



## **MISSOC SECRETARIAT**

### ***MISSOC ANALYSIS 2013/2***

### ***EXTERNAL ASPECTS OF SOCIAL SECURITY COORDINATION***

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The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

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## MISSOC Analysis 2013/2

### *External aspects of social security coordination*

#### **1. Introduction**

##### **1.1 Background**

In 2012, the European Commission launched a Communication on the External Dimension of EU Social Security Coordination.<sup>1</sup> In this Communication the Commission calls to mind that social security coordination facilitates not only mobility within the EU but also between the EU and ‘the rest of the world’.<sup>2</sup> In this light, it makes the case for developing a mechanism at the EU level to strengthen the cooperation between the Member States so as to advance social security coordination with third countries.<sup>3</sup> The idea is to enhance in this way a more coherent, overall approach by EU countries in regard to the payment of social security benefits to EU citizens who are moving to third countries and third country nationals who are entering, moving within and moving out of the EU.<sup>4</sup>

##### *National approach*

The Commission makes this case against the backdrop of some shortcomings in the existing ways in which social security coordination between the EU and the rest of the world is dealt with. In its Communication, the Commission points out that these shortcomings are closely related to the fact that, at present, the social security coordination with third countries is based predominantly on a national approach whereby Member States conclude bilateral agreements containing a set of coordination rules with selected third countries. The Communication labels this approach as patchy because EU Member States generally negotiate bilateral agreements without reference to what their partner EU countries are doing. In practice, certain EU countries may be pinpointed by the EU’s main trading partners for the conclusion of agreements, whilst other countries are left out. The network of bilateral agreements is, therefore, by no means complete. Also the content of the existing agreements differs from country to country. In consequence, businesses and migrants from third countries not only face fragmented social security systems when moving between EU countries, but are also confronted with distinctive national bilateral agreements when moving into and out of the EU. Often this goes hand in hand with a lack of transparency as to what citizens’ rights are. It is also possible that there is no bilateral agreement with the relevant EU country. In that case migrants from third countries, but also migrant EU citizens, may lose acquired social security rights when they move out of, or back into the EU.<sup>5</sup>

##### *Legal relationship between EU law and national bilateral agreements*

The Communication on the External Dimension of EU Social Security Coordination also addresses the complex legal relationship between national bilateral agreements and EU law.<sup>6</sup> In this context it recalls

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<sup>1</sup> European Commission, *The External Dimension of EU Social Security Coordination*, 30 March 2012, COM(2012), 153 final.

<sup>2</sup> COM(2012), 153 final, p. 1.

<sup>3</sup> The term ‘third countries’ refers to non-EU and EEA countries and Switzerland.

<sup>4</sup> COM(2012), 153 final, p. 2 and p. 5.

<sup>5</sup> COM(2012), 153 final, p. 3.

<sup>6</sup> COM(2012), 153 final, p. 3-5.

that, like any other type of national law, the Member States' bilateral agreements are subject to the supremacy of EU law. Hence, when concluding and applying bilateral agreements, Member States are to respect their obligations arising from, for example, Articles 18, 45 and 48 TFEU and from Regulation (EC) No. 883/2004, Regulation (EC) No. 987/2009 and Regulation (EC) No. 1231/2010.<sup>7</sup> Moreover, they should take into account relevant case-law of the European Courts. Noteworthy in this respect is the *Gottardo* judgment, in which the Court of Justice of the EU underlined that bilateral agreements must be applied in accordance with the EU principle of non-discrimination. In other words, Member States must treat all EU nationals equally under the terms of the agreement.<sup>8</sup> Member States are to secure the cooperation from third countries in ensuring that these EU obligations can be met. They should also take all the appropriate steps to eliminate incompatibilities between the agreements with third countries and their obligations arising from EU Law on the basis of their duty of 'loyal cooperation', enshrined in Article 4 (3) TEU and Article 351 TFEU.

