

MODERNISATION EFFORTS IN EU SOCIAL SECURITY COORDINATION

Esfuerzos de modernización en la coordinación de la Seguridad Social de la Unión Europea

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Resumen

La coordinación de la seguridad social de la UE tiene como objetivo garantizar la libre circulación de personas. Al hacerlo, dentro de los límites de sus competencias, la Unión Europea garantiza que los ciudadanos de la UE conserven sus derechos de seguridad social en el territorio de todos los Estados miembros mediante el establecimiento de normas a nivel de reglamentos. Sin embargo, hoy en día hay muchos cambios que requieren la revisión de las distintas normas jurídicas de la UE y la modernización de su aplicación práctica. Así, también en el ámbito de la coordinación de la seguridad social, se han adoptado tres medidas clave en respuesta a la digitalización y al aumento de la movilidad laboral, que no solo contribuyen a la movilidad de los ciudadanos de la UE, sino que también sirven para reforzar la cooperación entre los Estados miembros. En el marco de este estudio, además de presentar los antecedentes teóricos y las normas reglamentarias de la coordinación de la seguridad social, se revisarán las medidas de modernización antes mencionadas.

■ **Palabras clave:**

Unión Europea; Coordinación;
Modernización; Libre circulación;
Seguridad Social

Abstract

EU social security coordination aims to ensure the free movement of persons. In doing so, within the limits of its powers, the European Union ensures that EU citizens retain their social security entitlements in the territory of all Member States by laying down rules at the level of regulations. However, today there are many changes that require the revision of the various EU legal standards and the modernisation of their practical implementation. Thus, in the area of social security coordination, too, three key measures have been taken in response to digitalisation

■ **Keywords:**

European Union; Coordination;
Modernisation; Free movement;
Social Security

and increasing labour mobility, which not only contribute to the mobility of EU citizens but also serve to strengthen cooperation between Member States. Within the framework of this study, besides presenting the theoretical background and regulatory rules of social security coordination, the above mentioned modernisation measures will be reviewed.

Introduction – I. Theoretical background to social security coordination: 1. Competence of the European Union; 2. General functioning of the open coordination mechanism; 3. Open coordination of social security systems – II. Regulatory rules on social security coordination: 1. Scope and principles of the coordination regulation: 1.1. Personal, territorial and material scope; 1.2. Principles; 2. Commissions supporting coordination activities; 3. Rules for communication between Member States – III. Modernising social security coordination: 1. Electronic exchange of social security information; 2. European social security pass; 3. European labour authority – Conclusion – References

INTRODUCTION

Ensuring the free movement of persons is one of the basic conditions for the functioning of the EU's single internal market, which enables EU citizens to live, work and study freely in any Member State belonging to the European Economic Area. In order to ensure the unhindered exercise of the right to free movement, it should also be made possible for EU citizens to retain their social security entitlement in the territory of another Member State, which the European Union implements through the coordination of national social security systems¹. This so-called open coordination mechanism enables EU citizens' rights to be enforced across borders without the European Union going beyond its competences and interfering in the internal functioning of national social security systems. The current rules for such coordination are laid down in Regulation (EC) No 883/2004² (hereinafter: Coordination Regulation) and Regulation (EC) No 987/2009³ (hereinafter: Implementing Regulation).

The Coordination Regulation governs, inter alia, the principles to be applied in coordination, defines the persons and social security benefits to which it applies, and provides for commissions to support coordination activities and rules for communication between Member States, in addition to specific coordination rules for individual benefits⁴. Since the entry into force of the Coordination Regulation, the European Union has had to keep pace with a number of changes. These include, inter

¹ GOLYNKER, O.; "EU coordination of social security from the point of view of EU integration theory". *European Journal of Social Security*, Vol. 22 Issue 2, 2020. p. 3.

² Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems.

³ Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.

⁴ See for more information: KRISTÓ, K.: *A szociális igazgatás alapjai*. University of Public Service, Budapest, 2022. pp. 9-13.

alia, digitalisation, the continued expansion of the European Union and increasing cross-border employment. Furthermore, we cannot ignore the fact that the coronavirus pandemic has also led to drastic changes in the labour market, the economy and welfare systems. These changes have highlighted a number of economic and social problems that have given a new direction to the European Union's social role and thus required the modernisation of social security coordination. In the framework of this study, in addition to an overview of the general rules of social security coordination, the mentioned modernisation efforts will be presented, with special regard to measures supporting digitalisation and cooperation between Member States.

I. THEORETICAL BACKGROUND TO SOCIAL SECURITY COORDINATION

1. Competence of the European Union

Article 156 TFEU defines the competence of the European Union in the field of social security as follows:

“With view to achieving the objectives of Article 151 and without prejudice to the other provisions of the Treaties, the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this Chapter, particularly in matters relating to:

- *employment;*
- *labour law and working conditions;*
- *basic and advanced vocational training;*
- *social security;*
- *prevention of occupational accidents and diseases;*
- *occupational hygiene;*
- *the right of association and collective bargaining between employers and workers.*

To this end, the Commission shall act in close contact with Member States by making studies, delivering opinions and arranging consultations both on problems arising at national level and on those of concern to international organisations, in particular initiatives aiming at the establishment of guidelines and indicators, the organisation of exchange of best practice, and the preparation of the necessary elements for periodic monitoring and evaluation. The European Parliament shall be kept fully informed”.

