

MoveS seminar v Sloveniji

*Povezovanje sistemov socialne varnosti
s slovenske perspektive*

23 maj 2025

Ljubljana, Slovenija

Jezik: slovenski in angleški

MoveS seminar Slovenia

*Challenges of social security
coordination*

the Slovenian context

23 May 2025

Ljubljana, Slovenia

Languages: English / Slovenian

Simultaneous interpretation SI/EN

Welcome & Introductory words

Grega Strban

MoveS

predstavitev projekta

MoveS

Evropska mreža, ustanovljena 2018



Povezujeta jo



Deloitte.

Ob sodelovanju

University of Ljubljana



EU mreža neodvisnih pravnih strokovnjakov s področij

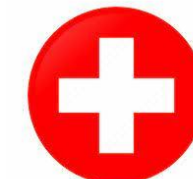


SVOBODE GIBANJA
DELAVCEV

POVEZOVANJA SISTEMOV
SOCIALNE VARNOSTI

NAPOTITEV

*Vključenih je **EU-27 držav**, skupaj z Islandijo, Lihtenštajnom, Norveško, Švico in Združenim kraljestvom.*



Dva cilja

1

Zagotavljati pravno ekspertizo na področjih svobode gibanja delavcev, povezovanja sistemov socialne varnosti in napotitev,

s pomočjo

- Pravnih poročil
- Dvomesečnih opazovalnih poročil
- Odgovorov na Ad hoc zadeve
- Primerjalne študije

2

Širjenje informacij in prispevanje k znanju in usposobljenosti strokovnjakov,

s pomočjo

- 8 nacionalnih seminarjev
- 3 webinarjev
- 4 usposabljanj za osebje EK
- Informacijska in komunikacijska sporočila

Pregled pravnih poročil, objavljenih od 2018



#	Naslov	Letnica
1.	<i>Consequences and possible solutions in case of lump sum payment of pensions, reimbursement of contributions and waiver of pensions in cross-border situations</i>	2018
2.	<i>Social security coordination and non-standard forms of employment and self-employment: Interrelations, challenges and prospects</i>	2018
3.	<i>The application of free movement of workers and social security coordination rules by national courts'</i>	2019
4.	<i>The application of the social security coordination rules on modern forms of family'</i>	2020
5.	<i>The legal status and rights of the family members of EU mobile workers'</i>	2020
6.	<i>Social security and tax law in cross-border cases'</i>	2022
7.	<i>'The relationship between the Regulations on the coordination of social security systems and the Directive on the application of patients' rights in cross-border healthcare'</i>	2023
8.	<i>CJEU and EFTA Court decisions in a comparative overview</i>	2024

Seminarji v 2025



#	Država (kraj)	Nacionalni ekspert gostitelj	Datum
1.	Finska (Helsinki)	Anna-Kaisa Tuovinem Matias Kainu	31.01.2025
2.	Francija (Paris)	Jean Philippe Lhernould Sophie Robin Olivier	07.02.2025
3.	Norveška (Oslo)	Martin Andresen	18.03.2025
4.	Litva (Vilna)	Mantas Jautakis Vida Petrylaite	08.05.2025
5.	Slovenija (Ljubljana)	Grega Strban	23.05.2025
6.	Avstrija (Salzburg)	Elias Felten	11.06.2025
7.	Španija (Madrid)	Dolores Carrascosa Bermejo	17.10.2025
8.	Portugalska (Coimbra)	Mariana Geraldo, Francisco Pereira Coutinho, Emellin de Oliveira Chiodini	07.11.2025

Webinarji v 2025



Datum	Tema	Oblika
3 Junij 2025	The Withdrawal Agreement and the EU-UK Trade and Cooperation Agreement: interests at stake.	Online
September 2025	TBC	Online
Oktober 2025	TBC	Online

You can register to the webinars by writing an email to moves.seminars@eftheia.eu

Delo MoveS lahko spremljate in sodelujete s pomočjo

- MoveS [spletna stran](#) (EUROPA)
- MoveS [LinkedIn](#) skupina

Pregledujete lahko vse javno dostopne aktivnosti MoveS:

- **Pravna poročila**, ki so jih odobrili eksperti in EK
- **Vabila** na seminarje in webinarje
- **Povezavo do [A-Z tool](#)** o povezovanju sistemov socialne varnosti
- **Dostop do [SSC Regulations Database](#)** (baza podatkov o povezovanju sistemov socialne varnosti)

Iskrena hvala za vašo pozornost!

Kontakt:

MoveS@eftheia.eu

Recent developments at the EU level concerning social security coordination

Els Vertongen

**European Commission, DG EMPL
Employment, Social Affairs and Inclusion
Unit E2**



Recent developments in the area of EU social security coordination

MoveS Seminar Ljubljana – 23 May 2025

Els Vertongen

DG Employment, Social Affairs and Inclusion,

Unit E.2 Team Leader for Legal Affairs

European Commission

Political guidelines for the next Commission 2024-2029

Presented by EC President Ursula von der Leyen on 18 July 2024

Supporting
people,
strengthening our
societies and our
social model

prosperity and
competitiveness

Protecting our
democracy &
values

preparing our
Union for the
future

food security,
water and nature

European
Defense and
Security

A global Europe:
Leveraging our
power and
partnership



Commissioners (2024-2029)



Roxana Mînzatu
Executive Vice-President for
Social Rights and Skills,
Quality Jobs and
Preparedness



Mission letter to Roxana Mînzatu

People, Skills and Preparedness

The European Pillar of Social
Rights

A Union of Skills

Clear mandate

“... to explore ways to further facilitate labour mobility, whilst ensuring that rules are properly enforced with the support of a strong and empowered European Labour Authority. [...]”

... work on the modernisation, simplification and digitalisation of social security coordination.”

Revision of social security coordination Regulations



Still under negotiations

Latest developments in Administrative Commission

- As in previous years, the Administrative Commission provided social security authorities institutions with the tools to facilitate their understanding and application of Regulations
- This year, discussions in the AC meetings focussed for instance on
 - Mini-jobs and the priority rules for FB (Article 68)
 - Access to health care of non-active EU citizens (case C-535/19)
 - Discussions on the interpretation of the case C-116/23
- On-going discussions in the AHG for the revision/update of the Practical Guide on the determination of the applicable legislation

Decisions adopted by Administrative Commission since November 2023

- **Decision E8** concerning the establishment of a change management procedure applying to details of the bodies defined in Article 1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council which are listed in the electronic directory which is an inherent part of EESSI
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32024D06842>
- **Decision H15** concerning the methods of operation and the composition of the Technical Commission for Data Processing of the Administrative Commission for the Coordination of Social Security Systems
<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32024D06845&qid=1732630613122>
- **Decision S12** concerning the reimbursement of healthcare in connection to patients' transfer to another Member State in case of mass casualties following disasters.
→ Not yet published

Updates on Fraud and Error Prevention

- **Decision H5 (*in force since 1 Aug 2010*)**: Framework for cooperation to combat fraud and error under Regulations (EC) 883/2004 & 987/2009.
http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2010.149.01.0005.01.ENG
- **2017**: creation of the Steering Committee of F&E NCPs
- **June 2024 Update**: Steering Committee designated by AC as ELA's contact point on fraud & error
- **ELA joins SC meetings**; joint work being explored in annual programme
- Latest reports on F&E, published by the EC and ELA:
 - ***Call for deeper analysis of F&E data and tools***
 - ***Highlight the need for better data, tools & digital cooperation***

Recent rulings of the CJEU (1)



Applicable legislation

- **Judgment of 26.09.2024, case C-329/23:** self-employed person working simultaneously in more than 2 States, including a EU Member State, a State of the EEA and Switzerland
- **Judgement of 23.01.2025, case C-421/23:** Regulation 883/2004 applies to persons posted to another MS, including in cases where the PDA1 issued appears to be false. The dialogue and conciliation procedure referred to in Article 76 BR constitutes a compulsory precondition for a finding, by a court of the hosting Member State, of such fraud.

Recent rulings of the CJEU (2)



Family benefits

- **Judgment of 25.04.2024, C-36/23:** application of Article 68 BR and Article 60 IR in case of right to family benefits from more than 1 Member State
- **Judgment of 16.01.2024, C-277/23:** a tax allowance for dependent children following higher education is not a family benefit in the meaning of Article 1(z) BR, therefore Article 67 BR does not apply.

Recent rulings of the CJEU (3)



Sickness benefits

Judgment of 11.04.2024, case C-116/23: care leave allowance in the Member State of work – equal treatment

International relations

- **Protocol on Social Security Coordination to the EU-UK Trade and Cooperation Agreement**
 - ➔ Specialized Committee (SC) Decision No 1/2024 regarding the amendment of the annexes of the Protocol
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202403002
 - ➔ SC Recommendation No 1/2024 regarding the interpretation of Article SSC.11 on the legislation applicable to detached workers and self-employed persons working outside the competent state.
https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202401754
- **Free movement of Workers Agreement between the EU and Switzerland**
 - ➔ Negotiations finalised on 20 December 2024
 - ➔ Dynamic alignment: Switzerland will apply current and future EU law in the field of social security coordination
 - ➔ Next steps: (1) Council must authorise the signing of the agreement by the Commission (2) consent of the EP (3) Council decide on the conclusion of the agreement and the entry into force

Digitalisation in social security coordination

- September 2023

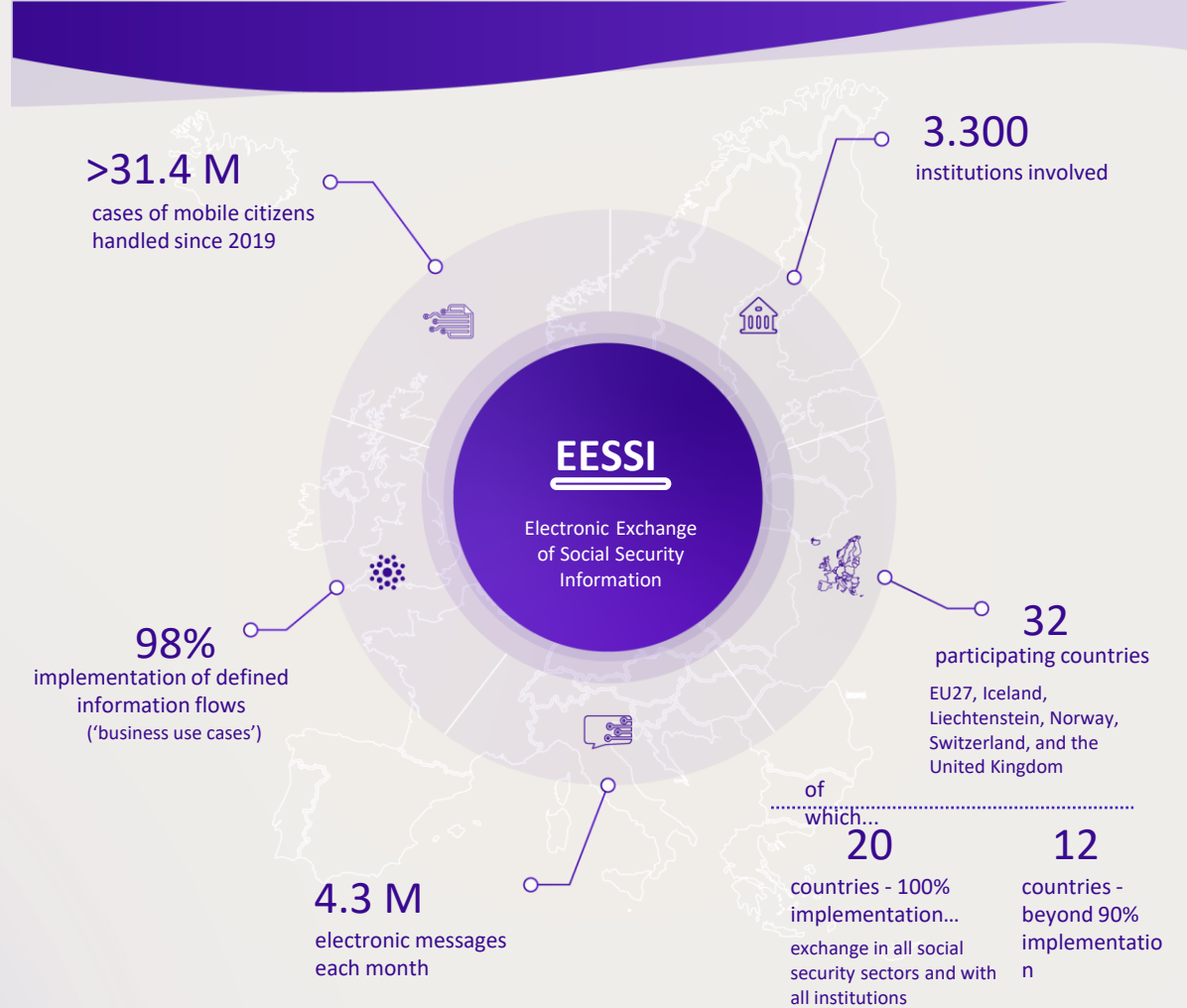


Communication on digitalisation in social security coordination

Facilitating free movement in the Single Market

EESSI

- IT system that aims to facilitate the cross-border exchange of information to implement the Social Security Coordination regulations.
- Decentralised messaging system that allows **competent institutions** to exchange structure electronic documents (**SEDs**) between national institutions
- The communication is orchestrated by following predefined Business Use Cases (**BUCs**).
- Full implementation of the 99 BUCs estimated for the end of 2025 (currently 98% implemented).



EESSI Q1 2025 factsheet –data as of April 7th 2025

European Social Security Pass (ESSPASS)



European Social Security Pass (ESSPASS)

- Initiative to explore a digital solution for verifying people's social security entitlement documents in other EU countries (i.e. portable documents, including the EHIC).
- Will build on relevant EU initiatives (Single Digital Gateway Regulation and European Digital Identity Framework).
- Two consortia piloting verification of PDA1 and EHIC (results mid-2025).