Practice shows, however, that this is easier said than done. For example, bringing a bilateral agreement which is based on nationality in line with the *Gottardo* judgement may require the Member State concerned to obtain social security records from third countries for nationals of EU States other than their own. Third countries may not be willing to provide these records because it requires them to communicate periods of insurance completed in their country for persons who are not covered by the personal scope of the agreement. Hence, they may refuse to cooperate. The Member State concerned then runs up against the fundamental problem that Member States are obliged to respect EU law, whilst third countries are generally not bound to team up on the EU issues. In the case of reluctance to cooperate, it may also be hard to explain to a third country that a bilateral agreement which is incompatible with EU law, cannot be applied as EU law has primacy.

#### *Towards a less fragmented approach*

In its Communication, the Commission states that a simple solution to the issues outlined above, would be to include a clause in all bilateral agreements to the effect that, in cases of conflict, EU law will take precedence over the terms of the agreement.<sup>9</sup> At present, there is no mechanism whereby EU countries can get together to solve common problems they face with a particular country.<sup>10</sup> Also a mechanism to obtain data or to verify information from a third country is often not included in bilateral agreements. Member States may thus be hampered in their efforts to check whether a person is still entitled to receive social security benefits and thus to combat fraud.<sup>11</sup>

It is against this backdrop that the Communication on the External Dimension of EU Social Security Coordination makes a plea for developing a mechanism at the EU level to strengthen the cooperation between the Member States on social security coordination with non-EU countries. According to the Communication, this could be advantageous in many respects. For example, if Member States cooperate and, where appropriate act together, they would enjoy a stronger bargaining position vis-à-vis third countries. It would also offer them the opportunity to discuss common problems and, if necessary, to join

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<sup>7</sup> See for further details paragraph 2.1.

<sup>8</sup> ECJ, 15 January 2002, Case C-55/00, *Gottardo*. See for further details paragraph 3.1.

<sup>9</sup> COM(2012), 153 final, p. 5.

<sup>10</sup> COM(2012), 153 final, p. 3.

<sup>11</sup> COM(2012), 153 final, p. 5.

forces in ensuring the compliance of bilateral agreements with EU law.<sup>12</sup> In this context, special emphasis is placed on the need for the effective enforcement of the principle of equal treatment.<sup>13</sup> The Commission underlines that this is all the more important when it comes to the payment of pensions in third countries, given the case law of the European Court of Human Rights according to which the right to a pension which is based on employment, can, under certain circumstances, be assimilated to a property right protected by the European Convention of Human Rights.<sup>14</sup>

In its Communication on Social Protection in European Development Cooperation, the Commission reiterated these views.<sup>15</sup> In this Communication, it highlighted that, in a globalised world, the external dimension of EU policies may impact on social protection in partner countries. The EU should therefore ensure consistency between policies for development cooperation and all other relevant EU policies in order to support effective and efficient social protection coverage. In this context, the Communication underscores again that the EU is committed to strengthening the cooperation between Member States in order to advance a more coherent approach towards social security coordination with third countries.<sup>16</sup>

With this in mind, the Commission is investigating the possibility of introducing an EU social agreement.<sup>17</sup> This is a new instrument which would allow the Member States to act jointly on social security coordination with a particular third country. The idea is that an EU social agreement can be made with any non-EU State in order to address difficulties with a given country, for example, in regard to issues linked to double social security contributions or a correct application of the EU rules. It could also offer the possibility to integrate bilateral particularities between a Member State and the third country concerned.<sup>18</sup> The Commission foresees that concluding EU social agreements could be an attractive option for some of the EU's strategic partners, in particular those with whom there are significant movements of labour. After all, these agreements would open the window for made-to-measure solutions and thus allow a more flexible approach towards social security coordination, especially since an EU social agreement can be concluded with third countries with which no association or cooperation agreement exists.<sup>19</sup>

## 1.2 Scope and methodology

Greater cooperation between EU Member States requires increased transparency in the existing bilateral agreements concluded with third countries. Transparency is also required in regard to the extent to which the EU principle of equal treatment is respected, particularly when it comes to the payment of pensions in third countries. The Commission decided to use the MISSOC (Mutual Information System on Social Protection) network of national social security correspondents to gather information on both aspects. For this purpose the Commission drafted a questionnaire which was discussed and approved at the May 2013 MISSOC Network Meeting in Dublin. The questionnaire (see Annex V) contained three questions. The

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<sup>12</sup> COM(2012), 153 final, p. 5.