That provision of the TFEU therefore only allows Member States to encourage and coordinate cooperation at EU level, using the open method of coordination. However, the decision to apply the mechanism was the result of lengthy discussions in the area of social security systems. It was clear that the coordination of the functioning of the various Member States' social security systems was essential in order to ensure the free movement of labour, as workers will not want to work in another Member State if this means losing previously acquired social security entitlements⁵. However, the issue was how to achieve harmonisation, which also raised the question that led to the

⁵ BERKI, G.; *Szabad mozgás és az Európai Unió szociális joga*. Iusperitum Kiadó, Szeged, 2016. p. 6.

debate on harmonisation coordination: whether a looser cooperation ensuring the interoperability of Member States' social security systems is sufficient for the enforcement of the fundamental freedom in question, or whether harmonisation is the most appropriate means in this area as well⁶. Advocates of harmonisation called for common rules for certain aspects of the Member States' social security systems (e.g. equal social security contributions, setting the same retirement age) to avoid workers emigration to countries where they can receive higher quality social benefits in the absence of uniform rules. We now know that the founding fathers finally opted for coordination, believing that this would be enough to remove obstacles to the free movement of workers⁷.

2. General functioning of the open coordination mechanism

The European Council, the European Commission and the Member States have a prominent role in the open coordination mechanism process as follows: In line with the strategic objectives set out by the European Council, the European Commission proposes implementation guidelines and defines indicators to measure Member States' performance. Based on these, Member States draw up their own national action plans and send them to the Commission. On the basis of the Member States' action plans, the Commission assesses the Member States' performance by using the defined indicators and proposes guidelines for further development⁸. In addition, as set out in Article 153 of the Treaty on the Functioning of the European Union (TFEU), EU bodies may establish a regulatory framework and set minimum standards which may contribute, inter alia, to the protection of workers' health and safety and social security or to equal treatment of men and women in matters of employment.

Several authors have undertaken to evaluate the operation of the mechanism and to map its advantages and disadvantages. The biggest drawback of open coordination mentioned is that achieving the set objectives depends to a large extent on the commitment of the Member States. This is related to the fact that binding rules are not formulated, so the competent bodies of the European Union do not have the authority to 'motivate' Member States to implement the objectives by applying the tool of sanctions. This dilemma is raised, among others, by Gábor Juhász and Ágnes Taller, who highlighted that in the absence of coercive means, there is a risk that the objectives will become less realised⁹.

⁶ THRELFALL, M.; "European social integration: harmonization, convergence and single social areas". *Journal of European Social Policy*, Vol. 12, Issue 2, 2003. p. 2.

⁷ JUHÁSZ, G.; "Az európai szociális biztonsági rendszerek összehangolása – szociális biztonsági koordináció". *Az Európai Unió szociális politikái* (SZIKLAI, I.) Eötvös Lóránd University, Budapest, 2012. p. 57.

⁸ REGENT, S.; "The Open Method of Coordination: A New Supranational Form of Governance?" *European Law Journal*, Vol. 9, No. 2, 2003. p.16-18.

⁹ JUHÁSZ, G., TALLER, Á.; (2005): "A társadalmi kirekesztődés elleni küzdelem az EU új tagállamaiban". *Esély*, 2005/6. p. 24.

Some authors also discuss the appropriateness of the indicator system developed by the Commission. István Sziklai¹⁰ criticises the fact that the indicators are not able to effectively reflect the EU-level objectives and are not intended to measure access to rights, services and support. However, from another perspective, the applied indicator system allows the performance of Member States to be quantified. According to Sisson et al., for example, the method of open coordination is nothing more than the transfer of management techniques developed in multinational companies and common in the 1990s to the European Union. The authors believe that the introduction of the indicators is an excellent tool in such a decentralized, multifaceted system, where local leadership has to find solutions to emerging problems, but the task of defining basic strategic goals does not fall to it¹¹.

According to further theoretical approaches, the method allows the dissemination of best practices, the convergence effect of which will enable the European Union to achieve its goals. Furthermore, through the coercive comparative effect, Member States will also be motivated to catch up with the performance of the more developed Member States. For example, József Hajdú highlights the mechanism of mutual learning and the use of instruments not yet used in the legislative process during the application of the mechanism, such as benchmarking, peer review, forums and platforms facilitating policy transfer¹².

Despite these efficiency dilemmas, the method of open coordination proves to be an effective tool in areas where uniform rules at EU level are not intended, but coordination between the different Member States' systems is necessary for the functioning of the single internal market. This is also highlighted by Luc Tholoniati in one of his studies¹³ as follows: “*Despite its initial weaknesses, or perhaps because of them, the OMC has helped to overcome initial resistance to EU action, to identify a common European interest and to create a role for the EU in previously untouched areas. Importantly, the OMC has extended the EU's 'tool-kit'. While the use of these instruments is in the hands of political and administrative actors, the OMC has put a conceptual, knowledge and organisational infrastructure at the EU's disposal*”.

3. Open coordination of social security systems

As mentioned above, ensuring the free movement of workers has been the main reason for coordinating social security systems.

