age pension awarded under the new rules in the statutory retirement age is based only on the Polish insurance periods**, without consideration of foreign insurance (residence) periods completed in other Member States.

*Where an old-age pension is granted from the Social Insurance Fund under the new rules to a man born after 31 December 1948, who has reached the statutory retirement age and has accumulated a 5-year insurance period in Poland, as well as 15-year period of Irish insurance, ZUS will calculate the old-age pension amount based only on the Polish insurance periods.*

*The old-age pension awarded to the person concerned under the new rules will be the quotient resulting from dividing the calculation basis (the amount of initial capital after indexation, the amount of contributions paid to the old-age pension insurance after indexation and the amount of funds booked to the sub-account in Poland) by average life expectancy<sup>4</sup> for persons of the age at which the insured person retires.*

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<sup>4</sup> Life expectancy tables – taking into consideration average life expectancy, the same for women and men, expressed in months for the insured person's age – are published on an annual basis by the President of the Central Statistical Office in the Official Journal, in the form of a communiqué.

## ► Calculation of the amount of an old-age pension established without consideration of foreign periods of insurance or residence in Member States

Where entitlement to an old-age pension in a Member State depends on the length of insurance periods, but foreign insurance (residence) periods in other Member States need not be taken into consideration to establish the old-age pension entitlement for the person concerned, the old-age pension amount will be based only on insurance (residence) periods in the State which has established the entitlement to the benefit (the so-called national pension), i.e. without consideration of foreign insurance periods.

However, in this case the competent institution also determines the old-age pension amount that would be awarded on the basis of the aggregated periods of insurance (residence) completed in Member States (a pro-rata old-age pension), and – if it is higher than the amount of a national old-age pension calculated only on the basis of the insurance periods in the State which has established the entitlement to the benefit – the person concerned will be awarded a pro-rata old-age pension.

### **Example**

*Where an old-age pension is granted to a woman born before 1 January 1949, who has accumulated a 20-year period of insurance in Poland (which is sufficient to acquire the right to such an old-age pension), but also has a 2-year insurance (residence) period in Sweden and a 3-year insurance period in the United Kingdom, ZUS will determine the benefit amount in the following way:*

- *first it will determine the national pension – based only on the Polish insurance periods, equal to 20 years,*
- *then it will determine a pro-rata old-age pension – on the basis of the aggregated insurance (residence) periods completed in Poland, Sweden and the United Kingdom, equal to 25 years; i.e. it will calculate a theoretical (full) amount of the old-age pension on the basis of the aggregated 25-year period of insurance (residence) in the three mentioned Member States, and subsequently it will calculate the actual (pro-rata) old-age pension, which in the described case equals to 20/25 of the theoretical amount,*
- *finally ZUS will compare the amounts of: a national old-age pension and a pro-rata old-age pension and will determine the benefit in an amount more favourable to the person concerned.*

The above mentioned rules also apply to the establishment of an old-age pension from ZUS, where the entitlement is not dependent on the length of the insurance periods, but the old-age pension amount depends thereon. It concerns an old-age pension from the Social Insurance Fund awarded under the new rules for insured persons

born after 31 December 1948, who are not members of Open Pension Funds and who will reach the retirement age in the years 2009–2014. Such an old-age pension is calculated following the mixed rules, i.e. in part – based on the earlier rules (its amount depends on the duration of the insurance periods) and in part – on the reformed principles (its amount is independent of the insurance periods).

► **Determination of a supplement intended to bring the old-age pension up to the Polish minimum old-age pension for persons entitled to the old-age pension from the Social Insurance Fund residing in Poland, who have completed periods of insurance in Poland and foreign insurance or residence periods in Member States**

Persons who reside in Poland, receiving an old-age pension from Poland and an old-age or disability pension from other Member States in total amount lower than the minimum old-age pension under Polish legislation, may be awarded a supplement intended to bring their benefit up to the level of the statutory minimum.

The rules for determining the mentioned supplement by ZUS are different for old-age pensions awarded under the earlier principles, where both the entitlement to and the amount of the benefit depended on the duration of the insurance periods, and for old-age pensions under the new rules, which depend on the resources accumulated in the pension account of the insured person.