<sup>13</sup> COM(2012), 153 final, p. 6.

<sup>14</sup> ECHR, 3 March 2011, *Klein v Austria*, Appl. No. 57028/00.

<sup>15</sup> European Commission, *Social Protection of European Development Cooperation*, 20 August 2012, COM(2012), 446 final. This Communication builds on the Agenda for Change, COM(2011), 637 and Council Conclusions 9316/12 respectively 11068/7. The 2010 European Report on Development, Social Protection and Inclusive Development already called for social protection to be made an integral part of EU development policy.

<sup>16</sup> COM(2012), 446 final, p. 11.

<sup>17</sup> Article 3 or Article 361 TFEU could provide a legal basis for introducing this new instrument.

<sup>18</sup> COM(2012), 153 final, p. 9.

<sup>19</sup> COM(2012), 153 final, p. 8.

first one focused on national legislation (or national measures) with the aim to gain more insight into the possibility for nationals to receive their pensions in third countries. The second and the third question focused on bilateral agreements. Their aim was to obtain greater transparency in the scope of these agreements and to uncover possible websites where these agreements are listed. The Commission asked the MISSOC Secretariat to appoint an independent expert, associated with the MISSOC Network, to conduct an analytical study on the basis of the information provided for by the MISSOC Countries in their answers to the questions posed in the questionnaire. The results of this study are presented in this report.

The report is divided into two parts. The first part aims to reveal the extent to which it is possible for nationals to have their pensions paid in a third country. In principle, this is a matter governed by national legislation (or national measures excluding international agreements). However, it also has much ground in common with EU law. Therefore the interconnection between the two domains will be explained first (paragraph 2.1). After that, an analysis will be presented of the answers provided for by the MISSOC Countries to the first question of the questionnaire.<sup>20</sup> This question referred to pensions in general, covering old-age, invalidity and survivors' pensions. The answers given, however, did not always make a distinction between these different types of pensions. Therefore, the analysis may not provide a full picture of the possibilities which the national legislation offers to export pensions to a third country. The information which has been supplied, has been gathered in a table (Annex I to the report). It has been used to examine similarities and differences between the export provisions enshrined in the national legislation (or other national measures) of EU Member States, EEA countries and Switzerland and to compare the conditions under which these provisions allow the payment of pensions in third countries. The outcome of the analysis will be presented in paragraph 2.2.

The second part of the report concentrates on existing bilateral agreements concluded between EU Member States, EEA countries and Switzerland with third countries. After a short introduction into the legal context (paragraph 3.1), the personal and the material scope of the existing agreements will be analysed (paragraph 3.2). As for the personal scope, the guiding question for the analysis was whether the existing agreements cover all EU nationals, as required by EU law, or only the nationals of the contracting parties. As for the material scope, the analysis will focus on several aspects, notably on the risks or branches covered and on provisions dealing with the determination of the applicable legislation (including posting) and the export and the aggregation of pensions. Information on these issues has been extracted from the answers provided for by the MISSOC Countries to the third question of the questionnaire.<sup>21</sup> This information has been gathered in two tables (Annexes II and III to the report). Sometimes additional comments were added. However, not all the Correspondents used this opportunity. Hence, Annexes II and III do not necessarily provide a full picture. The information which has been supplied, has been used to

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<sup>20</sup> This analysis is based on information provided for by 32 MISSOC Countries.