Thank you/Merci



© European Union 2025

Unless otherwise noted the reuse of this presentation is authorised under the [CC BY 4.0](#) license. For any use or reproduction of elements that are not owned by the EU, permission may need to be sought directly from the respective right holders.

Slide xx: [element concerned](#), source: [e.g. Fotolia.com](#); Slide xx: [element concerned](#), source: [e.g. iStock.com](#)

Telework: still a challenge for social security coordination

Mariana de Pinho da Silva Geraldo
MoveS visiting expert, Portugal

Telework: still challenging coordination of social security

Mariana Geraldo
marianageraldo@fd.uc.pt

Context of the latest developments

- Telework as a minor reality
- Covid-19 pandemic
 - Mandatory confinements / telework
 - Need for emergency measures to avoid massive and temporary change of applicable legislation
 - Awareness of possible need for specific conflict rules relating to telwork

Current documents

- Regulation 883/2004, 987/2009
- AC Guidance Note 137/2023
 - Objectives
 - Guidance on article 12
 - Guidance on article 13
 - Guidance on article 16
- Framework agreement on telework

Telework and applicable legislation

- Rule: *Lex loci laboris* (11(3))
 - Physical presence of the worker
- Exceptions:
 - Article 12 (“posting”)
 - Article 13 (“multistate activity”)
 - Article 16 (Member State agreements)

Telework and applicable legislation

- The Administrative Commission's view

- Lex loci laboris (11.º/3)
 - Physical presence of the worker
- Exceptions
 - Article 12 ("posting")
 - Article 13 ("multistate activity")
 - Article 16 (Member State agreements)

accepted

Broad interpretation

Broad interpretation

promoted

Doubts arising from the Guidance Note/ Framework agreement

1) Article 12

- Can it be applied to telework?
- How to assess the temporary nature without a specific task?
 - Example: right to telework for workers with children under 3 years old

Doubts arising from the Guidance Note / Framework agreement

2) Article 13

- Marginal activities
- Substantial activity in the residence Member State
- Can telework indicate a less important task?

Doubts arising from the Guidance Note/ Framework agreement

3) Article 16 and the Framework Agreement

- Equality?
- Full discretion to deviate from Title II rules?

What is telework?

- How intense must be the use of ICT? What kind of connection with the employer?
 - Ex.: Portuguese vs Spanish labour laws on telework
 - 165.º LC (PT): “Telework is considered to be the performance of work under the legal subordination of the worker to an employer, in a location not determined by the employer, using information and communication technologies.”
 - 2.º Ley 10/2021 (ES): “That remote work which is carried out through the exclusive or predominant use of information technology, telematic, and telecommunication systems and tools.”

Final reflection

- Does telework demand a specific solution for determining the applicable law?
 - Why?
- Is telework one single, uniform reality?

Discussion

Coffee break
10:15-10:45

Challenges for cross-border healthcare

Prof. Dr. Grega Strban
MoveS Coordinator

Izzivi čezmejnega zdravstvenega varstva

prof. dr. Grega Strban



UNIVERZA V LJUBLJANI
Pravna fakulteta



Uvodoma

- Možnosti čezmejnega zdravljenja
- Spremembe v slovenski zakonodaji
- Novosti naše sodne prakse

Možnosti čezmejnega zdravljenja

- Več pravnih poti
 - Mednarodni dvo- in večstranski instrumenti
- Pravo EU
 - Uredba o povezovanju sistemov socialne varnosti (ES 883/2004 in izvedbena ES 987/2009)
 - Direktiva o pravicah pacientov pri čezmejnem zdravstvenem varstvu (2011/24/EU)
- Izključno slovensko pravo
 - Nujno zdravljenje
 - Izčrpane možnosti

Spremembe v slovenski zakonodaji

- Zakon o zdravstvenem varstvu in zdravstvenem zavarovanju (ZZVZZ)
 - Opredelitev pravic iz OZZ (novi 23. člen ZZVZZ)?
 - Pravilnik o naročanju in upravljanju čakalnih seznamov ter najdaljših dopustnih čakalnih dobah (12. člen, napotitev na NKT-Z)
- Zakon o zagotavljanju kakovosti v zdravstvu (ZZKS)
 - Določitev standardov?
 - Klinične smernice in klinične poti
- Zakon o zdravstveni dejavnosti (ZZDej-N)
 - Vključitev v enotni zdravstveno-informacijski sistem (3.a člen, pogoj za vse)

Novosti naše sodne prakse

- Izčrpane možnosti zdravljenja (44.a ZZVZZ)
 - Opredelitev nedoločnega pravnega pojma (dvočlenskost opredelitve)
 - Če enkrat odobreno zdravljenje v tujini, ne nujno zmeraj
 - Nemedicinski in medicinski ukrepi (npr. Psp 21/2025, limfna drenaža)
- Blažilna (paliativna) oskrba ni zdravljenje (npr. Psp 216/2024, intraarterijska kemoembolizacija, ki se pri nas ne opravlja več ...)
 - Standard „običajno v strokovnih krogih“ (bolj povezano z 44.b kot 44.a členom ZZVZZ?)

Novosti naše sodne prakse

- Dolge čakalne dobe (44.b ZZVZZ)
 - Volja pacientke?
 - Sama podaljševala čakalno dobo
 - Čeprav nedopustno dolga, bi bila prej na vrsti v Sloveniji
 - Vprašanje trditvene podlage in pravne kvalifikacije
 - Izčrpane možnosti zdravljenja (ne) ali nedopustno dolga čakalna doba?
 - Npr. Psp 122/2024 (rekonstrukcija ali zatrditev gležnja)

Novosti naše sodne prakse

- Prost pretok zdravstvenih storitev in medicinskih stvari (44.c ZZVZZ)
 - (Nad)standard (nimamo kataloga zdravstvenih storitev)?
 - Določanje pravic s Šifrantom?
 - Omejevanje pravic (načeli solidarnosti in samoodgovornosti)
 - Medicinska in pravna merila (izvedenec, sodnik)
 - Povrnitev stroškov, vendar le kot v Sloveniji (ne vse)
 - Npr. Psp 7/2025 (leče s podaljšanim žariščem)
- Lahko zdravljenje v tujini plača tretja oseba?
 - Ni humanitarna organizacija in obstaja dolžniško razmerje?
 - Npr. Psp 6/2025 (krčne žile)

Sklepne misli in odprta vprašanja

- Omogočanje višjega standarda in izziv za naš zdravstveni sistem
 - Najzahtevnejše, pa tudi najcenejše metode zdravljenja v tujini?
 - Če izvajalci podaljšujejo čakalne dobe, morajo opozoriti tudi na možnosti zdravljenja v tujini!
- Omejitev svobode gibanja v času bolezni ali poškodbe?
 - NAV škandal na Norveškem (kdo nadzira socialno državo?)
 - Navodila ravnanja v času bolniške odsotnosti ...
- Potrebne notranje izboljšave in zunanji vplivi v korist zavarovanih oseb

Protection of pension rights in the context of free movement of persons

Ivana Vukorepa
MoveS Visiting Expert, Croatia

MoveS seminar Slovenia

Ljubljana, 23.5.2025.

Protection of pension rights in the context of free movement of persons

Prof. dr. sc. Ivana Vukorepa
(Faculty of Law, University of Zagreb)

Content

- Basics on pensions
- EU competences
- EU legal framework due to FM:
 - Article 45 TFEU
 - Coordination rules (mainly for public schemes):
 - Invalidity benefits, old-age and survivors' pensions
 - Legal provisions and principles
 - Calculation issues
 - Administration of claims – short overview
 - Supplementary pensions
 - Occupational
 - Individual

Basics on pensions (1)

Function:

Income in the case of specified contingences/risks:

- Invalidity/ disability (long-term work incapacity)
- Old –age, and
- Death → survivor's benefit

Life-cycle consumption smoothing

Poverty alleviation

Basics on pensions (2)

Organisational and financing differences	Differences influencing benefit level
Legal basis: statutory or contractual Providers: • public (statutory) schemes, • private schemes (supplementary in the broad sense): • collective basis (link to employment): occupational (EU acquis: supplementary) • individual basis: personal accounts or individual contracts Management: state, insurance companies, pension funds, banks Participation: mandatory, quasi-mandatory or voluntary Personal scope: • work-related or non-work-related • insurance based or residence based • general or special Financing: • sources: contributory or non-contributory (tax-financed) • modalities: PAYGO, funded, book reserves or insurance contracts	Benefit purpose: • income replacement or • income adjustment Eligibility conditions for benefits, e.g.: • pensionable age • qualifying period (Insurance/employ. or residence p.) Type of benefits (determining the amount): • DB: defined benefit (including points system), where benefit depends on periods of employment/insurance/residence (+ some other elements, e.g. wage, years of age) • DC: defined contribution (usually funded), where benefit depends on the accrued value of saved capital (+ life expectancy etc.) • Hybrid: benefits depend on a rate of return credited to contributions (either independently of the actual return on any supporting assets, or is calculated with reference to the actual return and a minimum return guarantee specified in the plan rules)

EU competences (1)

- **No true EU pension policy**

- Charter of Fundamental Rights - Art. 34/1
 - “The Union recognises and respects the entitlement to social security benefits ...and social services providing protection in cases such as old age, andin accordance with the rules laid down by Union law and national laws and practices.”
- European Pillar of Social Rights - Principle 12 EPSR
 - Right to adequate social protection regardless of the type and duration of employment relationship → Council Recomm. (2019/C 387/01)
- No specific competences in TEU nor TFEU → MS have freedom to organize their pension systems
- Principle of subsidiarity (only few elements can be regulated at EU level)

- **Legislative competences in relation to pensions:**

- social policy (subsidiary to economic objectives)
- internal market (4 freedoms) + economic and financial affairs

- **Soft law and OMC directed towards:**

- benefit adequacy
- pension systems sustainability
- (Europe 2020 strategy + European semester + Country specific recommendations)

EU competences/ 2

Field of Competence	L. basis (TFEU)	Secondary legislation
Freedom of movement or workers	45-48 Art 45 – direct effect	BR 883/2004 (CSSS) / IR 987/2009 R 1231/2010 (CSSS - extension to TCN) D 98/49 (safeguarding supplementary pension rights) D 2014/50 (on minimum requirements for enhancing worker mobility by improving acquisition and preservation of supplementary p. rights)
Freedom of establishment and services	49-56	D 2016/2341, recast (IORP II, <u>supervision of institutions for occupational retirement provision</u>) D 2009/13 (Solvency II, (re)insurance) D 2009/65 (UITs, undertakings for collective investment in transferable securities)
Free movement of capital	63	
Approximation of laws (general p.)	114	R (EU) 2019/1238 on a pan-European Personal Pension Product (PEPP)
Social policy (High standards for employee.)	153	D 2008/94 (employer's insolvency) D 2001/23 (transfer of undertakings)
Equality between men and women	157 – direct effect	D 79/7 (statutory SS/ pensions) D 2004/113 (private pension products) D2006/54 (occupational pension schemes)

Protection of pension rights & free movement

Three sets of rules aiming that moving has no/(limited) detrimental effect on pension entitlements:

1) Article 45 TFEU (on FMW) – direct applicability

- C-515/14, Commission v Cyprus (21 January 2016)
 - public scheme, civil servants,
 - age related criterion (lump sum p. and loss of future p. rights)
- C-187/15, Pöpperl (13 July 2016)
 - special scheme, civil servants
 - loss of special pension rights and insurance under general system
- C-172/11, Erny (27 February 2014)
 - top-up amount paid by the employer to older workers switching from full to part-time (deferred wage)
 - application of different tax rules (MS of residence v. MS of work) leading to lower top-up amount
- C-379/09, Casteels, (10 March 2011)
 - occupational scheme, worker employed successively by the same employer in several MSs
 - non-inclusion of the years of service completed by a worker for the same employer (intragroup mobility - still relevance)

2) Coordination rules - direct applicability ...

3) Directives for supplementary pension rights...

Rules on coordination of social security systems

Legislative provisions specific for pensions (since 2012 applicable also to EEA and CH)

▶ **Reg. 883/2004 - Basic regulation (BR)**

- Horizontal provisions (e.g. Art. 1, 4, 6 etc.)
- Arts. 44 – 49 (Invalidity benefits) - chapter 4
- Art. 50-60 (Old-age and survivor's benefits) – chapter 5
- *Art. 66 (Pre-retirement benefits) – chapter 7, they are neither early old-age pension nor unemployment benefits*

▶ **Reg. 987/2009 - Implementing Regulation (IR)**

- Art. 12. – aggregation of periods
- Art. 13. – rules on conversion of periods
- Arts. 43-53 (for both groups of pension benefits)

▶ **AC Decision P1**

- Interpretation of Arts. 50(4), 58 and 87(5) of BR
- OJ C 106, 24.4.2010, p. 21–22

Coordination rules

Definitions, coverage of pensions



BR Article 1(l) – defines “legislation”

- “Legislation” – ..includes laws, regulations and other statutory provisions.....excludes contractual provisions other than those which serve to implement an obligation arising from laws....provided that the MS makes a declaration to that effect...(based on Art. 9 BR)
- such declaration only France

BR Article 1(w) – defines “pensions”

- “pensions” covers not only pensions but also lump-sum benefits which can be substituted for them and payments in the form of reimbursement of contributions....