The supplement to the benefit awarded under the earlier rules is granted by ZUS to bring the benefit up to the level of the Polish minimum old-age pension, if the pensioner resides in the territory of Poland and his or her benefit has been established based on the ratio between the duration of the Polish insurance periods and the total duration of the Polish and foreign periods of insurance or residence in Member States. The supplement is equal to the difference between the amount of the minimum Polish old-age pension and the aggregated amount of the Polish old-age pension and the foreign old-age or disability pension received by the person concerned.

And the old-age pension awarded from the Social Insurance Fund under the new rules, whose amount is lower than the minimum Polish old-age pension, must be brought up to the level of the minimum Polish old-age pension on the condition that the person concerned will prove the required insurance (contributory and non-contributory) periods in Poland, equal to 20 years for women and 25 years for men. The insurance period required of women will be gradually increased in 2014–2022 to reach 25 years.

If a person who resides in Poland satisfies the above-mentioned requirement of insurance periods only after taking into account periods of insurance (or residence) in Member States, the supplement will amount to the difference between the amount of the minimum Polish old-age pension and the aggregated amount of the Polish old-age pension and foreign old-age or disability pension received by the person concerned.

### **Example**

*A 60-year old woman, born in 1949, who resides in Poland and has accumulated a 10-year period of insurance in Poland and a 15-year period of insurance in Italy, and who has been granted by ZUS, after reaching the statutory retirement age<sup>5</sup>, an old-age pension under the new rules, determined in amount to be lower than the minimum Polish old-age pension, will receive a supplement to bring her benefit up to the level of the minimum Polish old-age pension. The supplement will amount to the difference between the amount of the minimum Polish old-age pension and the aggregated amount of the Polish and Italian old-age pension received by the person concerned.*

In the case of persons residing in Poland who had accumulated insurance periods in Poland and periods of insurance or residence in other Member States, of total duration of at least 20–25 years (for women) and 25 years (for men), and who were awarded by ZUS an old-age pension from the Social Insurance Fund under the new rules in amount lower than the minimum Polish old-age pension, if such persons are also entitled to a periodic funded pension, a supplement to bring the benefit up to the level of the Polish minimum pension will be equal to the difference between the amount of the minimum Polish pension and the aggregated amount of the “new” pension from the Social Insurance Fund, periodic funded pension and the foreign old-age or disability pension received by the person concerned.

The rules for establishing the supplement are not applicable to a partial old-age pension. Besides, a partial old-age pension is not subject to increase to bring its amount up to the level of the minimum old-age pension.

### **► Periods of insurance (residence) of less than one year**

Where an insurance (residence) period of a given person in any Member State is shorter than one year, no pension entitlement is established in that State if its legislation does not provide for the awarding of the old-age pension in respect of so short an insurance (residence) period. However, this period is not lost because if a competent institution of another Member State awards the pension, it will be obliged to take into account also such a short foreign period when calculating the amount of its own benefit.

This rule is applicable by ZUS to calculate an old-age pension whose amount depends on the length of the insurance periods. This means that when calculating such an old-age pension ZUS takes into account a foreign insurance (residence) period of less than one year, completed under the legislation of a Member State, not giving any entitlement to the benefit under the national legislation of that State, and pays the benefit for that period.

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<sup>5</sup> See footnote 3.

### **Example**

*Where an old-age pension claimant, who beside employment (insurance) periods in Poland has also completed a period of insurance of less than one year in Lithuania, not giving any entitlement to benefit under Lithuanian legislation, in the event of awarding the old-age pension in Poland ZUS will take into consideration also the Lithuanian insurance period to calculate the benefit amount.*

In the event of an old-age pension from the Social Insurance Fund awarded under the new rules, whose amount is independent of the length of insurance periods, this rule is applicable only to determine the initial capital on the basis of the periods completed before 1 January 1999.



### **The basis for calculating the old-age pension for persons who have accumulated – apart from the Polish periods of insurance – also foreign insurance or residence periods in Member States**

The old-age pension from ZUS, whose amount depends on the length of the insurance periods, for a person who has accumulated – apart from the Polish periods of insurance – also foreign insurance or residence periods in other Member States, is calculated based on the average assessment basis for a contribution to pension insurance (before 1 January 1999 – to social insurance), under Polish legislation, from the period of 10 consecutive calendar years selected by the person concerned from among the recent 20 calendar years directly preceding the year when the pension claim was filed. The mentioned 10 calendar years are determined without consideration of the years when the person concerned was covered (for the full year) by insurance in Member States.