<sup>21</sup> This analysis is based on information provided for by 30 MISSOC Countries. The Netherlands and the UK did not provide answers to question 3 of the questionnaire. The Netherlands indicated that it had hesitations about answering question 2 and 3, because it believes, as previously expressed, that national bilateral agreements do not belong to the scope of national social security information provisions as meant in the MISSOC mandate. The Netherlands also questions whether national bilateral agreements fall within the definition of 'legislation' as used in the Regulations, thereby referring to the case law of the Court of Justice of the European Union (Case C-23/92, *Grana Nova*). The Netherlands also expresses doubts about the added value of providing the required information in view of the Bernard Spiegel Report of December 2010 in which bilateral agreements with third countries were also analysed. The Dutch delegation is not convinced that an update of this information is needed at this time. Nevertheless, information was provided on question 2. The UK did not fill in the table in question 3, but provided a full list of agreements in annex. Liechtenstein explained that it does not have bilateral agreements with third countries. Therefore it could not answer the second and the third question.

uncover similarities and differences between the bilateral agreements which EU Member States, EEA countries and Switzerland concluded with third countries. The outcome of the analysis is to contribute to obtaining more insight into potential coverage gaps in the existing bilateral agreements. Is it possible to discover certain patterns in the agreements on this point? Paragraph 3.2 of the report intends to provide an answer to this question. The report winds up with some concluding remarks which will deal with the final question whether there is a need for a more effective enforcement of the EU rules and, more in particular of the fundamental EU principle of equal treatment (paragraph 4).



## 2. Payment of pensions in third countries

### 2.1 Introduction into the theme

#### 2.1.1 *Basic principles*

As a general rule, the payment of old-age, invalidity and survivors' pensions to a country outside the EU, requires the nationals of Member State to fulfil the conditions set out in the national legislation to which they have been subject. However, the EU also has a long history of coordinating national social security systems. This is closely connected with one of its funding principles, notably the free movement of workers. Initially, this principle was laid down in Articles 48 to 51 of the EEC Treaty and later on in Articles 39 to 42 of the EC Treaty. Today it is anchored in Articles 45-48 TFEU.

To ensure the right to social security benefits when citizens exercise their right to freedom of movement, two Regulations on social security coordination for migrant workers have been adopted.<sup>22</sup> Since 1 May 2010 they are represented by Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009, which replaced Regulation (EEC) No. 1408/71 and Regulation (EEC) No. 574/72.<sup>23</sup> These Regulations define coordination rules which seek to protect the social security rights of migrant workers in order not to discourage them to move freely within the EU. For this purpose, a number of basic principles have been established which are meant to tackle some essential problems which migrant workers may face when they use their right to freedom of movement. These principles include:

- (1) the prevention of conflicts of law by providing rules for determining the applicable legislation (Article 11-16 Regulation (EC) No. 883/2004);
- (2) the maintenance of acquired rights by providing rules for the aggregation of periods of insurance, employment or residence completed in another Member State (Article 6 Regulation (EC) No. 883/2004);
- (3) the payment of benefits abroad by waiving residence requirements and providing rules on the export of benefits (Article 7 Regulation (EC) No. 883/2004) and
- (4) the principle of equal treatment which forbids discrimination on the ground of nationality. It also forbids indirect discrimination which may be at hand when an apparently neutral provision, criterion or practice, disadvantages a substantially higher proportion of the member of a group than the nationals of the country concerned, unless proof can be provided that the provision, criterion or practice at stake is appropriate and necessary to the objective it pursues and can be justified by objective factors which are not related to nationality (Article 4 Regulation (EC) No. 883/2004).