¹⁰ SZIKLAI, I.; “Az üveghegyen túl...” Az EU szociálpolitikai együttműködése és a hazai szociálpolitikai gyakorlat. *Kapocs*, IV. évf., 6. sz., 2005. p. 10.

¹¹ SISSON, K., MARGINSON, P.; “Co-ordinated Bargaining: A Process for Our Times?” *British Journal of Industrial Relations*, Vol. 40, Issue 2, 2002. p. 2.

¹² HAJDÚ, J.; “A szociális jog elmúlt 20 évéről, különös tekintettel az Európai Unióra”, *Gazdaság és jog. Húsz év jogalkotási fejleményei a civilisztika területén.* (MISKOLCZI BODNÁR, P.; KUN, A.; BOÓC, Á.), Károli Gáspár University of the Reformed Church in Hungary, Faculty of Law, Budapest, 2019. p. 16.

¹³ THOLONIAT, L.; “The Career of the Open Method of Coordination: Lessons from a ‘Soft’ EU Instrument”. *West European Politics*, Vol. 33, No. 1, 2010. p. 23.

Articles 45 to 48 TFEU lay down the primary provisions relating to freedom of movement for workers and the coordination of related social security systems.

Article 45 TFEU reads as follows:

- “(1) Freedom of movement for workers shall be secured within the Union.
 (2) Such freedom of movement shall entail the abolition of any discrimination based on nationality between workers of the Member States as regards employment, remuneration and other conditions of work and employment.
 (3) It shall entail the right, subject to limitations justified on grounds of public policy, public security or public health:
 a) to accept offers of employment actually made;
 b) to move freely within the territory of Member States for this purpose;
 c) to stay in a Member State for the purpose of employment in accordance with the provisions governing the employment of nationals of that State laid down by law, regulation or administrative action;
 d) to remain in the territory of a Member State after having been employed in that State, subject to conditions which shall be embodied in regulations to be drawn up by the Commission.
 (4) The provisions of this Article shall not apply to employment in the public service”.*

Article 48 TFEU deals with related social security coordination:

- “The European Parliament and the Council shall, acting in accordance with the ordinary legislative procedure, adopt such measures in the field of social security as are necessary to provide freedom of movement for workers; to this end, they shall make arrangements to secure for employed and self-employed migrant workers and their dependants:
 a) aggregation, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into account under the laws of the several countries;
 b) payment of benefits to persons resident in the territories of Member States”.*

The right to free movement has been enjoyed by EU workers since the 1960s, and with the Maastricht Treaty it has been extended to all EU citizens, regardless of whether they work or not. Subsequently, freedom of movement was allowed for purposes other than employment, such as studying or accompanying a family member.¹⁴ Under Regulation (EU) No 492/2011 on freedom of movement for workers within the Union, the principle of free movement of persons implies that EU citizens may work, study or reside in another EU or European Economic Area Member State. All this, of course, by taking into account the principle of non-discrimination on grounds of nationality, which applies equally to remuneration and other conditions of work and employment. Furthermore, citizens of the Union have the right to apply for actual offers of employment and to move freely within the territory of the Member States for this purpose, and reside in those Member States or, after their application,

¹⁴ BALDONI, E.; “Free Movement of Persons in the European Union: Legal-historical Overview”. *Pioneer Working Paper*. 2003. p. 9.

remain in the territory of that Member State as determined by the Commission in the regulations¹⁵.

However, it is important to mention that in some cases the regulation allows for restrictions on the fundamental freedom, which is laid down in Directive 2004/38/EC on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States. These are, for example, situations justified on grounds of public policy, public security and public health, but importantly, the restriction must not serve economic interests. Furthermore, Member States are not obliged to ensure fundamental freedom for public service jobs¹⁶.

The current regulation differentiates rights and obligations during the free movement of persons according to the length of residence in another Member State. Accordingly, for stay of less than three months, the only condition for free movement is that the EU citizen has a valid travel document or identity card, but it is important that the EU citizen must not become an unduly heavy burden on the host country's social security system. Where the period of residence in the host Member State is longer than three months, only Union citizens who are engaged in an economic activity or training as students or who are family members of those Union citizens shall be eligible for rights deriving from the free movement of persons. It is also important that EU citizens have sufficient resources and health insurance so that they do not burden the host Member State's healthcare system¹⁷.

Another possibility of restricting the free movement of persons is the possibility of applying the so-called 2+3+2 rule. The rule includes the possibility of introducing labour market restrictions for a certain period of time, which can be imposed by the old Member States on workers from the new Member States. According to the rule, for a period of 2 years after accession, the old Member States can act on the basis of their own legislation and bilateral agreements regarding access to employment for nationals of the new acceding states. This period may be extended by 3 years if the Member State introducing the restriction notifies the Commission that it intends to take similar action. In case of failure to notify, the restriction will be automatically lifted after the 2-year period has expired. If a Member State maintains the application of its legislation or bilateral agreements for 5 years and is experiencing serious disturbances on the labour market, it may extend the restriction for a further period of 2 years after notifying the Commission. It is therefore possible to apply this restrictive regulation for a total period of 7 years¹⁸.