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

On the request of the person concerned an amount of the pension may be also based on an average basis for the assessment of a contribution to social insurance, pursuant to Polish legislation, from the period of 20 calendar years, preceding the year when the person concerned filed the pension claim, selected from the whole period of coverage by the social insurance in Poland.



## The basis for calculating under the new rules the old-age pension from the Social Insurance Fund for persons who have accumulated – apart from the Polish periods of insurance – also foreign insurance or residence periods in Member States

The amount of the old-age pension under the new rules<sup>6</sup> corresponds to the quotient resulting from dividing the assessment basis by the average life expectancy<sup>7</sup> for persons of the age at which the insured person retires.

The old-age pension awarded under the new rules to persons who have accumulated – apart from the Polish periods of insurance – also foreign insurance or residence periods in other Member States will be calculated on the basis of the amount of contributions paid to the old-age pension insurance after indexation, booked to the individual account of the insured person by the end of the month preceding the month from which the pension is payable, the amount of the initial capital after indexation and the amount of funds booked to the sub-account of the insured person.

The partial old-age pension<sup>8</sup> **equals 50% of the old-age pension amount** calculated in full accordance with the above rules.

Foreign periods of insurance (residence) in other Member States are taken into account to calculate the amount of the “new” old-age pension, including the partial pension, **only to determine the initial capital**, if those periods are shorter than one year, thus not giving the person concerned any entitlement to the foreign benefit from these States.



## Special rules for establishing old-age pensions under the Polish–German Agreement of 1975

In Polish–German relations, beside the Community regulations governing the coordination of social security systems, the Polish–German Agreement of 1975 on old-age pensions and benefits for work-related accidents is still in force.

<sup>6</sup> This rule applies to persons born after 31 December 1948.

<sup>7</sup> See footnote 4.

<sup>8</sup> A partial pension may be granted to women born after 31 December 1958 (who have reached the age of 62 years and have proved at least a 35-year insurance cover period) and to men born after 31 December 1948 (who have reached the age of 65 years and have proved at least a 40-year insurance cover period), before reaching the general retirement age.

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

If the pensioner has moved to the other State-Party to the Agreement after 31 December 1990, his or her old-age pension must be re-established in both States: in Poland and in Germany. As a result, the pension entitlement may be established in each of these States based only on its own insurance periods – in full amount, or based on aggregated insurance periods completed under the legislation of both States – in pro-rata amount, taking into account the ratio between the duration of their own insurance periods and the total duration of insurance periods completed under the legislation of Poland and of Germany.



## Old-age pensions for persons residing in Member States other than Poland, who have accumulated only Polish insurance periods

Where a ZUS old-age pension claimant has accumulated only periods of insurance (employment) in Poland but resides abroad in the territory of another Member State, old-age pension entitlement is established only by ZUS.

The person concerned may be granted an old-age pension in Poland if he or she satisfies the requirements under Polish legislation<sup>9</sup>.



## Where to file an old-age pension claim?

A person who has been insured in more than one Member State should file the old-age pension claim with an insurance institution **of one Member State**. It means that he or she is not required to lodge a separate claim in each State.

Such a claim automatically triggers off **the procedure of old-age pension entitlements investigation** in all Member States where the person concerned has been insured, and the date of the claim is binding upon the institutions of all Member States concerned.

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<sup>9</sup> The Act of 17 December 1998 on pensions from the Social Insurance Fund (Journal of Laws of 2013 No 153, Text 1440 as amended).

- A person **residing in Poland** who was insured in Poland and in other Member States, should file his or her old-age pension claim with the Polish social insurance institution (ZUS, KRUS or a pension body of the so-called uniformed services).
- A person **residing abroad** in the Member State, who was insured in Poland and in other Member States, including the State of residence, should file his or her old-age pension claim with an insurance institution in charge of old-age pensions in the State of residence.
- A person **residing abroad** in the Member State where s/he has never been employed, who however was insured in Poland and in other Member States, should file his or her old-age pension claim with an insurance institution in charge of old-age pensions in the State where s/he has been recently insured. The pension claim may be also filed through the social insurance institution of the State of residence, which will forward it to the competent institution.
- A person **residing abroad** in the Member State, who has been insured only in Poland, should file his or her pension claim with a Polish institution competent to investigate his or her pension claim in Poland. The pension claim may be also filed through the social insurance institution of the State of residence, which will forward it to the competent Polish institution. The date of filing the claim with a foreign institution will be in this case binding upon the Polish institution.