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<sup>22</sup> The legal basis for making coordination rules is primarily Article 48 TFEU. However, this is only true for coordination rules concerning persons who have the nationality of a Member State. Article 48 TFEU cannot be used for establishing coordination rules for third country nationals. Article 45 TFEU is also relevant since it prohibits any form of discrimination on grounds of nationality between workers of the Member States in relation to employment, remuneration and other working conditions. This Article is often used to interpret provisions of the Regulations or for dealing with coordination issues beyond the scope of Article 48 TFEU.

<sup>23</sup> See for a detailed description of the EU Regulations on social security: ILO, *Coordination of Social Security Systems in the EU; an explanatory report on EC Regulations No. 883/2004 and its implementing Regulation No. 987/2009*, Genève 2010.



- (5) the principle of cross-border recognition of facts and events according to which all facts, events, benefits and income should be assimilated, regardless in which Member State they have been occurred or accrued (Article 5 Regulation (EC) 883/2004).<sup>24</sup>

Migrant persons can benefit from the coordination rules laid down in Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 if the following conditions are fulfilled: the benefit concerned is to fall within the material scope of the Regulations<sup>25</sup>; the situation at stake is to be within the territory of the EU, the EEA or Switzerland<sup>26</sup>; the facts of the case must not be restricted to one single Member State<sup>27</sup> and, last but not least, the person concerned must fall within the personal scope of the Regulation.

### 2.1.2 *Personal scope*

The personal scope of the Regulation has been extended in the course of time. Regulation (EEC) No. 1408/71, for example, applied to employed and self-employed persons, members of their family and students who are nationals of a Member State and subject to its legislation. Regulation (EC) No. 1408/71 also covered limited categories of third country nationals, such as the members of the family of EU nationals, stateless persons and refugees. In 1998, the Commission proposed to include all third country nationals in the personal scope of the Regulation. The idea was that applying the coordination rules to this limited and well defined group of persons would reduce the administrative burden on institutions, whilst at the same time ensuring an equalisation of rights between workers from third countries and those from the EU. This proposal, however, was rejected because it had no adequate legal basis.<sup>28</sup> In 2002, the Commission issued a new proposal, thereby using a different legal basis.<sup>29</sup> This proposal resulted in Regulation (EC) No. 859/2003 which brought third country nationals within the personal scope of the coordination rules, without affecting the rules themselves.

Regulation (EC) No. 883/2004 further extended the personal scope by stating in Article 2 that this Regulation shall apply to nationals of a Member State, and stateless persons and refugees residing in a Member State, under the condition that they are or have been subject to the legislation of one or more Member States. The Regulation also applies to the members of their families and to survivors (Article 2 (1) Regulation (EC) No. 883/2004). As to the latter, Article 2 (2) of the Regulation makes clear that it also covers the survivors of persons who have been subject to the legislation of one or more Member States irrespective of the nationality of these persons, under the condition that the survivors are nationals of a Member State or stateless persons or refugees residing in one of the Member States. It follows that

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<sup>24</sup> This principle was introduced with the adoption of Regulation (EC) No. 883/2004 and reinforced the principle of equal treatment.

<sup>25</sup> The material scope is defined in Article 3 Regulation 883/2004. Accordingly, the Regulation applies to all legislation concerning a limited list of social security branches. This list includes the benefits which are relevant for this part of the report, notably old-age benefits, invalidity benefits and survivor benefits.

<sup>26</sup> On the basis of the Treaty establishing the European Economic Area (EEA), the nationals of Norway, Iceland and Liechtenstein have the same rights as EU citizens. See Agreement of 2 May 1992, OJ EU L1, 3 January 1994. The same applies to Swiss citizens by virtue of the Agreement of 21 June 1999, OJ EU L114, 30 April 2002.

<sup>27</sup> This means that a cross-border element is required. See Case C-153/91, *Petit*, [1992], ECR I-4973 and Case C-212/06, *Government of the French Community and Walloon Government v. Flemish Government*, [2008], ECR I-683,

<sup>28</sup> The proposal was included in the Commission's proposal for simplifying and modernizing the coordination rules. The proposal concerning extending the personal scope of the Regulation to third country nationals was based on Article 42 and Article 308 EC (now Article 48 and Article 352 TFEU).