¹⁵ FÜRJES, A.; *Szociális biztonsági koordináció az Unióban, különös tekintettel a nyugdíjakra*. Doctoral School of Law and Political Sciences at University of Szeged, Szeged, 2014. p. 20.

¹⁶ GELLÉRNÉ LUKÁCS, É.; *Személyek szabad mozgása az Európai Unióban*. Doctoral School of Law at ELTE University, Budapest, 2008. p. 130.

¹⁷ BERKI, G.; *Szabad mozgás és az Európai Unió szociális joga*. Iusperitum, Budapest, 2016. p. 6.

¹⁸ MENYHÁRT, Sz.; "A munkaerő szabad áramlása az Európai Unióban a keleti bővítést követően". *Romániai Magyar Jogtudományi Közöny*, 2004, p. 3.

II. REGULATORY RULES ON SOCIAL SECURITY COORDINATION

1. Scope and principles of the Coordination Regulation

1.1. Personal, territorial and material scope

Article 2 of the Coordination Regulation provides for the question of personal scope. Accordingly, the Regulation applies to nationals of Member States, stateless persons or refugees residing in a Member State, as well as to the members of their families and their survivors. The personal scope of the Regulation also covers “*the survivors of persons who have been subject to the legislation of one or more Member States, irrespective of the nationality of such persons, where their survivors are nationals of a Member State or stateless persons or refugees residing in one of the Member States*”. It is therefore clear from these provisions that the focus is no longer solely on facilitating workers' mobility, but on ensuring the rights of all EU citizens, regardless of whether economically active or not¹⁹.

Article 3 of the Coordination Regulation lists exhaustively the benefits covered by the Regulation. These include:

- sickness benefits;
- maternity and equivalent paternity benefits;
- invalidity benefits;
- old-age benefits;
- survivors' benefits;
- benefits in respect of accidents at work and occupational diseases;
- death grants;
- unemployment benefits;
- pre-retirement benefits;
- family benefits²⁰.

With regard to the material scope, it is important to mention that the coordination activity in question only covers the benefits intended to protect EU citizens engaged in an economic activity and their family members and relatives against certain risks, and not the area of social assistance²¹.

The territorial scope of the coordination extends beyond the territory of the EU Member States to the entire European Economic Area and Switzerland²².

¹⁹ KRISTÓ, K., BORBÁS, Sz.; “Külföldi egészségügyi ellátások az Európai Unióban a magyar szabályok tükrében”. *Acta Humana*, Budapest, 2021/3. p. 142.

²⁰ For more information on the coordination rules for family benefits, see: KRISTÓ, K.: “A családtámogatások uniós koordinációs vonatkozásairól”. *Új Magyar Közigazgatás*, 14: 4, 2021. pp. 30-36.

²¹ KRISTÓ, K., BORBÁS, Sz.; “Külföldi egészségügyi ellátások az Európai Unióban a magyar szabályok tükrében”. *Op.cit.*, p. 143.

²² PENNING, F.; “Coordination of social security within the EU Context”. *Social Security and Migrant Workers. Selected Studies of Cross-Border Social Security Mechanisms*. 2014. p. 124.

1.2. Principles

Articles 4 and 5 of the Coordination Regulation set out the *principle of equal treatment*, according to which persons covered by the Coordination Regulation have the same rights and obligations as nationals of that Member State when residing in any Member State.

The requirement of equal treatment in relation to benefits, income, facts and events is also linked thereto. One approach is that, if the receipt of certain social security benefits or income in the Member State in which a Union citizen is currently residing has legal consequences, the provisions of the legislation imposing those consequences should also apply to equivalent benefits and income received under the legislation of another Member State. The same principle shall apply where, in the Member State of residence, the occurrence of certain facts or events has specific legal consequences, then the occurrence of the facts or events in the territory of another Member State shall be taken into account as if they had occurred in its own territory.

However, the application of the principle of equal treatment should also be limited to certain limits, because care must be taken to ensure that its application does not lead to unrealistic results. To remedy this, paragraph 12 of the Coordination Regulation introduces the principle of proportionality in order to avoid such unjustified results and to prevent the overlapping of benefits.

The *purpose of the principle of aggregating periods* is to ensure that periods of insurance and employment completed during the lifetime of a Union citizen in any Member State of the European Union are not lost. This is particularly important for benefits where proof of periods of employment or insurance is required, such as when awarding pensions.

Article 6 of the Coordination Regulation states the following in relation to the principle:

“Unless otherwise provided for by this Regulation, the competent institution of a Member State whose legislation makes:

- *the acquisition, retention, duration or recovery of the right to benefits,*
 - *the coverage by legislation,*
- or*
- *the access to or the exemption from compulsory, optional, continued or voluntary insurance, conditional upon the completion of periods of insurance, employment, self-employment or residence completed under the legislation of any other Member State as though they were periods completed under the legislation which it applies”.*

The *principle of being subject to the jurisdiction of a Member State* is essential for the proper and fair functioning of coordination between social security systems, because these provisions determine which Member State’s jurisdiction an EU citizen is subject to and where he or she is to pay his or her contribution. First, the *lex loci laboris* principle applies, according to which benefits and contributions are to be awarded and

paid on the basis of the social security legislation of the Member State in which the person concerned carries out the work²³. The aim of the regulation is to eliminate the possibility of being subject to the legal systems of two or more Member States at the same time, thus it describes exactly in which cases the persons concerned are subject to which country's legislation.