Where the claim for an old-age pension subject to EU coordination is filed with a foreign institution of a Member State, the said institution is obliged *inter alia* to complete the application for an old-age pension to be awarded under the Polish legislation and to forward it to the competent institution in Poland.

Where the claim for an old-age pension subject to EU coordination should be investigated in Poland, it is necessary to identify which Polish insurance institution is competent for a given case.

The pension claim is **investigated by ZUS** if the person concerned was **employed or self-employed (ran a business outside agriculture) in Poland**.

But ZUS does not always have the competencies to investigate the claim. It does not have the competencies to investigate old-age pension claims lodged by persons who were covered in Poland by the social insurance scheme for farmers, pension schemes for uniformed services or judges and public prosecutors. However, ZUS investigates pension claims:

- filed by persons who have accumulated periods of insurance in Poland as persons employed and self-employed outside agriculture and as farmers, if the last Polish period was the period of insurance as a person employed and self-employed outside agriculture,
- filed by persons who claim an old-age pension as an officer of the so-called uniformed services (e.g. professional soldiers, officers of the Police, State Fire Service), whose periods of service do not give the right to an old-age pension from the pension scheme of the „uniformed services”.

If ZUS is recognised as the competent institution to process the claim, the old-age pension entitlement is established by **one of six local ZUS units** designated to deal with pension issues subject to EU coordination. Their detailed list, with addresses and a list of countries, is included in the table on pp. 21–22.

Thus, a person residing in Poland may file the old-age pension claim **directly** with the ZUS unit relevant for him or her, or **through the nearest ZUS unit in his or her place of residence**.

The above described rules for filing old-age pension claims apply respectively to claims for periodic funded old-age pensions. Filing the periodic funded old-age pension claim means the concurrent application for the establishment by ZUS of the old-age pension from the Social Insurance Fund under the new rules and the periodic funded pension.



## How to draw up an old-age pension claim to be filed with ZUS?

■ If the old-age pension claim is filed with ZUS, it must be drawn up pursuant to Polish legislation. The claim may be submitted on form ZUS Rp-1E (*A claim for an old-age pension*) or ZUS-ER-WEC-01 (*A claim for a partial old-age pension*), which must be accompanied by:

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

Important: the old-age pension claim should include the **PESEL** statistical identification number, or – if such a number has not been assigned – **series and number of national ID card or passport** (this may be a foreign passport). Where NIP is the tax identification number of the person concerned, Polish NIP should be also given.

A certificate of the **employment period in Poland** may be issued by:

- the employer based on the available personal files of the employee,
- the legal successor of the employer based on the personal files of the employee that s/he has taken over,

- the body which stores documents of a liquidated work establishment (a founding body, a supervisory body, archives or a document storing company).

Detailed information on the documented evidence required is available at the web-site [www.zus.pl](http://www.zus.pl).

The following documents certify **earnings** – for the purposes of calculating the base amount of old-age pension benefits: a certificate issued by the employer on the ZUS form Rp-7 or the insurance card with relevant entries on employment periods and received remuneration. Certificate on the ZUS form Rp-7 should be issued by the employer or his/her legal successor based on wage and salary documentation. If such documentation is non-existent, the certificate of earnings may be issued based on data contained in the personal files of the employee, e.g. in the employment contract, letters of appointment and other letters determining the remuneration of a given person. If the person concerned is not able to obtain the required certificates, copies of wage and salary documentation drawn up by the archives or certified copies drawn up by other institutions which store the documentation of a given work establishment or by a private document storage company are permissible.



## Appeals against ZUS decisions on old-age pension issues by persons residing abroad in Member States

Pursuant to Polish legislation, appeals against ZUS decisions in old-age pension issues are filed with a competent Court for Labour and Social Insurance through the ZUS pension body which has issued the decision, within one month from the day of its receipt.

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



## The right to review old-age pension decisions issued by institutions of Member States

Apart from the right to appeal against a ZUS decision pursuant to Polish legislation, the person concerned is also entitled – pursuant to the EU Regulation – **to request the review of the old-age pension decision** taken by ZUS and decisions taken by institutions of other Member States.

The right to apply, pursuant to the EU Regulation, for the review of the old-age pension decision is, however, exercised only when the right to the old-age pension in a given Member State has been adversely affected by the interaction of decisions taken by two or more institutions of Member States.