<sup>29</sup> This time the Commission chose Article 63 (4) EC, introduced in Title IV of the EC Treaty by the Treaty of Amsterdam (now Article 79 (2) (b) TFEU, which is part of Title V of the Treaty).

Regulation (EC) No. 883/2004 covers all EU nationals who are or have been subject to the legislation of one or more Member States. They fall under the personal scope of the Regulation, even if they reside outside the territory of the EU. Only for stateless persons and refugees it is required to reside in one of the Member States.

The adoption of Regulation (EC) No. 1231/2010 in 2011 marked the completion of this process. This Regulation extended Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 to third country nationals not already covered by these Regulations solely on the ground of their nationality.<sup>30</sup> Like its predecessor, Regulation (EC) No. 1231/2010 serves as a ‘bridge’ that allows the EU coordination rules to apply to nationals of third countries who come within its scope. This is the case when two conditions are fulfilled. First of all, the third country national must be legally residing in the territory of a Member State and hence have a temporary or permanent right of residence.<sup>31</sup> In this context, it should be noted that, to benefit from the rights enshrined in Regulation (EC) No. 883/2004 in a second Member State, third country nationals do not have to satisfy the residency conditions in this second state. This, however, under the condition that there is some sort of cross border element between *at least two* Member States.<sup>32</sup> This is the second condition for coming within the scope of Regulation (EC) No. 1231/2010. Third country nationals who have links only with one single Member State and a third country do not fall within the scope of Regulation (EC) No. 1231/2010.<sup>33</sup>

### 2.1.3 *Equal treatment*

Even though EU Regulations are binding in their entirety and directly applicable in all Member States, EU Member States remain competent to determine in their national legislation the scope of insured persons, the types and levels of benefits, the obligations of the beneficiaries and the procedures for entitlement to social security rights. However, in principle, Member States are not permitted to interfere with the direct application of an EU Regulation in the national legal order. Here the interconnection between the EU coordination rules and national provisions comes to the fore. Article 4 of Regulation (EC) No. 883/2004 is of particular importance in this respect. It stipulates that persons to whom this Regulation applies shall enjoy the same benefits and be subject to the same obligations under the legislation of any Member State as the nationals thereof. As the personal scope of Regulation (EC) 883/2004 is not restricted to persons who reside in the territory of one of the Member States, Article 4 of the Regulation can also be invoked by EU nationals who reside outside the territory of the EU, provided of course that the Regulation applies to them.

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<sup>30</sup> Regulation (EC) No. 1231/2010 replaced Regulation (EC) No. 859/2003 for all Member States in which it applied. The only exception to this rule is the UK which continues to apply Regulation (EC) No. 859/2003 and, by extension, the rules in Regulation 1408/71 and 574/72. Please note that Denmark, Iceland, Liechtenstein, Norway and Switzerland did not apply Regulation (EC) No. 859/2003 and similarly do not apply Regulation (EC) No. 1231/2010.

<sup>31</sup> Social security coordination rules and immigration law are in principle two separate issues. Hence, applying the coordination rules of Regulation (EC) No. 883/2004 to third country nationals does not give them any entitlement to enter, to stay or to reside in a Member State or to have access to its labour market. This issue is dealt with by several EU migration Directives.

<sup>32</sup> Note that the term ‘cross border’ does not include the move from a third country to an EU Member State. Regulation (EC) No. 883/2004 does not regulate the relationship between the country of origin and the EU State where third country nationals legally reside. See in this context Recital 13 of Regulation (EC) No. 1231/2010.

<sup>33</sup> Article 1 Regulation (EC) No. 883/2004 states in this respect that the person concerned should be in a situation ‘which is not confined in all respects within a single Member State’. See also the Court’s judgment in *Khalil*, Case C-95-98/99.