2. Commissions supporting coordination activities

The Coordination Regulation provides for the establishment of commissions with a key role in implementing social security coordination, establishing a framework for cooperation between Member States and implementing the practice of uniform application of law.

The first is the *Administrative Commission* established by Article 71 of the Coordination Regulation, which is composed of one government representative from each Member State assisted by expert advisers. In this context, the Administrative Commission shall, pursuant to Article 72 of the Coordination Regulation, have the following tasks:

- deal with administrative questions and questions of interpretation;
- facilitate the uniform application of Community law by promoting exchange of administrative practices;
- foster and develop cooperation between Member States and their institutions in social security matters, thus facilitating the realisation of actions of cross-border cooperation activities;
- play an important role in implementing the electronic exchange of information between Member States' institutions and encouraging the use of other new, innovative technological solutions;
- submit proposals to the Commission of the European Communities for modernising and improving the coordination of social security systems;
- establish the factors to be taken into account in the settlement between the institutions of the Member States and adopt the accounts between those institutions.

The *Technical Commission for Data Processing* referred to in Article 73 of the Coordination Regulation is responsible for proposing to the Administrative Commission common architecture rules for the operation of data-processing services, which is particularly important for the electronic exchange of information. In addition, the tasks of the Technical Commission shall include:

- collecting the relevant technical documents and undertaking various studies and other work related to its tasks;

²³ CORNELISSEN, R.; "50 years of European social security coordination". *European Journal of Social Security*, 2009/11. (1-2), p. 14.

- submitting reports and opinions to the Administrative Commission on the architecture of data processing services;
- carrying out the tasks assigned to it by the Administrative Commission and carrying out studies;
- managing Community pilot projects and operational systems using data-processing services.

Under Article 74 of the Coordination Regulation, an *Audit Board* is also attached to the Administrative Commission, the composition and working method of which are determined by the Administrative Commission. The tasks of the Audit Board are defined in the Coordination Regulation as follows:

- verify the methods of calculating and determining the annual average costs submitted by Member States;
- carry out the calculations required for establishing the annual statement of claims of each Member State;
- give the Administrative Commission periodic accounts of the financial aspects of implementing the Coordination Regulation;
- carry out tasks relating to matters referred to it by the Administrative Commission.

Finally, Article 75 of the Coordination Regulation establishes an *Advisory Committee for the Coordination of Social Security Systems*, composed of representatives of the governments, trade unions and employers' organisations of the Member States. The Advisory Committee has the right to examine general questions and problems arising from the implementation of the rules on the coordination of social security systems and to deliver opinions and make recommendations to the Administrative Commission on such matters.

3. Rules for communication between Member States

The effective implementation of coordination between social security systems requires maximum commitment on the part of the Member States. This includes ensuring that national administrations dealing with each coordination case communicate as effectively as possible with each other. This is precisely why Chapter II of the Implementing Regulation provides for strict and consistent rules on how data is exchanged and how Member States' institutions cooperate with each other when implementing the coordination regulations.

Article 2 of the Implementing Regulation clearly takes a customer-friendly approach when defining the principles for communication between Member States. Nothing proves it better than the fact that it lays down as a principle that communication should be based on the principles of public service, efficiency, active assistance, prompt provision of services and accessibility. This customer focus is underpinned by the provision that requires the prompt exchange of data between institutions concerning data necessary to establish the rights and obligations of the person claiming benefits.

The Implementing Regulation also lays down rules for the award of benefits if a person mistakenly submits his claim to the competent institution of a Member State other than that specified in the Implementing Regulation. The institution where the person submitted the documents will then be responsible for forwarding the documents received to the appropriate place.

Article 4 of the Implementing Regulation requires Member State institutions to communicate by electronic means, in addition to protecting the interests of clients and ensuring swift and efficient administrative cooperation. In this context, it entrusts the Administrative Commission with defining the structure, content and format of the documents and structured electronic documents to be used in these electronic communications. The Implementing Regulation also requires that the contact system operates within a common secure framework that adequately ensures data protection. It is interesting, however, that in the Implementing Regulation electronic communication is not an obligation in communication with the person concerned, but it is stressed that the use of electronic means should be preferred where possible.

III. MODERNISING SOCIAL SECURITY COORDINATION

As already mentioned in the introductory part, the European Union needs to keep pace with a number of changes that require the revision of EU legal standards and the modernisation of its activities. Increasing labour mobility and digitalisation have put more emphasis than ever on smooth communication between workers and public administration bodies, and thus on the adequacy of cooperation between Member States, making the development of social security coordination activities necessary. Within the framework of this chapter, two developments aimed at facilitating communication and monitoring activities in social security coordination are reviewed, and the European Labour Authority is also presented, which plays an important role in the cross-border enforcement of social security rights as well.