For example, this may refer to a situation where the old-age pension has been reduced due to generated income or received benefits, or when the old-age pension is affected by legal provisions on overlapping insurance periods.

### **Example**

*The Social Insurance Institution has issued to the person concerned a decision refusing the right to an old-age pension, indicating that the insurance period completed by the person concerned in Poland was shorter than one year. At the same time the Austrian insurance institution did not take into account this short period when determining the pension entitlement of the person concerned in the Austrian social security system, even though it should have done so.*

A request for a review of the old-age pension decision should be filed with the institution which has taken the decision in question, within the time limit specified in the national legislation of the Member State concerned. The time limit commences on the day of receipt of the P1 document – *Summary of decisions* – containing information on decisions taken by social insurance institutions in all Member States concerned.

The request for a review of a ZUS old-age pension decision may be filed at **any time** to the ZUS unit which has taken the decision. Persons residing abroad in Member States may file an appeal against a ZUS decision also through the social insurance institution of the State of residence, which will forward the appeal to the relevant ZUS unit.



## **ZUS old-age pension payment to a person residing abroad in a Member State**

Person entitled to old-age pension, residing abroad in a Member State, receives her/his old-age pension, depending on the instructions given to ZUS:

- in Poland:
  - to the pensioner's bank account; or
  - to person who lives in Poland, authorised by old-age pensioner;

or

- in the State of residence – in the form of transfer to the pensioner's foreign bank account in that State.

An old-age pension awarded by ZUS may be transferred to the person residing in other Member State, at his or her request, to a pensioner's State of residence. An application for old-age pension transfer to the State of residence may be filed with

the ZUS branch which has awarded or had been earlier paying the benefit. The case is transmitted to **one of the six local ZUS units designated to deal with old-age pension issues subject to EU coordination**. An application for old-age pension transfer may be also filed with a relevant, designated ZUS unit.

The above information concerning old-age pensions payment also applies to beneficiaries living in countries with which Poland is bound by a bilateral international agreement in the field of social insurance, namely the USA, Canada, Australia, South Korea, Macedonia, Serbia, Montenegro, Bosnia and Herzegovina, Ukraine. Such persons may – upon their request – have their old-age pensions transferred to the State of residence (to the pensioner's foreign bank account).

While persons entitled to an old-age pension from ZUS, residing in a third party country (i.e. a country outside of the EU/EFTA and a country with which Poland has not concluded a social security agreement) may receive their benefit only in Poland.

An application for benefit transfer can be filed on the form prepared by ZUS *Request for change of address data / surname and first name / payment of Polish benefit / change of bank account*, which is available at the ZUS website.

The rules described above apply to the payment of a periodic funded old-age pension, which is payable together with an old-age pension from the Social Insurance Fund awarded under the new rules.

The old-age pension is payable on a monthly basis on the benefit payment day fixed in the ZUS decision. Where the old-age pension amount transferred abroad to the pensioner's place of residence in a Member State is lower than the minimum Polish old-age pension, its payment may be carried out on another basis than monthly (e.g. on a quarterly basis). If the Polish old-age pension is transferred to another Member State, the date of bank transfer is considered to be the date of payment.

Old-age pensions are transferred to beneficiaries residing abroad without the deduction – pursuant to the tax legislation – of an advance payment of Polish personal income tax (gross) or after the deduction of an advance payment of Polish personal income tax (net) subject to the provisions of an international agreement to avoid double taxation concluded by Poland with the beneficiary's State of residence.

More detailed information on the taxation of Polish old-age pensions payable to persons who live abroad and on the applicability of agreements for the avoidance of double taxation is available at the relevant treasury office. Information in this regard may be also obtained by telephone from the National Tax Information service, on: helpline: +48 801 055 055 (for landline phones), +48 22 330 03 30 (for mobile phones or from abroad).

Should the National Health Fund (Narodowy Fundusz Zdrowia, NFZ) issue to a pensioner residing in another Member State a certificate S1 confirming her/his entitlement to health care benefits in the State of residence at the expense of the National Health Fund, the old-age pension is transferred after the deduction by ZUS of the health insurance contribution. The mentioned contribution is transferred to NFZ.

More detailed information on the healthcare benefits in kind for persons covered by the EU coordination is available at the NFZ headquarters. NFZ helpline: +48 800 392 976, +48 22 572 60 42, e-mail: [infolinia@nfz.gov.pl](mailto:infolinia@nfz.gov.pl).