It should be kept in mind that Article 4 of the Regulation does not provide an ‘automatic’ right to the same benefits as the nationals of a Member State. Like the nationals, EU nationals are to fulfil the conditions set out in the national legislation in order to be able to claim entitlement to the benefit in question. The same rule applies to third country nationals who fall within the scope of Regulation (EC) 1231/2010. In principle, they can benefit from the principle of equal treatment contained in Article 4 of Regulation (EC) No. 883/2004. This means that they are to be treated in the very same way as EU nationals in the same situation. So, like EU nationals, they are to fulfil the criteria and conditions set out in the applicable national legislation. In assessing whether these criteria and conditions are met, previous periods of insurance in a former Member State of employment shall be aggregated to determine whether the person concerned has a right to benefits.

#### 2.1.4 *Pensions*

Regulation (EC) No. 883/2004 makes a distinction between long-term and short-term benefits. Short-term benefits, such as sickness and unemployment benefits, are coordinated by applying the ‘integration’ principle. This implies that only one benefit is awarded to a migrant worker. This benefit also is to be calculated in accordance with the legislation of one Member State only. For the coordination of long-term benefits, such as old-age, invalidity and survivors’ benefits, the partial pension method is used. This implies that the pension which the person concerned receives, is based on periods of insurance completed in the Member States where he or she was employed. As a result, various Member States may be responsible for the payment of a part of the pension in accordance with insurance periods completed under their legislation.

Claimants have to submit their claim in accordance with the legislation of the ‘contacting’ State, i.e. the State where they live or where they were last insured. They also are to supply all relevant information and supporting documents needed to assess the claim.<sup>34</sup> It is up to the ‘contacting’ institution to send this information to the other institutions in question so that they can investigate whether the persons concerned are entitled to the benefit at hand. If this is the case, the respective institutions have to inform the ‘contacting’ institution on the periods of insurance fulfilled under their legislation. In addition, they are to make the calculations for their benefits.<sup>35</sup> In doing so, they are to take account of the aggregation rules specified in Article 51 Regulation (EC) No. 883/2004, the calculation rules laid down in Article 52 and the rules to prevent the overlapping of benefits defined in Article 53 of that Regulation.

To have their pensions paid in a third country, migrant EU nationals have to fulfil two sets of conditions, notably the conditions which are to be fulfilled for the application of the coordination rules laid down in Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009 and the conditions set out in the national legislation. Crucial is in the end whether national provisions guarantee the payment of pensions in third countries to nationals. After all, if this is the case, then nationals from the EU, the EEA and Switzerland will be able to receive their pensions outside the EU under the same conditions, provided that they meet the conditions just mentioned.

As far as pensions of third country nationals are concerned, the persons covered by Regulation (EC) No. 1231/2010 also enjoy equal treatment as regards old-age, invalidity and survivors’ statutory pensions

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<sup>34</sup> Article 46 Regulation (EC) No. 987/2009.

<sup>35</sup> Articles 47 and 48 Regulation (EC) 987/2009.

based on the worker's previous employment and acquired in accordance with the rules defined in Regulation (EC) No. 883/2004. Indeed, Regulation (EC) No. 1231/2010, as applied to Regulation (EC) No. 883/2004, does not create any principle that requires pensions to be exported to third countries. However, the application of the principle of equal treatment enshrined in Regulation (EC) No. 883/2004 implies that Member States must grant nationals of a third country covered by the Regulation the same advantages that they guarantee to their own nationals as well as to EU nationals and their family members. So, where national legislation gives a right to export a pension to a third country, then this right should be accorded to a person who obtains rights by virtue of Regulation (EC) No. 1231/2010, under the same conditions and at the same rates as the nationals of the Member State concerned and EU nationals who move to a third country. It follows that third country nationals who intend to derive entitlement to social security benefits from EU coordination rules, have to fulfil, or must have fulfilled, three sets of conditions, notably the conditions set out in Regulation (EC) No. 1231/2010, the conditions provided for in Regulation (EC) No. 883/2004 and the conditions defined by the legislation of the Member State concerned with regard to affiliation or entitlement to a social security benefit. The latter should be applied in accordance with the EU principle of equal treatment.<sup>36</sup>

In the next section the national legislation of EU Member States, EEA countries and Switzerland will be analysed in order to gain a picture of the extent to which national provisions actually allow the export of pensions to a third country.