1. Electronic Exchange of Social Security Information

The Electronic Exchange of Social Security Information (EESSI) is a platform for digitising communication between Member States' institutions. The system allows for faster and more efficient exchange of information between the competent institutions of the Member States on, for example, sickness, pensions, unemployment benefits or occupational diseases. Member States' authorities communicate with each other through the EESSI system on social security matters involving several Member States by means of so-called structured electronic documents²⁴. The establishment of EESSI and its implementation by the Member States has enabled faster and more accurate data exchange between institutions, made the fight against fraud more effective and the handling of personal data more secure, enabled the collection of data on social

²⁴ WISPELAERE, F.; "60 years of coordination of social security systems: Still room for improvement". *Belgisch Tijdschrift voor Sociale Zekerheid*, 2019, p. 168.

security coordination for various statistical purposes, and simplified the verification of social security entitlements of EU citizens²⁵. Ultimately, they contribute to promoting public mobility, which clearly facilitates the survival and effective functioning of the single internal market²⁶.

Organisations involved in social security matters can search a repository for the name and contact details of the competent institution in another Member State. The specifications for the content of the database are set out in Annex 4 to the Implementing Regulation. This electronic directory contains, inter alia, the up-to-date names, identification codes and EESSI electronic address of the bodies, their function, powers and contact details. This directory shall be kept up to date and any changes made to it shall be logged. Member States are responsible for collecting and verifying the necessary information and sending it to the European Commission in a timely manner.

2. European Social Security Pass

The European Pillar of Social Rights (hereinafter: Pillar) Action Plan presented in March 2021 also addresses, inter alia, the issue of reforming social protection systems, including opportunities to modernise social security coordination. With the emergence of new forms of labour mobility, this Pillar Action Plan considers it important to facilitate the portability of social security entitlements for mobile EU citizens. As one of the tools for this, it outlined the introduction of the European Social Security Pass (ESSPASS). The ESSPASS project aims to develop a digital solution by 2023 that facilitates real-time verification by competent institutions of EU citizens' social security coverage and entitlements, as well as the authenticity and validity of related documents – thus reducing the possibility of possible fraud and abuse. The project also seeks to explore how the EESSI system described above could be complemented to provide access for both EU citizens and other relevant authorities. At present, it serves only communication between social security institutions. There is a growing need for this digital solution, as paper communication outside EESSI makes it difficult for citizens to fully exercise their rights and obligations while striving to comply with the rules at both national and supranational level. In addition, healthcare providers, employers and social security institutions face difficulties in fighting fraud and providing services of adequate quality.

The first phase of the pilot project started in 2022, in which the Commission mainly cooperates with the Italian social security institution (Istituto Nazionale della Previdenza Sociale), but 13 other Member States are also involved to varying degrees in the implementation of the project. This includes examining the possibilities for digital cross-border verification of the validity and authenticity of Form A1, which is used to verify which social security legislation applies to a person when paying social

²⁵ AZUARA, F., GONZÁLEZ, J., RUGGIA, R.; “Proposal of a controlled vocabulary to solve semantic interoperability problems in social security information exchanges”. *Library Hi Tech*, Vol. 31 No. 4, 2013. p. 5.

²⁶ HAJDÚ, J.; “A szociális jog elmúlt 20 évéről, különös tekintettel az Európai Unióra”. *Op.cit.*, p. <16.

security contributions in another EU country. Depending on the success of this first phase, the European Commission will decide whether to extend the solution to other related documents²⁷.

The project in question is closely linked to Regulation (EU) 2018/1724²⁸, which proposes the creation of a single digital gateway.

In this context, it stipulates that the procedures specified by it relating to birth, place of residence, employment, studies, moving, retirement, and business start-up should be made fully online from 12 December 2023. Thus, in the field of employment, the following procedures should be made available online:

- Request for determination of the applicable legislation in accordance with Title II of Regulation (EC) No 883/2004;
- Notifying changes in the personal or professional circumstances of the person receiving social security benefits, relevant for such benefits;
- Application for a European Health Insurance Card;
- Submitting an income tax declaration²⁹.

Under Regulation (EU) 2018/1725, the procedures provided for by it can be considered online under the following conditions:

“The procedures referred to in paragraph 1 shall be considered to be fully online where:

- a) the identification of users, the provision of information and supporting evidence, signature and final submission can all be carried out electronically at a distance, through a service channel which enables users to fulfil the requirements related to the procedure in a user-friendly and structured way;*
- b) users are provided with an automatic acknowledgement of receipt, unless the output of the procedure is delivered immediately;*
- c) the output of the procedure is delivered electronically, or where necessary to comply with applicable Union or national law, delivered by physical means; and*
- d) users are provided with an electronic notification of completion of the procedure”³⁰.*

Thus, the ESSPASS project makes a clear contribution to bringing online certain employment-related procedures required by the Regulation mentioned. Thus, in the first round, the submission of the application for the issuance of the A1 portable

²⁷ ESSPASS Pilot Project – Exploring a new digital tool to help mobile citizens exercise their social security rights across borders. <https://ec.europa.eu/social/main.jsp?langId=en&catId=849&newsId=10341&furtherNews=yes> (Last accessed: 15.11.2022).

²⁸ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012.

²⁹ Annex II to Regulation (EU) 2018/1725.

³⁰ Regulation (EU) 2018/1725 Article 6(2).

document and the replies thereto will be made available online to citizens. Furthermore, the project complements this obligation by examining how the authenticity and validity of the document can be verified by other Member States.