## **Impact of earnings from activity pursued abroad in Member States on the entitlement to, and amount of, the old-age pension received from ZUS**

Old-age pensioners who have not reached the statutory retirement age<sup>10</sup> are obliged to notify ZUS of earnings and other incomes from activity carried out abroad. The level of such incomes may affect the amount of the ZUS old-age pension due. If the amount of foreign incomes exceeds:

- 70% of the average monthly earnings under Polish legislation but is not higher than 130% of these earnings – the old-age pension is subject to reduction,
- 130% of the average monthly earnings under Polish legislation – the old-age pension is suspended.

These rules are not applicable to old-age pensioners who have established entitlement to a partial old-age pension or who have reached the universal retirement age.



## **Impact of foreign pensions on the entitlement to, and amount of, the old-age pension received from ZUS**

The fact that a person with an established entitlement to a ZUS old-age pension has also acquired a pension from a Member State other than Poland does not result in a reduction or suspension of the right to an old-age pension from ZUS.



## **Impact of continuing employment in an EU/EFTA Member State on the entitlement to an old-age pension from ZUS**

According to the Pension Act, the right to an old-age pension from the Social Insurance Institution shall be suspended regardless of the amount of income from the employment continued without prior termination of employment with the employer on whose behalf the retired person has been working immediately before the acquisition of old-age pension rights. The mentioned rule also applies to an employment rela-

<sup>10</sup> The statutory retirement age: see footnote 3.

tionship established with the employer in another Member State. This means that the person concerned who applies for the old-age pension must terminate all employment relationships, both in Poland and in EU/EFTA Member States in order to have his or her old-age pension paid by ZUS. Otherwise, i.e. in the event of continuing employment with the previous employer, the right to a Polish old-age pension will be automatically suspended. The requirement for the employment relationship termination does not apply where the person concerned has started employment already after the granting of old-age pension rights.

### **Example**

*A woman, who is currently working and living in the UK, had reached the general retirement age in accordance with Polish law, so she has claimed an old-age pension from the Social Insurance Fund. She had concluded an employment contract with a British company before acquiring the right to the old-age pension from ZUS and remains in employment. Therefore, if she wants ZUS to pay her pension, she should terminate the employment relationship with the current employer and send to ZUS an employment certificate or a certificate confirming termination of her employment relationship<sup>11</sup>.*



## **Pensioners' obligations towards ZUS**

Pensioners are under obligation to notify the ZUS unit which is the payer of their benefits, of any circumstances affecting their pension entitlement or payment. This concerns in particular changes in personal data (e.g. name, surname) and address data, change in the place of residence, changes in bank account numbers. Additionally, pensioners who have not yet reached the general retirement age (except for recipients of partial old-age pensions) are also required to inform of the undertaking of employment or other gainful activity, of receiving income resulting in benefit reduction or suspension (applicable both to income from activities pursued in Poland and abroad), of the school graduation of a child.

ZUS pensioners are under obligation – on demand of the pension body – to certify with their own signature further entitlement to the benefit. The ZUS unit which pays old-age pensions to persons residing abroad sends them periodically a form titled *Declaration of living and residence* to be completed and sent back to ZUS. The form should be completed and signed by the pensioner him/herself. Should the pensioner

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<sup>11</sup> The requirement to terminate the employment contract concluded before the old-age pension was awarded in order to start (or continue) receiving this benefit was introduced on 1 January 2011 in Article 103a of the Pension Act.

be unable to sign it personally, the form should be signed by a person who actually takes care of him/her. In both cases the signature should be certified by a competent body or an authorised person in the place of residence or by an authorised person at a Polish diplomatic or consular post.



## How to obtain more information?

This leaflet has a general character. More detailed information is available at:

- the nearest local ZUS unit,
- ZUS website: [www.zus.pl](http://www.zus.pl),
- local ZUS units designated to deal with pension issues subject to EU coordination, i.e. the First Branch in Łódź, branches in Nowy Sącz, Tarnów, Opole, Szczecin and the First Branch in Warsaw,
- The Foreign Pensions Department at ZUS Headquarters, playing the role of a liaison body in pension issues subject to coordination, which cooperates with foreign liaison bodies of the Member States (ul. Senatorska 10, 00-082 Warszawa, e-mail: [drz@zus.pl](mailto:drz@zus.pl)).