BR Article 1(x)

- ‘**pre-retirement benefit**’ means: all cash benefits, other than an unemployment benefit or an early old-age benefit, provided from a specified age to workers who have reduced, ceased or suspended their remunerative activities until the old-age or early old-age retirement ...;
- ‘**early old-age benefit**’ means a benefit provided before the normal pension entitlement age is reached and which either continues to be provided once the said age is reached or is replaced by another old-age benefit;
- **Applies to:**
 - contributory or noncontributory statutory schemes (general and special)
- **Excludes:**
 - Non-statutory/ supplementary (contractual) schemes, unless declared otherwise (e.g. France)

Coordination rules

Principles applicable to pensions



Partial pension principle	For determination of entitlement to pension by every MS s/he was insured
Aggregation of periods	For eligibility/ acquiring entitlement to benefit, e.g. due to waiting periods
Partial pension method and principle of favorability	For calculation and payment of the benefit (independent benefit and pro-rata temporis benefit) Total amount of pension may consist of several pensions
Prevention of overlapping of benefits	
Exportability	
Other general/horizontal principles: • Equality of treatment • Assimilation of facts (equal treatment of benefits, income, facts or events) • Good administrative cooperation and provision of information (improvement through EESSI)	

Coordination rules

Determination of entitlement to pension

- Art. 50 BR, Arts 45-48 IR, AC Decision P1
- Determines competent institution under all legislations of the MSs to which person was subject
- **Exceptions:**
 - if person requests deferment of the benefit award (only allowed for old-age pensions)
 - if person does not satisfy eligibility conditions in a MS
- **Calculation of benefits in these cases:**
 - MS which conditions are satisfied, when calculating benefit, shall not take into account periods completed under legislations of a MS whose conditions are not satisfied (or pension was deferred)...where this gives rise to a lower amount of benefit

- **Art. 6 BR and Art. 12 IR – general rule**
 - Purpose: helps migrants fulfil conditions for the benefit entitlement
 - Rule: competent institution of a MS must take into account other equivalent periods completed in any other MS (such as: periods of insurance, employment, self-employment or residence)
- **Art. 45 and 51 BR - special provisions for special schemes:**
 - **If entitlement conditional upon periods completed only in a specific activity:**
 - periods completed in another MS under corresponding scheme have to be taken into account, otherwise, these periods should be relevant for the general scheme
 - **If entitlement conditional upon person being insured at the time of the materialisation of the risk,**
 - condition shall be regarded as having been satisfied if that person has been previously insured under the legislation or specific scheme of that MS and is, at the time of the materialisation of the risk, insured under the legislation of another MS for the same risk or (benefit is due under the legislation of another MS for the same risk)
- **Art. 60 BR – for special schemes for civil servants**

Coordination rules: Calculation of pension benefit

- **Art. 52 BR, Arts. 43-52 IR**
- **Two step procedure:**
 - **Independent benefit**
 - Based on national legislation alone, if entitlement conditions exclusively satisfied under that legislation
 - **Pro-rata temporis benefit**
 - **Theoretical benefit** (fictitious benefit as if all insurance or residence periods would be completed under the legislation of that MS)
 - **Actual amount of pro-rata benefit = TB / proportion to the time insured in that MS**
- **Amount actually paid → higher of the two**
 - Mirrors the principle of favourability

Coordination rules: Exceptions from pro-rata calculation



- **Pro-rata waiver:**
 - If “independent benefit” invariably results in being equal to or higher than the pro-rata benefit
 - Annex VIII, Part 1 (DK, IR, CY, LT, LI, NL, AT, PL, PT, SK, SE, UK)
- **If benefit calculation is not based on periods of time:**
 - Mainly concerns DC funded schemes operated by pension funds
 - Annex VIII, Part 2 (BG, CZ, DK, EE, FR, HR, LT, HU, AT, PL, PT, SI, SL, SE, and UK)

Coordination rules:

Additional rules for theoretical and pro-rata benefits

Art. 56 BR

- Where the **total period is greater than the maximum required** for a full pension of a MS
 - → the maximum amount is used instead of the total period.
- Where **benefits are calculated on the basis of earnings, contributions etc.**
 - → the competent institution shall determine the basis for benefit calculation in accordance only with periods completed under the legislation it applies,
 - → in order to determine the amount to be calculated in accordance with periods in another state, the MS shall use the same elementsas it applies in its own legislation or in accordance with procedures laid down in Annex XI.

Coordination rules: Less than one year rule

- Art. 57 BR
- **MS not required to provide benefits for very short periods, under 2 conditions:**
 - duration of these periods is less than one year, and
 - when taking only these periods into account no right to benefit is acquired under that legislation
- **What happens with them? Are they lost?**
 - → proportionally taken over by other MSs, since they have to take them into account when calculating a theoretical benefit (relevant for pro-rata benefit)
- **Purpose:**
 - simplification of administrative procedure and
 - reduction of costs related to the payment of very low pensions
- **Potential problems (in rising atypical short-term assignments):**
 - MS that waived the pro-rata calculation excluded from sharing financial burden (Annex VIII: DK, IR, CY, LT, LI, NL, AT, PL, PT, SK, SE, UK)
 - Last MS has to pay the benefit for all the other MSs in which the person worked but has accumulated less than one year of insurance (Art. 57(3) BR)

Coordination rules: Taking into account of child raising-periods

- Art. 44 IR
- 'child-raising period' = any period which is credited under the pension legislation of a MS or which provides a supplement to a pension explicitly for the reason that a person has raised a child, irrespective of the method used to calculate those periods and whether they accrue during the time of child-raising or are acknowledged retroactively
- If under the legislation of the competent MS no child-raising period is taken into account, the institution of the MS whose legislation was applicable to the person concerned on the grounds that s/he was pursuing an activity at the date when the child-raising period started, that MS shall remain responsible for taking into account that period as a child-raising period under its own legislation, as if such child-raising took place in its own territory (not applicable if person becomes, subject to the legislation of another MS due to the pursuit of an employed or self-employed activity)
- C-576/20 (Pensionsversicherungsanstalt) – Art. 44 BR + Art. 21 TFEU
 - MS responsible for payment of the pension, in which the recipient worked and paid contributions exclusively, both before and after the transfer of that person's place of residence to another MS where they raised their children, is required to take into account those child-raising periods

Coordination rules: Prevention of overlapping

- **Arts. 53-55 BR**
- **Purpose:**
 - to restrict national rules on overlapping of benefits which could reduce the amount of the independent or pro-rata benefit (Art. 52(2) BR)
- **Benefits of the same kind**
 - benefits calculated or provided on the basis of periods of insurance and/or residence completed by the same person
- **Benefits of a different kind**
 - benefits which cannot be considered of the same kind

Example:

- Mrs X acquires right to invalidity and old-age benefit on the basis of her own insurance period. These are benefits of the same kind.
- If she acquires survivor's benefit (based on her husband's insurance periods and upon his death) this is benefit of a different kind.

Coordination rules: Prevention of overlapping

- **Common provisions:**

- Benefits or other income acquired abroad must be taken into account
- Gross amount paid by another MS is to be taken into account, unless national legislation provides otherwise
- Benefits from voluntary insurance are not taken into account

- **Special rules for:**

- Benefits of the same kind – Art. 54 BR
- Benefits of different kind – Art. 55 BR

Coordination rules:

Award of supplement in the MS of residence



- **Art. 58 BR**
- **Right to minimum benefit:**
 - benefit at least equal to minimum benefit paid by the MS of residence under its legislation for persons's total periods of insurance /residence
- **Supplement amount**
 - Difference between the amount of the minimum benefit and the total pension benefits actually paid (from all MS)
- **Payable by the MS of residence**

Coordination rules: Invalidity (disability) benefits

- Arts. 44 – 49 BR
- Specific rules due to:
 - Incapacity to work, and
 - Disparities in national legislation (e.g. differences in waiting periods)
- **Type A legislation**
 - MS in which the amount of invalidity benefit is independent of the period of insurance, and expressly included in Annex VI (CZ, IE, HR, LV, HU, SK, FI, SE, UK)
 - Follows the sickness benefit logic
 - Benefit paid only by the last competent MS (when invalidity arose)
- **Type B legislation**
 - “any other legislation”
 - Amount of the benefit depends on the period of insurance
 - Follows the pension logic (pro-rata rules apply)

Coordination rules: **Invalidity benefits**

Persons subject only to type A legislation (or only shortly to B)

- Competent MS → MS whose legislation was applicable at the time of the risk occurrence

Persons subject only to type B legislation

- Rules on old-age pensions apply

Persons subject to type A and B legislation (successively or alternatively)

- Rules on old-age pensions apply

Coordination rules: Determining incapacity to work

- **Art. 46(3) BR**

- Validity of a decision taken by an institution of a MS concerning the degree of invalidity?
- Binding only on MS's institutions provided that concordance acknowledged in Annex VII (only Belgium, France and Italy)



Assimilation rule very limited

Coordination rules: Invalidity benefits



- **Practical problems (1):**

- Differences in waiting periods
- Different benefit schemes in the MSs: shifts from sickness benefits (short-term) to invalidity benefits (long-term)

- **CJEU cases:**

- **Leyman case (C-3/08)- shift from sickness to invalidty**

- CJEU: It is inconsistent with the Treaty (Article 39 EC (now 45 TFEU) if migrant workers are worse off as a result of cross border movement and they receive no benefit (despite contributions paid)

- **Vester case (C-134/18) – different waiting periods**

- CJEU: Articles 45 and 48 TFEU preclude a situation in which a worker who has been granted invalidity status by the competent institution of the MS of residence (without right to receive benefits), is required by the competent institution of the MS in which he completed all his insurance periods to complete an additional period of incapacity to work in order to be granted invalidity status and receive pro-rata invalidity benefits, without receiving any benefits for incapacity to work during that period (unlike other non-migrant workers)

Coordination rules: **Invalidity benefits**

- **Practical problems (2):**
 - Calculation of benefits
- **CJEU case law:**
 - **C-406/93 Reichling** - If invalidity benefit depends on the remuneration received by the worker at the time when invalidity occurred, and the worker was not at that time subject to the SSS of that MS, because s/he worked in another MS, the competent institution must calculate the theoretical amount of benefit on the basis of the remuneration last received by the worker in the other MS
 - **C-251/94 Nieto** - In systems where calculation of invalidity benefits is based on an average basis for contributions, the theoretical amount of the benefit thus obtained is to be duly revalorized and increased as if the person concerned has continued to work under the same conditions in the MS of question
 - **C-2015/05 Nemec** – obligation to take into account wage developments the person could reasonably have earned, given his/her subsequent employment record had he/she continued to work in the MS of the competent institution
 - **C-866/19 Zaklad etc.** – theoretical amount of benefits is to be calculated based on all periods of insurance, including those completed under legislation of other MS, while actual amount of the benefit (pro-rata benefit) is made having regard to the periods of insurance completed under the legislation of the MS concerned

Are they covered by EU coordination rules?

- Yes, if statutory pre-retirement schemes
 - Definition in Article 1(x) BR,
 - "all cash benefits, other than an unemployment benefit or an early old-age benefit, provided from a specified age to workers who have reduced, ceased or suspended their remunerative activities until the age at which they qualify for an old-age pension or an early retirement pension, the receipt of which is not conditional upon the person concerned being available to the employment services of the competent State;"
 - Rules only in Art. 66 (Chapter 7)
 - these benefits will be granted to migrants under the same condition as nationals and may also be "exported" when retiring abroad
 - no application of the principle of aggregation of insurance periods (Art. 6)
- so, periods of insurance, employment or residence completed in other MSs do not have to be taken into account when granting entitlement to these benefits

Coordination rules:

Submission of pension claims (principle of approachability)



For Type A invalidity benefits, claim should be submitted to:

- Institution of MS in which risk occurred, or
- Institution in MS of residence, which shall forward the MS of last insurance

For Type B invalidity benefits and other pension claims, claim should be submitted to:

- Institution in MS of residence, or
- Institution of the last applicable MS

Note: If the person was not at any time subject to the legislation of the MS of residence, that institution shall forward the claim to the institution of the last applicable MS

Coordination rules: Submission of pension claims

Date of claim – Art. 45(5) and 45 (6) IR

- The date of submission of the claim shall apply in all the institutions concerned
- Derogation – if person does not mention insurance or residence in a State, despite being asked
→ the date of claim in that MS is when it does eventually receive notification

Certificates and information to be submitted with the claim by the claimant – Art. 46 IR

- Submission in accordance with the legislation of the submission MS (“contact institution”)
- Available supporting documents including those relating to:
 - Periods of insurance
 - Employment or self-employment and residences (length)

Coordination rules: Submission of pension claims

“Contact institution”- Art. 47 IR

• Definition

- Institution to which the claim has been submitted
- (but not the institution in the MS of residence, if the person has never been insured there)

• Scope of tasks

- Investigation of the claim under its own legislation
- In addition, it performs:
 - the exchange of data (forwards the claim to other MS of insurance)
 - the communication of decisions
 - the operations necessary for the investigations of the claim
 - supplies the claimant upon request with any information relevant to the Community aspects of the investigation
 - keeps the claimant informed

Coordination rules: Notification to the claimant

Art. 48 IR

- **Each institution notifies the claimant of its decision** (includes also specification on remedies and appeal rights)
- **Contact institution is a collecting point for all decisions**
 - when it received notification of all decisions, →
 - it provides a summary of all the decisions to the claimant (on the way the institutions have dealt with the different periods of insurance and allows the person to see, for instance, whether there are gaps, or overlapping of certain insurance periods)
 - Summary note - Portable document P1
- **Review of the decision**
 - If it appears to the claimant that his rights have been adversely affected by the interaction of two or more decisions
 - Time limit for asking the review runs from the date you receive the summary note (P1)
 - The actual time limit depends on each MS's national law

Supplementary pensions & free movement

Occupational pensions

- **Directive 98/49** – with EEA relevance
 - on safeguarding supplementary pension rights
- **Directive 2014/50** – with EEA relevance
 - on minimum requirements for enhancing worker mobility by improving acquisition and preservation of supplem. p. r.
- **Directive 2016/2341, recast (IORP II)** – with EEA relevance
 - on supervision of institutions for occupational retirement provision

Personal Pensions - new

- **Regulation (EU) 2019/1238** - with EEA relevance
 - on pan-European Personal Pension Product (PEPP)

Directive 98/49 (safeguarding supplementary pension rights)