In addition to EESSI and the Single Digital Gateway, ESSPASS is also linked to the European Digital Identity (EUDI) system, a proposal for the establishment of which was published by the Commission on 3 June 2021. An important part of this system is that citizens can store various types of documents and certificates, including personally identifiable documents, and share them with the competent authorities. Thus, one part of the ESSPASS project is to find a solution to connect ESSPASS to the EUDI system.

The report concluding the first phase of the ESSPASS project³¹ was published in 2022. It outlines, among other things, how the digitalisation of Form A1 and its use in practice can be solved and clarifies its relationship with the already mentioned and existing digital systems. The development elaborated the following steps for issuing and verifying Form A1 through the ESSPASS system: As a first step, the employer of the home Member State applies to the national social security body for the certificate to be issued. Once the certificate has been issued by the relevant social security body, the posted worker places it and his or her personally identifiable documents in a digital wallet. The posted worker shall then present this certificate to the competent body, which shall verify it in real time.

3. European Labour Authority

The intention to establish a European Labour Authority (hereinafter: Authority) was announced by Jean-Claude Juncker in his State of the European Union address in September 2017.³² The establishment of the Authority is part of the creation of the European social model launched by the Pillar, which aims to ensure the fair functioning of welfare systems³³ and strengthen labour markets along the 20 principles and rights described in the Pillar. With the continuous growth of cross-border employment and the constant change in working conditions, it has become essential to establish a body that can support fair labour mobility in this changed labour market environment and assist Member States and the European Commission in coordinating social security systems.³⁴ The Authority was finally established in 2019 with Regulation (EU) 2019/1149³⁵. The tasks of the Authority are as follows:

³¹ ESSPASS Overview and main concepts. Directorate General for Employment, Social Affairs and Inclusion. October 2022. <https://ec.europa.eu/social/main.jsp?catId=89&furtherNews=yes&newsId=10435&langId=en> (Last accessed: 2022.11.20.).

³² CREMERS, J.; “The European Labour Authority and right-based labour mobility”. *ERA Forum*, 2020/21, p. 21.

³³ For more on the possible typification of welfare systems, see: KRISTÓ, K.: “Jóléti állam elméletek és családpolitika”. *Kodifikáció és közigazgatás*, 2014/2. pp. 73-82.

³⁴ European Labour Authority. <https://www.ela.europa.eu/en/what-we-do> (Last accessed: 16.05.2023).

³⁵ Regulation (EU) 2019/1149 of the European Parliament and of the Council establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344.

- provide individuals, employers and social partners with information on labour mobility;
- manage the European Employment Services Coordination Office;
- facilitate cooperation and exchange of information between Member States and facilitate effective compliance with their obligation to cooperate on exchange of information laid down in Union law, thereby also contributing to the functioning of the EESSI system;
- coordinate and support concerted or joint inspections at the request of one or more Member States in the areas within its competence;
- carry out, in cooperation with Member States and social partners, risk assessments and analyses of labour mobility and social security coordination within the European Union;
- support Member States in capacity-building to promote the enforcement of EU law;
- facilitate, without prejudice to the jurisdiction of the Court of Justice, the settlement of disputes between Member States in areas falling within its competence, and
- facilitate cooperation between Member States in combating undeclared work³⁶.

CONCLUSION

The aim of social security coordination activities is to ensure cross-border social protection for EU citizens. However, this can only be achieved effectively if rules established at EU level keep pace with different changes and development trends in the world. Within the framework of the study, three modernisation efforts have been presented, which I consider to be of great importance in keeping pace with digitalisation and increasing labour mobility. Thus, the gradual elimination of paper-based communication and the transition to electronic communication can be considered among the most important modernization efforts. The EESSI system is used to establish electronic communication between national social security bodies, which makes the exchange of data between Member States faster and more accurate. The ESSPASS pilot project, launched in 2022, aims to create an electronic certificate that will make the portability of EU citizens' social security entitlements easier, replacing the current paper-based procedure. Based on the card, it will be possible to verify the social security entitlements of EU citizens and the authenticity and validity of related documents in real time, which is also expected to result in faster and more efficient administrative processes. Finally, the European Labour Authority has been presented, which is essentially an EU agency set up to coordinate labour mobility within the European Union. The activities of the Authority contribute, inter alia, to the coordination of social security systems by supporting Member States in complying with the rules on electronic communications and by informing and assisting Union citizens in the cross-border exercise of their social security entitlements. I believe that the measures presented offer many advantages in terms of coordination of social

³⁶ Regulation (EU) 2019/1149, Chapter II.

security systems. Not only will they make administrative processes faster and more efficient, but they will also reduce abuse and combat fraud more effectively.