### The list of ZUS units designated to deal with pension issues subject to EU coordination

<p>ZUS organisational unit investigating old-age pension claims of persons who have been insured in Poland and in an EU/EFTA Member State</p>	<p>Relevant for persons:</p>
	<p>who have completed only Polish insurance periods, residing in the following states or residing in Poland or abroad in an EU/EFTA Member State, who have completed insurance periods (aggregated) in Poland and in another Member State, including those recently completed in the following countries:</p>
<p><b>First ZUS Branch in Łódź</b> – Division for the Implementation of International Agreements ul. Zamenhofa 2 90-431 Łódź</p>	<p>Cyprus, Greece, Spain, Malta, Portugal, Italy</p>

<p>ZUS organisational unit investigating old-age pension claims of persons who have been insured in Poland and in an EU/EFTA Member State</p>	<p>Relevant for persons:  who have completed only Polish insurance periods, residing in the following states  or  residing in Poland or abroad in an EU/EFTA Member State, who have completed insurance periods (aggregated) in Poland and in another Member State, including those recently completed in the following countries:</p>
<p><b>ZUS Branch in Nowy Sącz</b>  – Division for the Implementation of International Agreements  ul. Węgierska 11  33-300 Nowy Sącz</p>	<p>The Czech Republic, Slovakia</p>
<p><b>ZUS Branch in Tarnów</b>  – Division for the Implementation of International Agreements  ul. Kościuszki 32  33-100 Tarnów</p>	<p>Austria, Liechtenstein, Slovenia, Switzerland, Hungary</p>
<p><b>ZUS Branch in Opole</b>  – Division for the Implementation of International Agreements  ul. Wrocławska 24  45-701 Opole</p>	<p>Germany</p>
<p><b>ZUS Branch in Szczecin</b>  – Division for the Implementation of International Agreements  ul. Andre Citroena 2  70-772 Szczecin  Address for correspondence  ul. Matejki 22  70-530 Szczecin</p>	<p>Denmark, Estonia, Finland, Iceland, Lithuania, Latvia, Norway, Sweden</p>

<p>ZUS organisational unit investigating old-age pension claims of persons who have been insured in Poland and in an EU/EFTA Member State</p>	<p>Relevant for persons:</p>
	<p>who have completed only Polish insurance periods, residing in the following states or residing in Poland or abroad in an EU/EFTA Member State, who have completed insurance periods (aggregated) in Poland and in another Member State, including those recently completed in the following countries:</p>
<p><b>First ZUS Branch in Warszawa I</b> – Division for the Implementation of International Agreements ul. Kasprowicza 151 01-949 Warszawa</p>	<p>Belgium, Bulgaria, Croatia, France, the Netherlands, Ireland, Luxembourg, Romania, United Kingdom</p>



## New forms of contact with ZUS

The ZUS Electronic Services Platform (Platforma Usług Elektronicznych, PUE) provides people working and living abroad with new opportunities of electronic contact with ZUS and access to many other services.

Setting up a profile at [pue.zus.pl](http://pue.zus.pl) provides, after verification of the identity, access to data stored in the individual account of the insured person kept by ZUS, including data on the accumulated initial capital and contributions paid since 1999. Users may also file applications and receive responses by electronic means.

Telephone information can be obtained from the ZUS Call Centre (Centrum Obsługi Telefonicznej, COT) on the following telephone numbers:

- 801 400 987 – from Polish landline phones,
- +48 22 560 16 00 – from mobile phones as well as Polish and foreign landline phones.

The Call Centre provides explanations on all matters, including those related to social insurance coverage abroad, and informs about the possibilities of receiving Polish benefits in this respect, also by e-mail ([cot@zus.pl](mailto:cot@zus.pl)), chat and Skype ([zus\\_centrum\\_obslugi\\_tel](https://www.zus.pl)).

COT consultants provide assistance on weekdays from Monday to Friday 7:00–18:00 hrs.

Detailed information for insured persons and the relevant document templates is available at the websites [www.zus.pl](http://www.zus.pl) and [pue.zus.pl](http://pue.zus.pl).



## Basic EU legal acts governing 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 April 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 October 2009);
- 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 party countries who are not already covered by these Regulations solely on the ground of their nationality (OJ No L 344 of 29 December 2010);
- 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 March 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 party countries who are not already covered by those provisions solely on the ground of their nationality (OJ No L 124 of 20 May 2003).

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