- **Personal scope:** employed and self-employed
- **Material scope:** “supplementary” pensions
 - occupational public or private,
 - voluntary and compulsory
- **Main principles and rights:**
 - **Equality of treatment**
 - preservation of vested pension rights
 - no "portability"
 - **Cross border payments**
 - net of any taxes and transaction charges
 - **Continuation of payment of contributions (for posted w.)**
 - **Adequate information when moving**
 - on scheme members pension rights
 - choices which are available to them

Directive 2014/50 (improving acquisition & preservation)

- Transposition: 21 May 2018
- Minimum harmonization directive (Art. 7)
- Personal scope:
 - Only employed (but can be extended to self-employed)
- Material scope:
 - “supplementary” p. (occupational public or private)
 - only to periods of employment after transposition
 - only when workers move cross border
 - does not apply to workers moving within a single MS (but can be extended to such situations, recital 6)
- Main improvements in 3 ways:
 - Acquisition
 - Preservation
 - Information

Directive 2014/50: Acquisition (Art. 4)

- Waiting + vesting periods = max. 3. years
- Minimum age for vesting = 21 years
- D. sets no age limit for becoming a scheme member;
- **If pension right not acquired by the outgoing worker:**
 - Right to reimbursement of contributions paid by or on behalf of the worker
 - Amount depends on scheme type:
 - If scheme or employer bears the investment risk (DB schemes):
 - → reimbursement of contributions
 - If outgoing worker bears the investment risk (DC schemes):
 - → reimb. of the sum of the contributions or
 - → reimb. of the investment value arising from these contribution

Directive 2014/50:

Preservation of dormant pension right (Art. 5)



- **General rule: preservation**

- Right to retain dormant pension rights in the former employer's pension scheme
- Dormant members should be treated on par with active members;
- Preservation may vary depending on the nature of the pension schemes:
 - e.g. regarding pension accrual modalities and indexation rules;
 - some rules are more fit for DB, while other for funded DB schemes;

- **Exception: withdrawal of capital sum (option for MS)**

- Purpose: reduction of managing costs of low-value dormant pension right
- Withdrawal of capital sum subject to two conditions:
 - Value of vested p.r. below established national ceilings, and
 - Worker's informed consent

Directive 2014/50: Information (Art.6)

- **Scope:**

- Right of „active scheme members” (workers) to know how termination of employment would affect their pension rights,
- Right of „deferred beneficiaries” (former active scheme members who has vested pension rights but not yet in receipt of a pension) to be informed about the value of their rights

- **Provision of information:**

- Upon request
- Clearly, in writing and within reasonable period on time
- MS may provide limit (max. once a year)

Directive 2016/2341 – recast (activities & supervision of IORPs)

Directive 2003/41- old

Directive 2016/2341 – recast (transposition by 13 Jan 2019)

- Purpose:
 - soundness of occupational pension schemes
 - better protection of pension scheme members and beneficiaries
- Minimum harmonization directive
- Enables IORP-s to benefit from the Internal Market (cross border activities)
- Main improvements by IORP II
 - (i) new governance requirements,
 - (ii) new rules on IORPs' own risk assessment,
 - (iii) new requirements to use a depositary, and
 - (iv) enhanced powers for supervisors

Regulation (EU) 2019/1238 on PEPP (pan-European Personal Pension Product)



- **Adoption procedure:**

- COM/2017/0343 final - 2017/0143 (COD),
- adopted on 20/07/2019, in force since: 14/08/2019

- **Purpose:**

- provide savers with more choice and more competitive personal pension products market
- complementing existing public and occupational pension systems, as well as national private pension schemes

- **Main features:**

- legal foundation for voluntary personal pension scheme products
- can be offered to consumers on pan-European level
- broad range of financial providers
 - (such as insurance companies, asset managers, banks, certain investment firms and certain occupational pension funds)
- standardisation of the core product features
 - (e.g. transparency requirements, investment rules, switching right and type of investment options → Consumer protection)

Further reading, e.g.

- General on social security law:
 - Pennings, Frans: European Social Security Law, 7th edition, Intersentia, 2022
 - Fuchs, Maximilian (Hrsg.): Europäisches Sozialrecht, 9. Auflage, Nomos, 2025
 - Hennion, Sylvie; Muriel Le Barbier-Le Bris, Marion Del Sol, Jean-Philippe Lhernould: Droit social européen et international, 4e édition, PUF, 2021
- More specific on pension:
 - Stevens, Yves. EU Pension Law, Edward Elgar, 2024
 - Tsetoura, Anna. Pension Rights and Free Movement of Persons, Springer, 2025
 - Vukorepa, Ivana; Jorens, Yves; Strban, Grega. (2019). Pensions in the Fluid EU Society: Challenges for (Migrant) Workers, in: da Costa Cabral N., Cunha Rodrigues N. (eds). The Future of Pension Plans in the EU Internal Market, Financial and Monetary Policy Studies, vol 48., Springer, Cham, pp. 325-349 Chapter DOI: 10.1007/978-3-030-29497-7_18, https://link.springer.com/chapter/10.1007/978-3-030-29497-7_18
 - Vukorepa, Ivana. Supplementary Pensions, in: EU Labour Law Commentary (ed. Hiessl, Christina), Kluwer, 2025 (forthcoming)

Helpful websites:



- **DG Employment, Social Affairs & Inclusion**

- EU social security coordination, <http://ec.europa.eu/social/main.jsp?langId=en&catId=849>
- Specialized information: <http://ec.europa.eu/social/main.jsp?catId=866&langId=en>

- **Your Europe (Retiring abroad)**

- https://europa.eu/youreurope/citizens/work/retire-abroad/index_en.htm

- **MoveS - Network of Legal Experts on Free Movement of Workers and Social Security Coordination**

- General website: <https://ec.europa.eu/social/main.jsp?catId=1098&langId=en>
- MoveS database on coordination regulations and case law: <https://ec.europa.eu/social/main.jsp?catId=1502&langId=en>

- **Information on national social protection systems**

- Mutual Information System on Social Protection (MISSOC): <https://www.missoc.org/>
- Pension Maps (Max Planck):
 - <https://www.mpisoc.mpg.de/sozialrecht/forschung/forschungsprojekte/pension-maps/>
 - https://www.mpisoc.mpg.de/fileadmin/user_upload/data/Sozialrecht/Projekte/Report_PensionMaps_Secondedition.pdf
- DG EMPL website, „Your rights country by country”, <http://ec.europa.eu/social/main.jsp?catId=858&langId=en>

Thank you for your attention in the hope that this
“navigation” presentation
was useful!

If more questions:

Prof. Dr. Ivana Vukorepa
Department of Labour and Social Security Law
University of Zagreb, Faculty of Law
Gundulićeva 10 (room 13), HR-1000 Zagreb, Croatia

ivana.vukorepa@pravo.unizg.hr
<https://www.pravo.unizg.hr/en/ivana.vukorepa>

Cross-border pension payments: challenges in practice

Darka Hribar
**Pension and Invalidity Insurance
Institute of Slovenia**



Zavod za pokojninsko in invalidsko zavarovanje Slovenije Pension and Disability
Insurance Institute of Slovenia

Čezmejno izplačevanje pokojnin - izzivi v praksi

Darka Hribar

Three overlapping triangles in shades of blue and teal are positioned in the bottom right corner of the slide. The top triangle is a medium blue, the bottom-left triangle is a light teal, and the bottom-right triangle is a dark blue.

www.zpiz.si

Pravne podlage za izplačilo pokojnine v tujino

► **Zakon o pokojninskem in invalidskem zavarovanju ZPIZ-2**

120. člen **(izplačevanje v tujino)**

(1) Uživalcu pravic, ki se za stalno izseli v tujino, se pokojnina izplačuje v tujino.

► **EU - Uredba 883/04**

Temeljno načelo- **Načelo izplačevanja dajatev v drugo državo članico:**

zagotavlja izplačilo dajatev, pridobljenih v eni državi članici, v katerokoli drugo državo članico, v kateri prebiva upravičenec, brez znižanj ali mirovanja dajatev.

Le v izjemnih primerih je možno omejiti izplačilo določenih dajatev na ozemlje druge države članice.

Sporazumi o socialni varnosti

Določbe o izplačilu pokojnine na račun upravičenca v tujini

Nekatere države ne dopuščajo izplačila pokojnine direktno na račun upokojenca v tujini (npr. sporazum z Argentino)

Statistični podatki o številu pokojnin, ki jih ZPIZ izplačuje v tujino

ZPIZ je v letu 2024 nakazal pokojnine 104.043 upravičencem v 72 držav.

Največ na Hrvaško (30.420), BiH (28.266), Srbijo (14.431), Nemčijo (9.715), Avstrijo (4.493)

Prejemki iz obveznega zavarovanja se izplačujejo **negotovinsko na plačilne račune, odprte pri bankah.** (3. odstavek 120.čl. ZPIUZ-2)

		DECEMBER 2024				
	2024	starostne	invalidske	družinske	ŠT.	
		pokojnine	pokojnine	pokojnine	NAK.	EUR
	SKUPAJ NAKAZILA V TUJINO					
	SKUPAJ TUJINA	58.590	9.335	28.278	96.203	19.139.558,13
	SKUPAJ NRZD	4.601	1.292	1.946	7.839	3.393.308,12
	SKUPAJ (1+2+3)	63.191	10.627	30.224	104.042	22.532.866,25

Izzivi pri izplačilu v tujino

Pred prvim nakazilom:

Pridobitev izjave, davčne številke , podatka o stalnem naslovu v tujini, račun za nakazilo

Št. / No.:

POTRDILO O ŽIVETJU / LIFE-CERTIFICATE

Potrjujemo, da / This is to certify that

Gospod-gospa / Mr-Mrs
Priimek, (dekliški priimek), ime / Surname, (maiden name), name

Rojen-a Državljan-ka
Date of birth Citizen of

Živi in stanuje
Is alive and is living in

.....
Datum / Date žig / Stamp * Podpis / Signature

*Pečat in podpis organov (npr. diplomatska predstavništva in konzulati, vsi upravni organi v državi prebivanja...)

*Stamp and signature of competent authorities (e.g. diplomatic missions and consulates, all municipal authorities in the country of one's residence ...)



Zavod za pokojninsko in invalidsko zavarovanje Slovenije
Pension and Disability Insurance Institute of Slovenia

Zagotovilo tuje banke, na katero je pokojnina nakazana

S podpisom pooblašcam banko, da v primeru, da pride do preplačila pokojnine po moji smrti, na zahtevo zavoda to vrne, v kolikor so sredstva še na računu. Če sredstev ni, pa sporoči moje osebne podatke in podatke o pooblaščenцу, ki je razpolagal s sredstvi na računu po smrti. Pooblastilo velja do preklica./Sa potpisom dajem banci ovlaštenje da u ime zavoda zahtjeva povrat novčanih sredstava uplaćenih nakon moje smrti. I u slučaju da su novčana sredstva još uvijek na računu. U slučaju da novčanih sredstava na računu nema, banka neka proslijedi moje lične podatke i lične podatke ovlaštene osobe, koja je nakon moje smrti imala pristup novčanim sredstvima na računu. Ovlaštenje vrijedi do otkazivanja.

Datum: /Datum:

(Podpis uživalca pokojnine/

(Podpis pooblaščenca/(Potpis

(Potpis korisnika penzije)

ovlaštene osobe)

Potrdilo banke/Potvrda banke

Seznanjeni smo z vlogo in potrjujemo podatke, navedene pod 2. točko./Upoznati smo sa molbom i potvrđujemo podatke navedene pod 2. tačkom.

Zavezuje se, da bomo v primeru preplačila ravnali, kot je navedeno v točki 4 in bomo na zahtevo ZPIZ, po prejemu informacije o smrti uživalca, vrnili na račun ZPIZ po smrti nakazane zneske./Obavezuje se, da ćemo u slučaju preplate novčanih sredstava postupiti kako je to navedeno pod tačkom 4. I na zahtjev ZPIZ ćemo nakon primanja informacije o smrti korisnika novčana sredstva vratiti na bankovni račun ZPIZ.

Naziv banke:/Naziv banke _____

Naslov banke:/Adresa banke _____

(Kraj, datum)/(Mjesto, datum)

(Podpis/žig banke)/(Potpis/pečat banke)

Redno preverjanje ali upravičenec še živi?

Na podlagi določbe 120. člena Zakona o pokojninskem in invalidskem zavarovanju [morajo](#) [uživalci z bivališčem v tujini enkrat letno](#) [Zavodu za pokojninsko in invalidsko zavarovanje Slovenije](#) [posredovati potrdilo, ki izkazuje, da oseba še živi.](#)

► Kako preverjamo ?

Elektronska izmenjava podatkov o smrti upravičencev

Takšna izmenjava je dogovorjena z nosilci pokojninskega in invalidskega zavarovanja

Srbije, Bosne in Hercegovine, Črne gore, Hrvaške in Nemčije (dogovor z Nemško Pošto, ki izplačuje nemške pokojnine v tujino)

Priprave za izmenjavo so trenutno v teku še z Makedonijo in Avstrijo

Potrdila, ki izkazujejo, da oseba še živi

Podatki za leto 2024

Ker je v letu 2024 zavod že za 81.301 uživalcev prejel potrditev o doživetju preko elektronske izmenjave podatkov, je konec oktobra 2024 posredoval v izpolnitev in overovitev obrazce v papirni obliki le še 21.832 uživalcem.



Potrdila, ki izkazujejo, da oseba še živi

Potrdila poslana po pošti oktobra 2024 v 72 držav

Potrdila so dvojezična, potrdi jih pristojni organ v državi stalnega prebivališča (tuj pokojninski zavod, upravna enota, ambasada...)