REFERENCES

Books, studies, articles

- AZUARA, F., GONZÁLEZ, J., RUGGIA, R.: "Proposal of a controlled vocabulary to solve semantic interoperability problems in social security information exchanges". *Library Hi Tech*, Vol. 31 No. 4, 2013. p. 5.
- BALDONI, E.: "Free movement of persons in the European Union: Legal-historical overview". *Pioneer Working Paper*. 2003. p. 9.
- BERKI, G.: *Szabad mozgás és az Európai Unió szociális joga*. Iusperitum Kiadó, Szeged, 2016. p. 6.
- CORNELISSEN, R.: "50 years of European social security coordination". *European Journal of Social Security*, 2009/11. p. 14.
- CREMERS, J.: "The European Labour Authority and right-based labour mobility". *ERA Forum*, 2020/21. p. 21.
- FÜRJES, A.: *Szociális biztonsági koordináció az Unióban, különös tekintettel a nyugdíjakra*. Doctoral School of Law and Political Sciences at University of Szeged, Szeged, 2014. p. 20.
- GELLÉRNÉ LUKÁCS, É.: *Személyek szabad mozgása az Európai Unióban*. Doctoral School of Law at ELTE University, Budapest, 2008. p. 130.
- GOLYNKER, O.: "EU coordination of social security from the point of view of EU integration theory". *European Journal of Social Security*, Vol. 22 Issue 2, 2020. p. 3.
- HAJDÚ, J.: "A szociális jog elmúlt 20 évéről, különös tekintettel az Európai Unióra", *Gazdaság és jog. Húsz év jogalkotási fejleményei a civilisztika területén*. (MISKOLCZI BODNÁR, P.; KUN, A.; BOÓC, Á.), Károli Gáspár University of the Reformed Church in Hungary, Faculty of Law, Budapest, 2019. p. 16.
- JUHÁSZ, G., TALLER, Á.: (2005): "A társadalmi kirekesztődés elleni küzdelem az EU új tagállamaiban". *Esély*, 2005/6. p. 24.
- JUHÁSZ, G.: "Az európai szociális biztonsági rendszerek összehangolása – szociális biztonsági koordináció". *Az Európai Unió szociális politikái* (SZIKLAI, I.) Eötvös Lóránd University, Budapest, 2012. p. 57.
- KRISTÓ, K.: "Jóléti állam elméletek és családpolitika". *Kodifikáció és közigazgatás*, 2014/2. pp. 73-82.
- KRISTÓ, K.: "A családtámogatások uniós koordinációs vonatkozásairól". *Új Magyar Közigazgatás*, 14: 4, 2021. pp. 30-36.
- KRISTÓ, K.: *A szociális igazgatás alapjai*. University of Public Service, Budapest, 2022. pp. 9-13.
- KRISTÓ, K., BORBÁS, Sz.: "Külföldi egészségügyi ellátások az Európai Unióban a magyar szabályok tükrében". *Acta Humana*, Budapest, 2021/3. p. 142.
- MENYHÁRT, Sz.: "A munkaerő szabad áramlása az Európai Unióban a keleti bővítést követően". *Romániai Magyar Jogtudományi Közlöny*, 2004. p. 3.

- PENNINGS, F.: “Coordination of social security within the EU Context”. *Social Security and Migrant Workers. Selected Studies of Cross-Border Social Security Mechanisms*. 2014. p. 124.
- REGENT, S.: “The open method of coordination: A new supranational form of governance?” *European Law Journal*, Vol. 9 No. 2, 2003. p. 16-18.
- SISSON, K., MARGINSON, P.: “Co-ordinated bargaining: A process for our times?” *British Journal of Industrial Relations*, Vol. 40 Issue 2., 2002. p. 2.
- SZIKLAI, I.: “Az üveghegyen túl...” Az EU szociálpolitikai együttműködése és a hazai szociálpolitikai gyakorlat”. *Kapocs*, IV. évf. 6. sz., 2005. p. 10.
- THOLONIAT, L.: “The career of the open method of coordination: Lessons from a ‘Soft’ EU instrument”. *West European Politics*, Vol. 33 No. 1, 2010. p. 23.
- THRELFALL, M.: “European social integration: Harmonization, convergence and single social areas”. *Journal of European Social Policy*, Vol. 12 Issue 2, 2003. p. 2.
- WISPELAERE, F.: “60 years of coordination of social security systems: Still room for improvement”. *Belgisch Tijdschrift voor Sociale Zekerheid*, 2019. p. 168.

Sources of law

- Regulation (EC) No 883/2004 of the European Parliament and of the Council on the coordination of social security systems.
- Regulation (EC) No 987/2009 of the European Parliament and of the Council laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.
- Regulation (EU) 2019/1149 of the European Parliament and of the Council establishing a European Labour Authority, amending Regulations (EC) No 883/2004, (EU) No 492/2011, and (EU) 2016/589 and repealing Decision (EU) 2016/344.
- Regulation (EU) 2019/1149, Chapter II.
- Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012.
- Annex II to Regulation (EU) 2018/1725.
- Regulation (EU) 2018/1725 Article 6(2).

Internet links

- ESSPASS Pilot Project – Exploring a new digital tool to help mobile citizens exercise their social security rights across borders. <https://ec.europa.eu/social/main.jsp?langId=en&catId=849&newsId=10341&furtherNews=yes>
- European Labour Authority. <https://www.ela.europa.eu/en/what-we-do>
- ESSPASS Overview and main concepts. Directorate General for Employment, Social Affairs and Inclusion. October 2022. <https://ec.europa.eu/social/main.jsp?catId=89&furtherNews=yes&newsId=10435&langId=en>