Obdelava vrnjenih potrdil

Vrnjeni obrazci, ki so bili uživalcem posredovani preko masovne odpreme, se ob prejemu skenirajo, nato pa se kontrola podatkov izvede preko sistema Datacap. V primeru potrditve ustreznosti potrdila se podatki o datumu prejema potrdila prenesejo v aplikacijo PŽ evidenca, od tam pa ob koncu akcije avtomatsko za vse uživalce naenkrat v zbirko »Rokovnik«, kjer se podaljša upravičenost do nadaljnjega izplačevanja do 31. 1. 2026

Kaj pa če stranka potrdila ne vrne?

Začasna ustavitev izplačila pokojnine – (3. odstavek, 120.čl. ZPIZ-2)

Po predložitvi zahtevanega potrdila zavod z izplačevanjem nadaljuje, pri čemer s prvim nakazilom izplača tudi zapadle neizplačane pokojnine

111.čl ZPIZ-2

6) Zapadli mesečni zneski pokojnine, ki niso mogli biti izplačani zaradi okoliščin, ki jih je povzročil uživalec, **se izplačajo največ za tri leta nazaj**, računano od dneva vložitve zahteve za izplačilo.

(7) Zapadli denarni prejemki, ki **ob smrti užívalca pravice** oziroma zavarovanca še niso bili izplačani, se lahko podedujejo in izplačajo dedičem na podlagi ustreznih dokazil do dneva smrti.

(8) Izplačila za obdobje po smrti, **do katerih umrli ni bil upravičen, se vrnejo zavodu.**

Slabosti papirnih potrdil

- **Stroški** pošiljanja in obdelave papirnih potrdil.
- **Nastanek preplačil** – preverjanje enkrat letno, če zavod ne prejme pravočasno obvestila o smrti – nastane preplačilo zaradi neupravičeno izplačane pokojnine po smrti
- **Izterjava v tujini je ponekod otežene**, iskanje dedičev...

V veliko pomoč so podpisane zaveze bank, da zneske izplačane po smrti vrnejo

- **Izzivi v primeru epidemij, vojn, naravnih nesreč**

Izkušnje v času epidemije covid, onemogočeno potrjevanje zaradi zaprtja

- Tudi upravičenci, ki živijo v Sloveniji morajo **pošiljati potrdila nosilcu v tujini**, ki izplačuje tujo pokojnino. Delo s potrjevanjem in obremenjevanje strank.

Cilji v bodoče

- ▶ V čim večji meri izmenjevati podatke o smrti upravičencev elektronsko
- ▶ Poiskati druge elektronske načine za identifikacijo in dokazovanje živetja, poleg izmenjave med nosilci

Hvala za pozornost



Zavod za **pokojninsko in invalidsko** zavarovanje Slovenije
Pension and Disability Insurance Institute of Slovenia

Discussion

Coordination of unemployment benefits

Luka Mišič

**Faculty of Law, University of
Ljubljana**

Koordinacija dajatev za brezposelnost

Luka Mišič



PF

UNIVERZA V LJUBLJANI
Pravna fakulteta



Unemployment Benefits

- **De Cuyper C-406/04 (2006):** (...) nadomestilo za primer brezposelnosti krije tveganje izgube dohodka zaradi izgube zaposlitve delavca, čeprav je ta še vedno sposoben za delo. Nadomestilo, ki se dodeli v primeru brezposelnosti in ki se preneha izplačevati, če se upravičenec zaposli, je treba šteti za nadomestilo za primer brezposelnosti.
- Dajatve so zagotovljene v primeru neprostovoljne brezposelnosti, ko je oseba zmožna za delo, na voljo službam za zaposlovanje in je pripravljena sprejeti primerno zaposlitev.

**PF****UNIVERZA V LJUBLJANI**
Pravna fakulteta

Posebna narava nadomestila

Unemployment benefits are a special type of benefit for coordination purposes since Member States (MS) exporting benefits tend to fear that supervision of their benefit recipients in the host MS will not be satisfactory. For this reason, several complicated rules have been made, which are disadvantageous for the benefit recipients living in a MS with low unemployment benefits who last worked in a MS with higher benefits. The rules are also disadvantageous for MSs with many outgoing frontier workers. Although the proposal for revising the Regulation includes new rules to address these problems, the large differences in interests between MSs make it difficult to reach a compromise (Pennings, 2020)



PF

UNIVERZA V LJUBLJANI
Pravna fakulteta



Posebne določbe

- **Člen 61 o seštevanju obdobj:** katera obdobja naj se upoštevajo?
- **Člen 62 o izračunu dajatev:** kateri dohodek naj se upošteva?
- **Člen 64 o izvozu dajatev:** ali je omejitev izvoza upravičena z zornega kota svobode gibanja?
- **Člen 65 o osebah, ki delajo in prebivajo v različnih državah članicah:** zakaj različna obravnava posebnih kategorij delavcev, npr. obmejnih delavcev?

**PF**UNIVERZA V LJUBLJANI
Pravna fakulteta

Člen 61(1): seštevanje obdobj

Pristojni nosilec države članice, katere zakonodaja določa, da je pridobitev, ohranitev, ponovna pridobitev ali trajanje pravice do dajatev odvisna od dopolnitve zavarovalnih dob, dob zaposlitve ali **samozaposlitve**, mora **po potrebi upoštevati zavarovalne dobe, dobe zaposlitve ali samozaposlitve, dopolnjene po zakonodaji katere koli druge države članice**, kakor da bi bile dopolnjene po zakonodaji, ki jo uporablja.

Če pa je po zakonodaji, ki se uporablja, pravica do dajatev **odvisna od dopolnitve zavarovalnih dob, se dobe zaposlitve ali samozaposlitve, dopolnjene po zakonodaji druge države članice, ne upoštevajo, razen če bi se te dobe štele kot zavarovalne dobe, če bi bile dopolnjene v skladu z zakonodajo, ki se uporablja.**



PF

UNIVERZA V LJUBLJANI
Pravna fakulteta



Člen 65: zaposlitev in prebivališče v različnih državah

- **1:** Delno brezposelne osebe – veljajo splošna *lex loci laboris* pravila.
- **2:** Popolnoma brezposelna oseba ima možnost izbire – bodisi ostane v državi članici zadnje zaposlitve bodisi se vrne v državo članico stalnega prebivališča (5b, 5a).
- **2, 5(b):** Posebna pravila za obmejne delavce, za katere je pristojna država članica prebivališča (*lex loci domicilii*) in ne država članica zadnje zaposlitve.
- **6, 7, 8:** Kompleksen sistem povračila stroškov s strani države članice zadnje zaposlitve pristojni državi članici (3 – 6 mesecev), pri čemer država članica zadnje zaposlitve plača največ kolikor bi plačala, če bi sama bila pristojna – **sprememba ZUTD**.

**PF****UNIVERZA V LJUBLJANI**
Pravna fakulteta**62. člen****(višina denarnega nadomestila)**

(1) Denarno nadomestilo se prve tri mesece izplačuje v višini 80 odstotkov od osnove, v nadaljnjih devetih mesecih pa v višini 60 odstotkov od osnove. Po izteku tega obdobja se denarno nadomestilo izplačuje v višini 50 odstotkov od osnove.

(2) Najnižji znesek denarnega nadomestila ne sme biti nižji od 530,19 eura.

(3) Najvišji znesek denarnega nadomestila ne sme biti višji od 892,50 eurov.

(4) Ne glede na prejšnji odstavek se brezposelni osebi, ki ima stalno prebivališče v Republiki Sloveniji, in se je v drugo državo članico EU, EGP ali Švicarsko konfederacijo dnevno ali najmanj enkrat tedensko vozila na delo, in je pred nastankom brezposelnosti v tej državi članici EU, EGP ali Švicarski konfederaciji pridobila celotno zavarovalno dobo iz prvega odstavka 59. člena tega zakona, prizna denarno nadomestilo največ v višini 1.785 eurov, pri čemer se tako določeni najvišji znesek denarnega nadomestila brezposelni osebi prizna:

- za prve tri mesece prejemanja denarnega nadomestila;
- za prvih pet mesecev prejemanja denarnega nadomestila, če je brezposelna oseba pred nastankom brezposelnosti v tej državi članici EU, EGP ali Švicarski konfederaciji pridobila najmanj 12 mesecev zavarovalne dobe v zadnjih 24 mesecih in ima v skladu s prvim odstavkom 60. člena tega zakona pravico do denarnega nadomestila v trajanju šest mesecev ali več.

(5) Če je bil zavarovanec v zadnjih devetih mesecih več kot polovico časa zaposlen s krajšim delovnim časom od polnega, ki v povprečju ni presegel 15 ur na teden, ali je opravljal delo v tem obsegu na drugi pravni podlagi, se višina denarnega nadomestila odmeri sorazmerno času trajanja zaposlitve na mesec brez upoštevanja določbe drugega odstavka tega člena o najnižjem denarnem nadomestilu.

(6) Zavarovancu pripada nadomestilo za tiste dneve, ki se ob upoštevanju 40-urnega delovnega časa kot polnega delovnega časa in petdnevnega delovnega tedna štejejo kot delovni dnevi, in za dela proste dneve, določene z zakonom.

(7) Denarno nadomestilo, odmerjeno po določbah tega člena, se usklajuje v skladu z zakonom, ki ureja usklajevanje transferjev posameznikom in gospodinjstvom v Republiki Sloveniji.

**PF**UNIVERZA V LJUBLJANI
Pravna fakulteta**Evidenčni podatki**

Zbirka Sodna praksa Višjega delovnega in socialnega sodišča

☐ **VDSS Sodba Psp 182/2021****Opravljalna številka:** VDSS Sodba Psp 182/2021**Evidenčna številka:** VDS00052369**ECLI:** ECLI:SI:VDSS:2021:PSP:182.2021**Organ:** Višje delovno in socialno sodišče**Oddelek:** Oddelek za socialne spore**Datum:** 3. 11. 2021**Instituti:** brezposelnost, denarno nadomestilo za brezposelnost**Zveza:** ZUTD člen 62, 62/3.. Uredba (ES) št. 883/2004 Evropskega parlamenta in Sveta z dne 29. aprila 2004 o koordinaciji sistemov socialne varnosti člen 5, 65.. ZUTD-F člen 2, 3.**Jedro**

V zadevi je sporno, ali je tožnik upravičen do denarnega nadomestila v višini, kot bi mu bilo priznано v državi zadnje zaposlitve, torej v Republiki Avstriji. Pri presoji, kateri zakon je potrebno uporabiti je namreč potrebno uporabiti prehodne in končne določbe ZUTD-F, kjer je v 2. členu določeno, da se o vlogah za uveljavitev pravice do denarnega nadomestila, ki so bile vložene pred začetkom uporabe tega zakona, odloči po Zakonu o urejanju trga dela, torej zakonu, ki je veljal do začetka uveljavitve in uporabe ZUTD-F. Zavarovanec, ki je pridobil pravice iz zavarovanja za primer brezposelnosti do začetka uporabe ZUTD-F, zadrži te pravice v obsegu in trajanju po določbah ZUTD, ki je veljal pred uveljavitvijo novele. Novela zakona (ZUTD-F) je začela veljati 15. dan po objavi v Uradnem listu Republike Slovenije, uporabljati pa se je začela 30. dan po uveljavitvi tega zakona (3. člen ZUTD-F), torej od 24. 5. 2021 dalje. Glede na navedene določbe ter dejstvo, da je tožnik vložil zahtevo dne 25. 5. 2020 in mu je bila tudi že priznana pravica do denarnega nadomestila v višini 892,50 EUR bruto po določbah ZUTD, sodišče ni imelo nobene pravne podlage, da bi pri svoji odločitvi upoštevalo določbe ZUTD-F, na katere se sklicuje tožnik.

BesediloBesedilo je dostopno na spletišču: [Sodna praksa](#)

Discussion

Lunch break
12:20-13:30

New developments in the Cross-border services act (ZCmIS-1) and its practical implementation

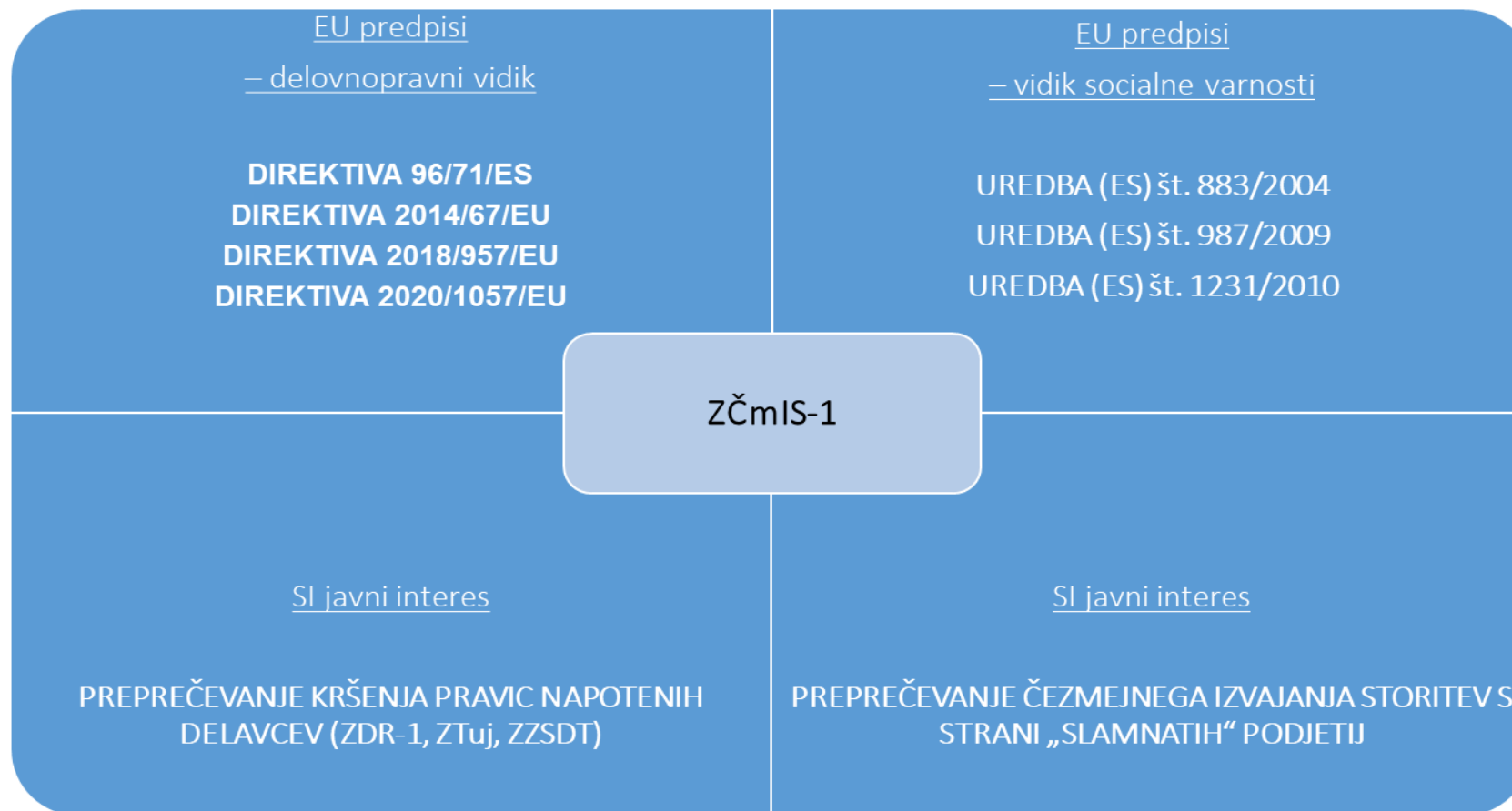
Grega Malec

**Ministry of labour, family, social affairs and
equal opportunities**

Zakon o čezmejnem izvajanju storitev (ZČmIS-1) – novosti in njegovo izvajanje v praksi

Grega Malec
MDDSZ

Sistem čezmejnega izvajanja storitev



Izvajanje storitev s strani slovenskih ponudnikov v drugih državah članicah

1. Nacionalni pogoji za čezmejno izvajanje storitev

- opravlja dejavnost v Republiki Sloveniji,
- ne krši pomembnejših določb delovnopravne zakonodaje, ki se nanašajo na pravice delavca,
- se storitev izvaja v okviru dejavnosti delodajalca, razen v primeru napotitev v povezano gospodarsko družbo,
- se storitev izvaja na dovoljen način.

2. Obveznosti slovenskega ponudnika storitve pred začetkom izvajanja storitev

- pridobiti potrdilo A1, ki ga izda ZZZS, glede na naravo delovnega vzorca ponudnika,
- pogodbo o zaposlitvi za napotenega delavca prilagoditi, če je potrebno, določbam ZDR-1, ki se nanašajo na opravljanje dela v tujini,
- delodajalec in napoteni delavec sta dolžna ZZZS obvestiti o vseh spremembah, ki se pojavijo med obdobjem napotitve.

Izvajanje storitev tujih ponudnikov v RS

1. Pogoji za izvajanje storitev tujega ponudnika

- napoteni delavec razpolaga z veljavnim potrdilom A1,
- ne krši pomembnejših določb delovnopravne zakonodaje, ki se nanašajo na pravice napotenih delavcev,
- se storitev izvaja v okviru registriranih dejavnosti podjetja, razen v primeru napotitev v povezano gospodarsko družbo,
- se storitev izvaja za lasten račun in pod lastnim vodstvom na podlagi sklenjene pogodbe z naročnikom storitve oziroma v primeru mednarodnega transporta na podlagi zahtevane dokumentacije, na podlagi akta o napotitvi oziroma primerljivega akta v povezano gospodarsko družbo ali v okviru opravljanja dejavnosti zagotavljanja dela delavcev uporabniku.

2. Obveznosti tujih ponudnikov v RS

- Obvezna predhodna elektronska prijava začetka storitev pri Zavodu RS za zaposlovanje.
- Po novem se poleg zahtevanih podatkov zahtevalo tudi podatke o naslovu/lokaciji izvajanja storitve oziroma – če se bo storitev izvajala na lokaciji brez naslova – o GSP koordinatah lokacije.
- Določen je nabor podatkov, ki jih mora v izjavi navesti tuji delodajalec, ki čezmejno izvaja storitve v dejavnosti mednarodnih prevozov. Napotilo na javni vmesnik, ki je povezan s sistemom IMI.
- Določeno je obdobje v okviru katerega lahko tuj ponudnik uveljavlja minimalni delovnopravni standard pravic. To obdobje je možno podaljšati na 18 mesecev, pod pogojem, da opravi prijavo z obrazloženim obvestilom pri Zavodu RS za zaposlovanje.
- Ima v času izvajanja storitve ter 24 mesecev po zaključku izvajanja storitve dolžnost hraniti in po potrebi dati na razpolago pristojnemu nadzornemu organu dokumente, potrebne za izvajanje morebitnega nadzora (npr. kopijo pogodbe med naročnikom storitve in tujim delodajalcem oz. primerljivi akt v primeru napotitve v povezano gospodarsko družbo, potrdilo o opravljeni prijavi začetka izvajanja storitev, ter delovnopravno dokumentacijo idr.).
- Je dolžan svojim napotenim delavcem zagotavljati delovnopravne pravice skladno z ZDR-1.
- Je dolžan urediti prebivanje svojim napotenim delavcem, skladno s predpisi, ki urejajo vstop in prebivanje tujcev v RS.

Upravno sodelovanje med državami članicami EU, nadzor in sankcije

1. Upravno sodelovanje zajema:

- izmenjava informacij, vročanje dokumentov, ipd.;
- sodelovanje pri čezmejnem izvrševanju kazni.

Celotno sodelovanje med državami članicami poteka preko javnega vmesnika Informacijskega sistema na notranjem trgu EU.

2. Nadzor nad tujimi ponudniki v RS

- Na novo so določena razmerja med različnimi nadzornimi organi, glede na določene pristojnosti in razmejitve.
- IRSD je pristojen za nadzor nad delodajalci in tujimi delodajalci.
- FURS je pristojen za nadzor na poslovanjem in čezmejnem opravljanjem storitev **samozaposlenih oseb**, nosilcev gospodarske dejavnosti.
- Policija je pristojna za nadzor v okviru ugotavljanja zakonitosti prebivanja napotenih delavcev, v skladu z zakonom, ki ureja vstop in prebivanje tujcev.
- MDDSZ na podlagi ugotovitev nadzornih organov predlaga oceno tveganja, na podlagi katere se opravi usmerjen nadzor nad tujimi delodajalci oziroma samozaposlenimi osebami z vidika skladnosti čezmejnega izvajanja storitev.
- Na podlagi ugotovitve o kršitvi določb ZČmIS- 1 s strani tujih ponudnikov storitev lahko nadzorni organi izrečejo globe (v razponu od 6.000 do 60.000 €)

Hvala za vašo pozornost!

New developments regarding A1 certificates under ZCmIS-1

Klemen Ganziti

**Health Insurance Institute of
Slovenia**

Novosti glede A1 potrdil po ZČmIS-1

Klemen Ganziti,
Zavod za zdravstveno zavarovanje Slovenije

BISTVENA NOVOST

Z dnem uveljavitve ZčmIS-1 prenehal veljati drugi odstavek 144. člena ZPIZ-2.

-> S 1.1.2024 ukinjena sprememba ZP na ZP 002.

	2023	2024	indeks 2024/2023
Število odobrenih napotitev	98.469	66.118	67,1
Število ostalih izdanih A1	77.896	80.203	103,0
Skupaj število izdanih A1	176.365	146.321	83,0

Vpliv ZČmIS-1 na delo ZZZS 1/2

13. člen Uredbe 883/2004:

- za enega delodajalca/sp
- ne glede na dejavnost (ne zgolj monterji, serviserji, šoferji)
- kontrola pogojev po ZČmIS-1
- rok za izdajo PD A1 je 5 delovnih dni

Obveščanje o spremembah:

- Prvi ali zadnji dan obdobja oziroma da do čezmejnega izvajanja storitve ni prišlo
- V času veljavnega potrdila A1 in 6 mesecev po poteku veljavnosti potrdila A1. Kasneje z dokazili iz postopka ugotavljanja LZO pri ZPIZ.

Državljeni tretjih držav -> veljavno ED

Priloga: Samo pogodba o zaposlitvi. Ne več pogodbe z naročnikom (izjava na vlogo).

Vpliv ZČmIS-1 na delo ZZZS 2/2

Izjema od ZUP:

- Obvestilo o nameri + obvestilo o odločitvi: pravnomočna ugotovitev tujega pristojnega organa
- Obvestilo o odločitvi: obvestila vlagatelja, razveljavitev
- ZUP: obvestilo IRSD ali FURS o neizpolnjevanju pogojev

Evidenca potrdil A1: izda ZZZS in tuji organi (EESSI)

Posredovanje podatkov iz evidence potrdil A1 nacionalnim organom

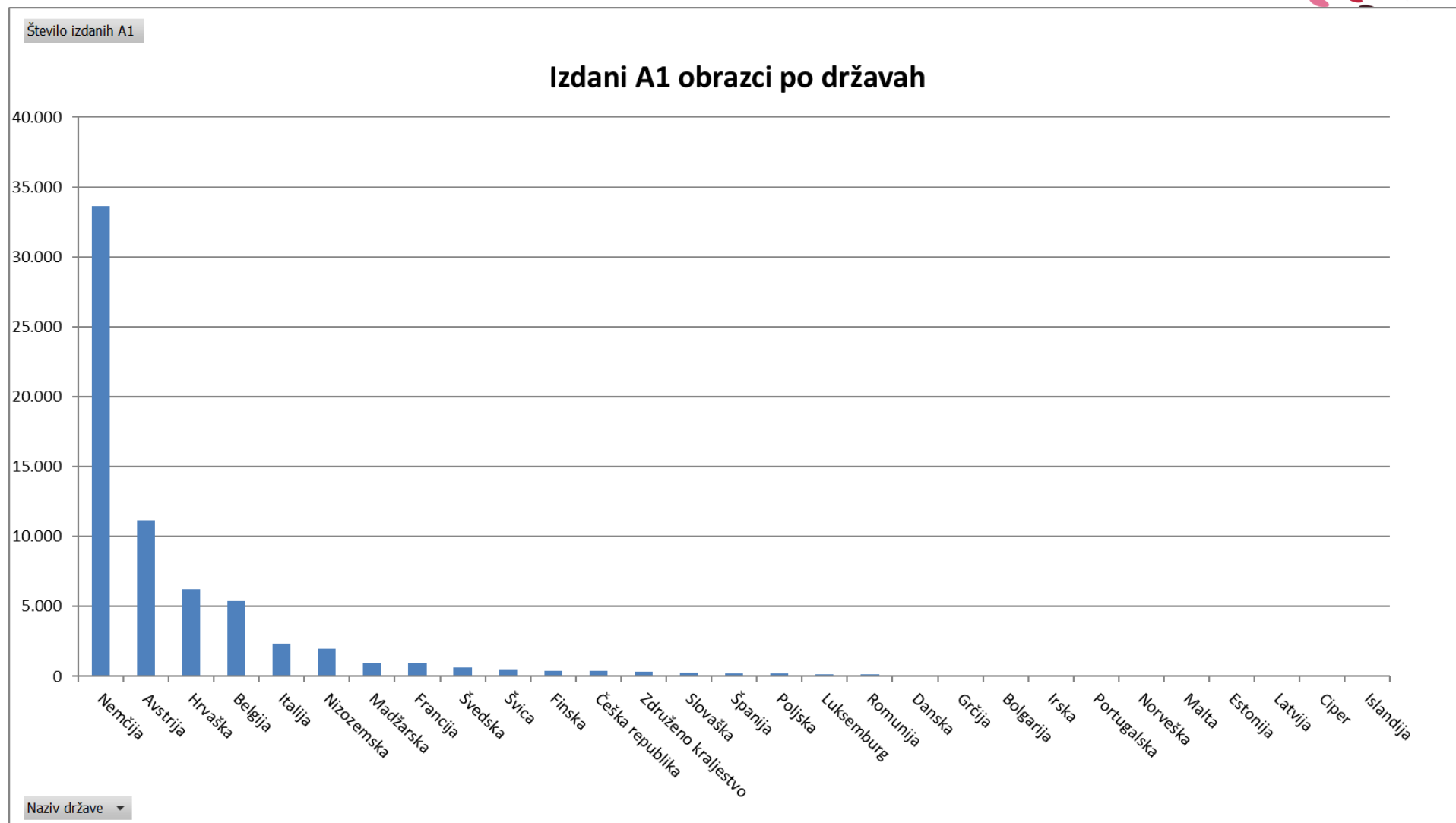
Napotitve v RS – vloga ZZZS

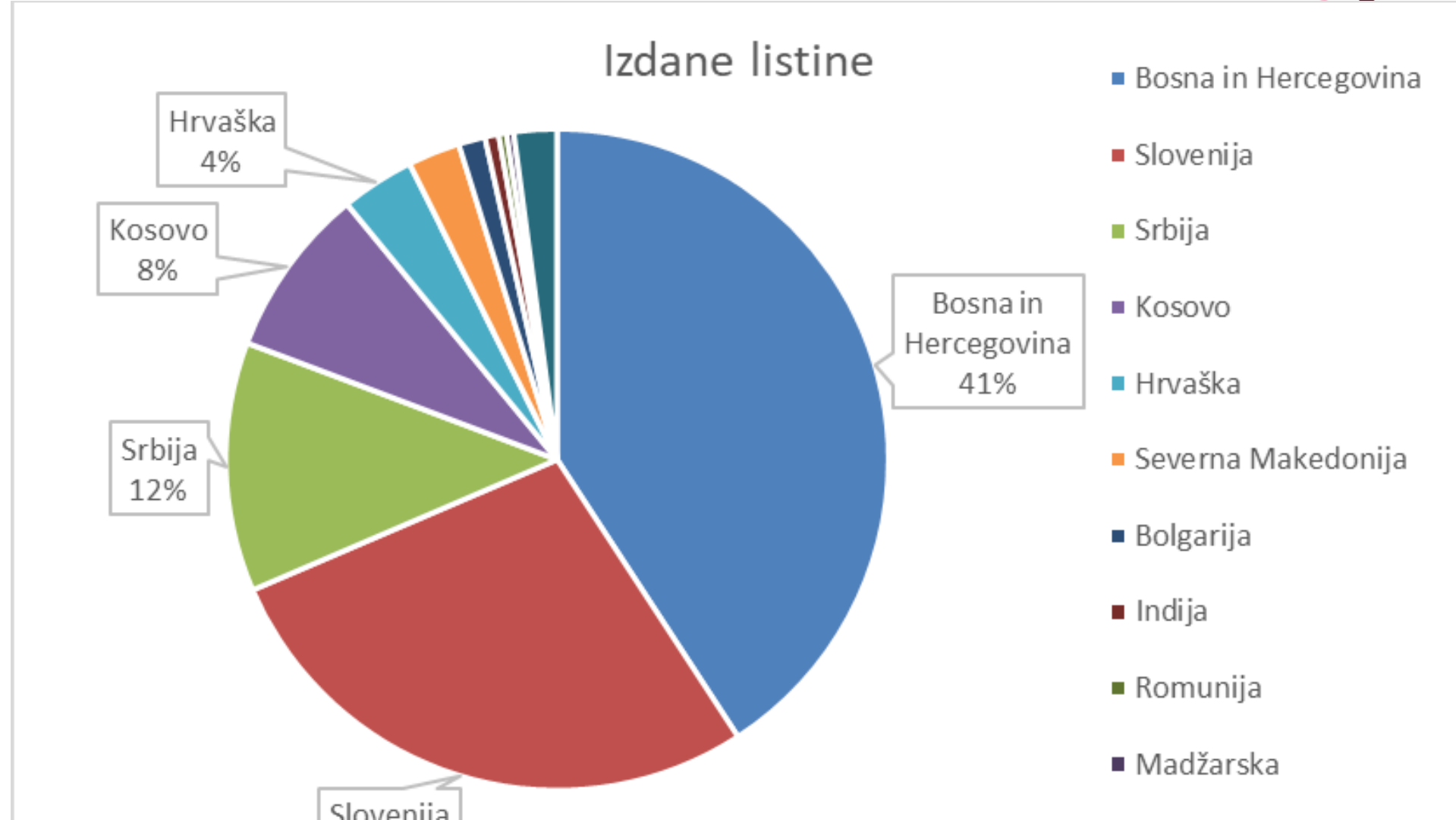
Nadzorni organ prepove nadaljnje
izvajanje storitve tujega subjekta ->
ZZZS predlaga preklic potrdila A1

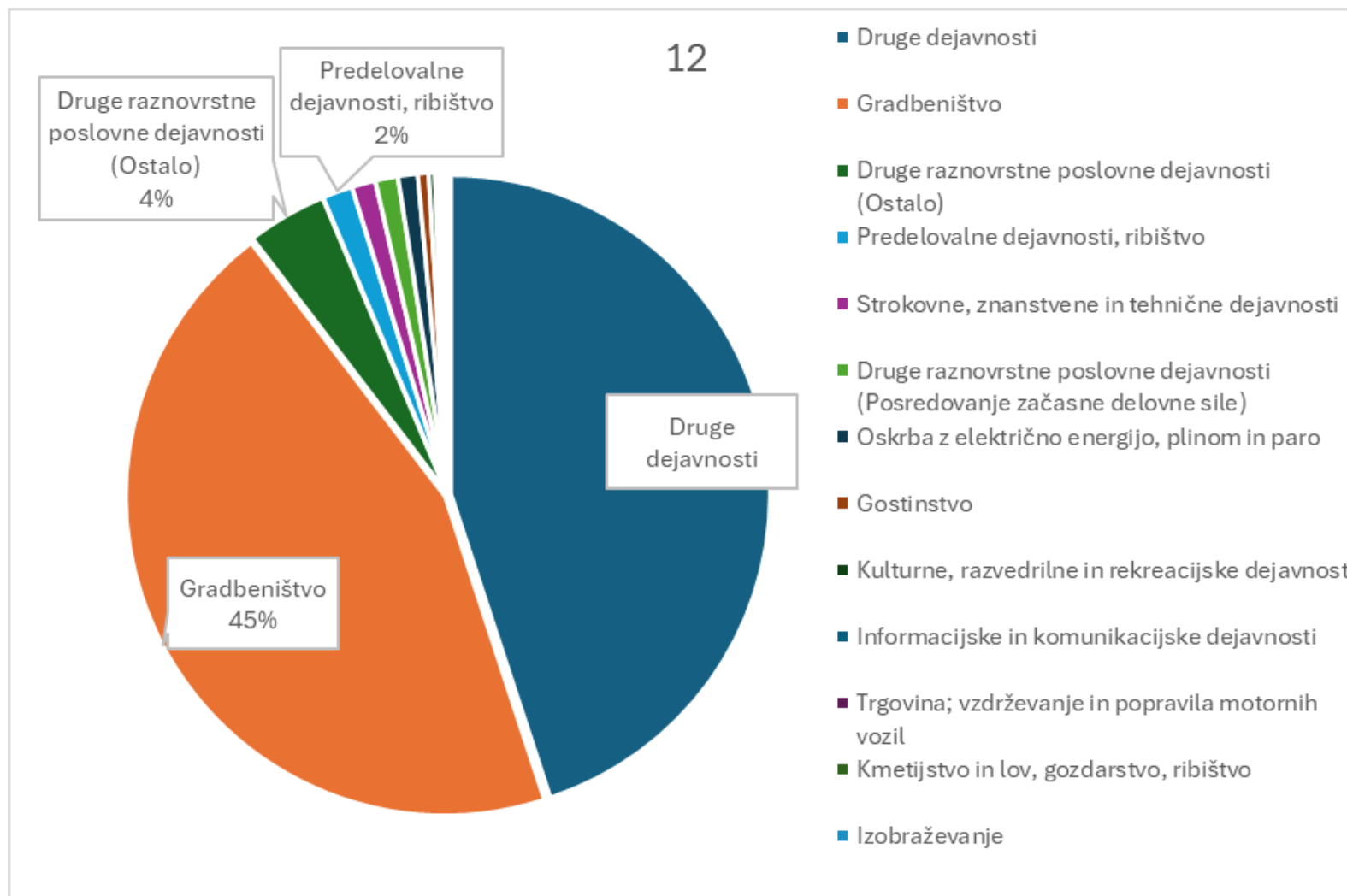
Obveznost ZZZS ni novost

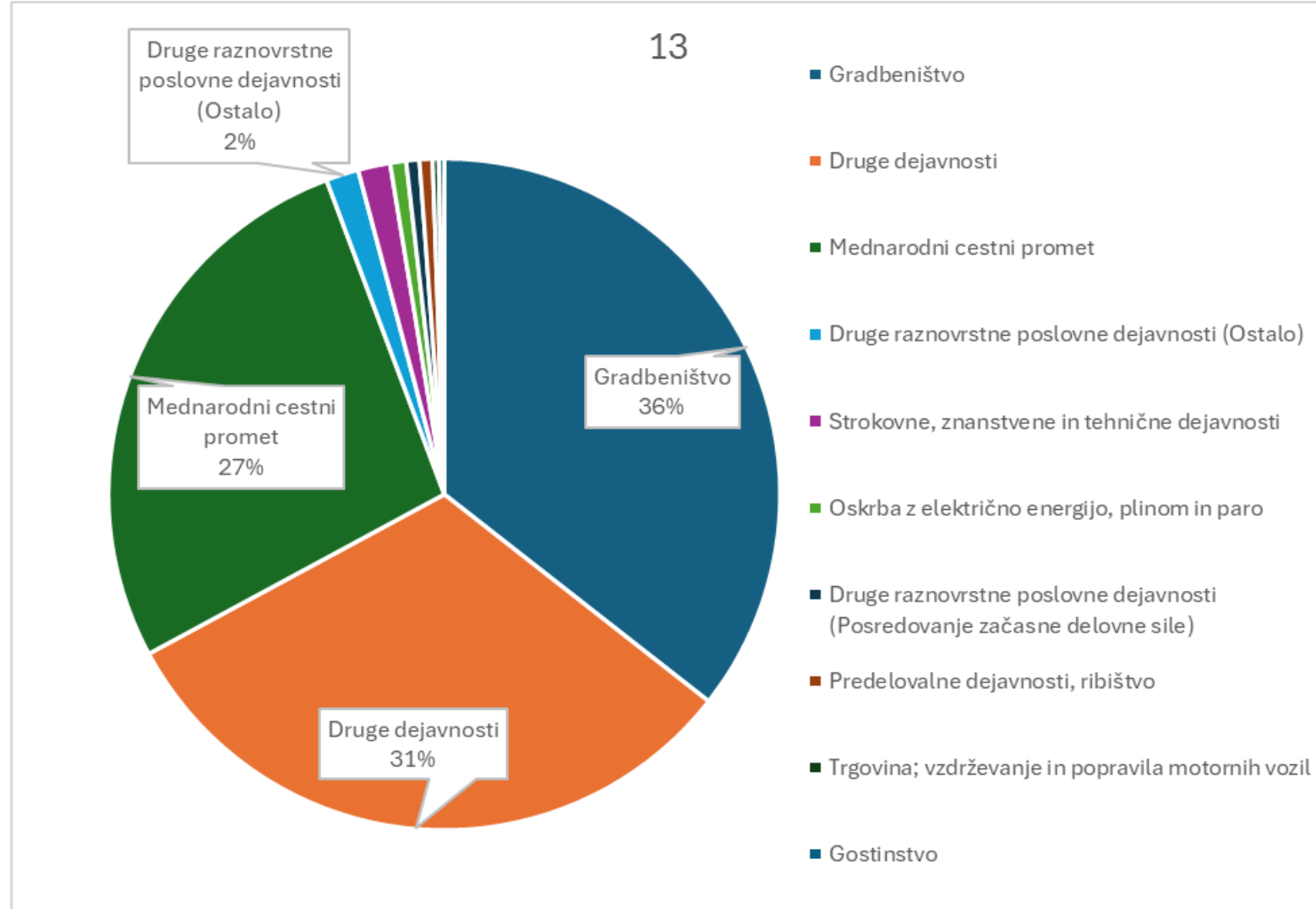
Nadzor IRSD in po novem FURS

V praksi povečano izvajanje nadzora









Potrdila A2 po 12. členu	Število
Vseh zahtevkov za A1	72.691 ¹
Potrdilo A1 izdano	66.118
Poslano v dopolnitev	737
Zavrnjeno	4.878
Zavrženo	278
Sprememba obdobja veljavnosti	19.976

Potrdila A1 po 13. členu	Število
Vseh zahtevkov za A1	89.087
Potrdilo A1 izdano	76.289
Poslano v dopolnitev	1.358
Zavrnjeno	10.006
Zavrženo	374
Sprememba obdobja veljavnosti	10.924

Pomanjkljivosti 12.člen	Št. primerov	Delež (%)
Davčni razlogi (<i>neporavnane davčne obveznosti, neoddajanje REK obrazcev, ni odprtega TRR ali je blokiran</i>)	2.064	36,0
Delodajalec/s.p. ali delavec običajno ne opravlja dejavnosti oz. dela v RS (<i>npr. ni ustreznega predhodnega zavarovanja v RS, ni dovolj predhodno zaposlenih pri delodajalcu</i>)	1.733	30,2
Neustrezna priloga (<i>pogodba o zaposlitvi</i>)	1.207	21,1
Postopkovni razlogi (<i>npr. že izdan A1 za isto obdobje, vloga v roku ni dopolnjena</i>)	490	8,6
Delovnopravni razlogi (<i>npr. globe zaradi prekrškov, ni enotnega dovoljenja</i>)	233	4,1
Drugo	3	0,1
SKUPAJ	5.730	100

Pomanjkljivosti 13. člen	Št. primerov	Delež (%)
Davčni razlogi (<i>neporavnane davčne obveznosti, neoddajanje REK obrazcev, ni odprtega TRR ali je blokiran</i>)	6.517	58,2
Neustrezna priloga (<i>pogodba o zaposlitvi</i>)	2.743	24,5
Postopkovni razlogi (<i>npr. že izdan A1 za isto obdobje, vloga v roku ni dopolnjena</i>)	898	8,0
Delovnopравни razlogi (<i>npr. globe zaradi prekrškov, ni enotnega dovoljenja</i>)	868	7,8
Drugo	164	1,5
SKUPAJ	11.190	100

Hvala za vašo pozornost!



Tax treatment of income for workers posted abroad

Duška Uhan,
**Financial administration of the
Republic of Slovenia**

Davčna obravnava dohodkov delavcev, napotениh na delo v tujino

*Tax treatment of income for workers posted
abroad*

Dušanka Uhan,
Finančna uprava RS

Ljubljana, 23. 5. 2025

Teme:

- splošno o dohodkih iz delovnega razmerja
- osnova za obračun akontacije dohodnine in prispevkov
- dohodki in povračila stroškov, ki se ne všttevajo v davčno osnovo

Pravne podlage



Zakon o davčnem postopku

Zakon o dohodnini

Zakon o pokojninskem in invalidskem zavarovanju

Uredba (ES) št. 883/2004

Direktiva 96/71/ES in Direktiva 2014/67/ES

Napotitev na delo v tujino za namene obdavčitve

Za namene davčne obravnave dohodkov iz delovnega razmerja se enako obravnavajo vsi delavci, ki se po delovno pravni zakonodaji štejejo za napotene delavce, in so napoteni na delo v :

- države članice EU, Islandijo, Liechtenstein, Norveško in Švico (pridobitev potrdila A1) in
- tretje države, za katere ne velja evropski pravni red.

Dohodki iz delovnega razmerja

Plača in nadomestila plače

Regres

Izplačilo za poslovno uspešnost

Povračila stroškov

Dohodki
opredeljeni v
Zakonu o
dohodnini



Davčna osnova dohodkov iz DR

Davčna osnova od dohodka iz DR je prejet dohodek vključno z ugodnostmi (bonitete) in povračili stroškov (v delu, ki se všteva v davčno osnovo), zmanjšan za obvezne prispevke za socialno varnost, ki jih je na podlagi posebnih predpisov dolžan plačevati delojemalec.

Posebna davčna osnova:

- 42.člen ZDoh-2 (javni uslužbenci napoteni na delo v tujino, veljavnost do konca leta 2025)
- 45.a čl. ZDoh-2 napotitev na čezmejno opravljanje dela.

Posebna davčna osnova

V davčno osnovo se **ne všteva 20 % plače** oz. nadomestila plače, prejete za opravljanje dela v okviru napotitve, vendar **ne več kot 1.000** eurov za izplačila v posameznem mesecu, če so kumulativno izpolnjeni naslednji pogoji,:

- napotitev na delo iz Slovenije, neprekinjeno več kot 30 dni,
- kraj običajnega opravljanja dela pred napotitvijo je več kot 200 km oddaljen od kraja napotitve,
- delavec v zadnjih 5 letih pred začetkom prve napotitve na delo v tujino ni bil rezident druge države in
- v okviru napotitve zagotovljena plača v višini najmanj 1,5-kratnika zadnje znane povprečne letne plače zaposlenih v Sloveniji.

Akontacija dohodnine

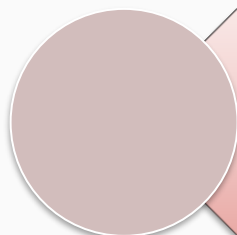
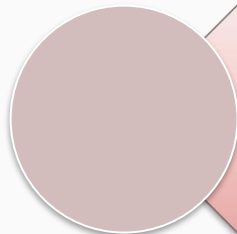
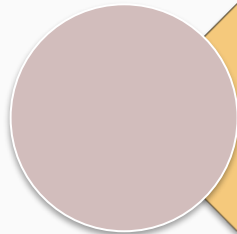
Izračun določa 127. čl. ZDoh-2

- glavni delodajalec (uporaba stopenj in lestvice, pri rezidentih tudi upoštevanje olajšav),
- drugi delodajalec (25 %).

Izbira stopnje akontacije dohodnine ni možna.

Če znaša neto mesečna davčna osnova v evrih		Znaša dohodnina v evrih	
Nad	Do		
	767,52		16 %
767,52	2.257,42	122,80	+ 26 % nad 767,52
2.257,42	4.514,83	510,18	+ 33 % nad 2.257,42
4.514,83	6.501,36	1.255,12	+ 39 % nad 4.514,83
6.501,36		2.029,87	+ 50 % nad 6.501,36

Upoštevanje mednarodnih pogodb o izogibanju dvojnega obdavčevanja

-  Znižana stopnja ali **oprostitvev**
-  Vračilo davka
-  Odbitek v tujini plačanega davka

Prispevki za socialno varnost

V RS velja bruto sistem dohodka in;

- če ni izplačila dohodka iz DR ni prispevkov,
- obračun prispevkov je vezan na vključitev v zavarovanje,
- osnova določena v 144. čl. ZPIZ-2 in velja tudi za ostale prispevke,
- najnižja osnova za plačilo PSV = 60 % zadnje znane PLP zaposlenih v RS, preračunane na mesec (1.436,95 eur),
- v primeru napotitve na delo v tujino uporaba določb Uredbe (ES) 883/2004) in bilateralnih sporazumov o socialnem zavarovanju.

Povračila stroškov

Davčno obravnavo povračil stroškov določa Zakon o dohodnini in Uredba o davčni obravnavi povračil stroškov in drugih dohodkov iz delovnega razmerja.

Če delodajalec izplačuje povračila stroškov v zvezi z delom v višjem znesku, kot jih za navedena povračila določa [Uredba](#), se znesek posameznega povračila v delu, ki presega znesek, določen v Uredbi, všteva v davčno osnovo dohodka iz DR.

Povračila stroškov prehrane - napoteni

Višina povračila odvisna od obdobja napotitve;

- Krajša napotitev (neprekinjeno do 30 dni, oz. za voznike v mednarodnem cestnem prometu do 90 dni); v davčno osnovo se ne všteva povračilo stroškov prehrane do višine in pod pogoji, kot veljajo za povračilo stroškov prehrane na službeni poti.
- Daljša napotitve (nad 30 oz. pri voznikih v mednarodnem cestnem prometu nad 90 dni); v davčno osnovo se ne všteva povračilo stroškov prehrane do višine in pod pogoji, določenimi za povračilo stroškov prehrane med delom, povečane za 80 % ($7,96 * 1,80 = \underline{14,33}$ eur).



Povračila stroškov prevoza - napoteni

Po prenehanju opravljanja dela v tujini mora delodajalec zagotoviti delavcu vrnitev v Slovenijo. V davčno osnovo se ne všttevajo stroški za prevoz v kraj napotitve ob začetku napotitve in za prevoz iz kraja napotitve domov ob koncu napotitve, do višine in pod pogoji, določenimi za povračilo stroškov prevoza na službenem potovanju.

V davčno osnovo dohodka iz DR se ne všteva prevoz od običajnega prebivališča do mesta opravljanja dela v višini kilometrine 0,21 eur/km (pavšal 140 eur).



Povračila stroškov prenočevanja - napoteni

Davčna obravnava povračil stroškov za prenočišče je odvisna od obdobja napotitve:

- Napotitev do 90 dni; v davčno osnovo se ne všteva povračilo stroškov prenočišča do višine in pod pogoji, kot veljajo za povračilo stroškov prehrane na službeni poti (dokazilo).
- Napotitev nad 90 dni: povračilo stroškov prenočišča se v celoti všteva v davčno osnovo (boniteta).

.



Nadomestilo za ločeno življenje

Nadomestilo za ločeno življenje izplačano delojemalcu, ki opravlja delo izven kraja, kjer živi s svojo **družino** in zaradi službenih potreb v času delovnih obveznosti prebiva ločeno od svoje družine, se izplačilo do 434 eur na mesec ne všteva v davčno osnovo.

Hvala za pozornost



The role of artificial intelligence in social security coordination

Sara Bagari

**Faculty of Law, University of
Ljubljana**

Vloga umetne inteligence v povezovanju sistemov socialne varnosti

Izzivi, priložnosti in prihodnost

Sara Bagari,

Pravna fakulteta Univerze v Ljubljani

Zakaj razmišljati o UI v tem kontekstu?

Kaj UI omogoča?

- Izzivi sistema socialne varnosti, omejitve glede dostopa do dajatev
- Avtomatizacija in poenostavitev administrativnih postopkov
- Razbremenitev strokovnega kadra
- Večja preglednost in dostopnost pravic
- Večja objektivnost
- Napovedovanje potreb uporabnikov
- Prepoznavanje tveganj
- Povezovanje baz podatkov med državami članicami

Primeri (dobre?) prakse uporabe UI na področju socialne varnosti

- Italija: sistemi UI za obvladovanje povečanje delovne obremenitve v času pandemije, razvrščanje el. pošte v ustrezne oddelke
- Avstrija: razvrščanje el. pošte v ustrezne oddelke, poenostavitev postopka povračila stroškov v breme ZZ, pretvorba fizičnih obrazcev
- Nemčija (BG BAU): preprečevanje nesreč pri delu, povečanje učinkovitosti inšpektorjev
- Danska: uporaba UI za odkrivanje zlorab pri socialnih prejemkih

Viri:

[AI and the Future of Social Protection | OECD](#)

<https://unu.edu/sites/default/files/2024-06/2-AI%20in%20SecSoc%202024.pdf>

[Denmark: Coded Injustice: Surveillance and Discrimination in Denmark's automated welfare state - Amnesty International](#)

Izzivi in tveganja uporabe UI

- Nizka stopnja zaupanja
- Varovanje osebnih podatkov in zasebnosti (GDPR)
- Diskriminacija
- Preglednost in nadzor
- Učinkovitost pravnega sredstva
- Digitalna pismenost med zaposlenimi in uporabniki
- Zaposlitev in ohranitev UI strokovnjakov v javnem sektorju

Akt o UI

Uredba (EU) 2024/1689 Evropskega parlamenta in Sveta z dne 13. junija 2024 o določitvi harmoniziranih pravil o umetni inteligenci in spremembi uredb (ES) št. 300/2008, (EU) št. 167/2013, (EU) št. 168/2013, (EU) 2018/858, (EU) 2018/1139 in (EU) 2019/2144 ter direktiv 2014/90/EU, (EU) 2016/797 in (EU) 2020/1828, UL L, 2024/1689, 12.7.2024, ELI: <http://data.europa.eu/eli/reg/2024/1689/oj>

Visokotvegani sistemi UI na podlagi člena 6(2) so tudi sistemi UI za področje:

4. zaposlovanje, upravljanje delavcev in dostop do samozaposlitve

(a) sistemi UI za zaposlovanje ali izbor fizičnih oseb, zlasti za ciljno oglaševanje delovnih mest, analizo in filtriranje prijav za zaposlitev ter ocenjevanje kandidatov

5. uživanje bistvenih zasebnih in javnih storitev in ugodnosti ter dostop do njih

(a) sistemi UI, ki naj bi jih uporabljali javni organi ali naj bi se uporabljali v njihovem imenu za ocenjevanje upravičenosti fizičnih oseb do bistvenih ugodnosti in storitev javne pomoči, vključno z zdravstvenimi storitvami, ter za dodelitev, zmanjšanje, preklic ali povračilo takih ugodnosti in storitev;

(c) sistemi UI za oceno tveganja in oblikovanje cen v zvezi s fizičnimi osebami v primeru življenjskega in zdravstvenega zavarovanja;

- **Uvajalec:** pomeni fizično ali pravno osebo, javni organ, agencijo ali drugo telo, ki sistem UI uporablja v svoji pristojnosti, razen kadar se sistem UI uporablja v okviru osebne nepoklicne dejavnosti.

Obveznosti pri uporabi UI? (I)

- **Ugotavljanje, ali gre za sistem visoke tveganosti (Člen 6, Priloga III)**
- **Uvedba sistema obvladovanje tveganj (Člen 9)** Nosilci morajo vzpostaviti sistem za prepoznavanje, analiziranje in obvladovanje tveganj, ki jih uporaba AI prinaša za posameznike.
- **Zagotavljanje kakovosti podatkov (Člen 10):** Podatki, na katerih temelji sistem, morajo biti ustrezni, reprezentativni, točni in nepristranski.
- **Tehnična dokumentacija (Člen 11):** Tehnična dokumentacija se pripravi pred dajanjem sistema na trg ali v uporabo in se posodablja.
- **Vodenje evidenc (Člen 12):** Visoko tvegani sistemi UI morajo omogočati samodejno beleženje dogodkov, da se omogoči pregled nad delovanjem sistema.
- **Preglednost in zagotavljanje informacij uvajalcem (Člen 13(1,2)):** Visokotvegani sistemi UI morajo biti zasnovani in razviti tako, da je njihovo delovanje dovolj pregledno, da lahko uvajalci razlagajo izhodne podatke sistema in jih ustrezno uporabijo.
- **Človeški nadzor (Člen 14):** AI sistem mora biti oblikovan in razvit na način, da omogoča učinkovit človeški nadzor in možnost preprečevanja škodljivih posledic.
- **Točnost, robustnost in kibernetska varnost (Člen 15)**

Obveznosti pri uporabi UI? (II)

Člen 26: Obveznosti uvajalcev visokotveganih sistemov UI

1. Uvajalci sprejmejo ustrezne tehnične in organizacijske ukrepe, s katerimi zagotovijo, da uporabljajo take sisteme v skladu s priloženimi navodili za uporabo
2. Uvajalci dodelijo človeški nadzor fizičnim osebam, ki imajo potrebne kompetence, usposobljenost in pooblastila ter potrebno podporo.
- [...]
4. ..., če uvajalec izvaja nadzor nad vhodnimi podatki, ta uvajalec zagotovi, da so vhodni podatki ustrezni in dovolj reprezentativni glede na predvideni namen visokotvegane sistema UI.
5. Uvajalci spremljajo delovanje visoko tvegane sistema UI na podlagi navodil za uporabo in po potrebi obvestijo ponudnike v skladu s členom 72. [...]
6. Uvajalci vodijo dnevnike, ki jih samodejno ustvari ta visokotvegani sistem UI, če so ti dnevniki pod njihovim nadzorom, v obdobju, ki ustreza predvidenemu namenu visokotvegane sistema UI, in sicer vsaj šest mesecev, razen če je v veljavnem pravu Unije ali nacionalnem pravu, zlasti v pravu Unije o varstvu osebnih podatkov, določeno drugače. [...]
8. Uvajalci, ki so javni organi ali institucije, organi, uradi in agencije Unije, izpolnjujejo obveznosti registracije iz člena 49. Če ti uvajalci ugotovijo, da visokotvegani sistem UI, ki ga nameravajo uporabljati, ni bil registriran v podatkovni zbirki EU iz člena 71, tega sistema ne uporabljajo in o tem obvestijo ponudnika ali distributerja.

Pogled v prihodnost

- Izmenjava dobrih praks
- Krepitev sodelovanja med državami članicami
- Posvetovanje pred uvajanjem UI
- Seznanjenost zavarovanih oseb in upravičencev
- Izobraževanje strokovnjakov in javnosti
- Obrazložitev
- Vzpostavljanje skupnih EU-standardov za uporabo UI na področju socialne varnosti

Discussion

End of seminar.