## 2.2 Analysis

### 2.2.1 *Is export of pensions possible?*

The information gathered from the answers to first question of the questionnaire, reveals that the national legislation of the majority of the 32 European countries examined for this report, allows pensions to be exported.<sup>37</sup> Sometimes it has been indicated that it does so without restrictions (Cyprus, Germany, France, Italy, Spain and Switzerland). The questionnaire did not ask to specify whether export of the full pension is secured or not. Yet, sometimes it has been indicated that the national legislation guarantees 'a 100% export'.<sup>38</sup>

#### *Contributory vs. non-contributory pensions*

In some cases, it has been specified that only earnings-related pensions (Finland), work-based pensions/benefits (Sweden) or contributory pensions are paid out in third countries (Malta, Ireland and Portugal), to the exclusion of non-contributory (Portugal) or residence-based pensions/benefits (Sweden). In the latter country, for example, the national legislation makes a distinction between work-based and residence-based benefits/pensions. Work-based pensions can be paid to persons living in third countries as long as they are entitled to the benefit. The person concerned does not have to be residing in Sweden and there is no specific time limit for the payment of these benefits in third countries. The export of residence-

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<sup>36</sup> It is not necessary to be, or to have been, a legal resident of a Member State of the EU at the time when the person concerned applies for the award of a benefit concerning old-age, invalidity and survivors statutory pensions. See Recital 13 of Regulation (EC) No. 1231/2010.

<sup>37</sup> See Annex I of the report.

<sup>38</sup> See for example the German report.

based pensions and benefits on the other hand requires the claimant to uphold his or her residence in Sweden. As long as this condition is fulfilled, the pension will normally be paid out to a claimant staying in a third country. Exceptions to this rule are possible under certain restrictive conditions.

Member States' legislation might also subject the export of residence-based pensions to requirements of past residence: see below 2.2.2.

The French reply states that export is possible for invalidity pensions and for compulsory and complementary pensions which are financed through a pay-as-you-go system (France).

### 2.2.2 *Conditions*

#### *Residence requirements*

The national legislation sometimes makes the export of pensions contingent upon the beneficiary having completed a certain residence period in the territory of the Member State concerned. This is the case in Norwegian and Danish legislation. In both cases, it seems that only residence-based (parts of the) pension(s) are concerned by this condition.

In Norway, a person who takes up residence outside the territory of Norway will no longer be mandatorily insured under the Norwegian National Insurance Scheme. However, a pensioner with at least thirty years of insurance may, on certain conditions, apply for voluntary insurance. Pensioners who reside abroad and who are no longer insured under the Scheme will be able to receive their pension if they have at least twenty years of residence in Norway between the age of 16 and 67 or acquired the right to a supplementary pension. Regarding pensions to a surviving child, the insurance requirement can be disregarded if the deceased had acquired entitlement to a supplementary pension or if he or she (or both parents) have resided in Norway for at least twenty years. A similar rule applies in regard to pensions of a surviving spouse. Both the national legislation and bi- or multilateral agreements may provide for exceptions to these conditions.

According to the Danish legislation, a national who is 65 and has lived in Denmark for at least thirty years between the age of 15 and 65 can have his pension paid abroad. Should a national take up residence abroad after having become a pensioner, then the pension can be exported if the person concerned has lived in Denmark for at least ten years. In that case, the residence requirement can also be met if the pensioner has resided in Denmark for at least  $\frac{1}{4}$  of the time between the age of 15 and the date as from which the pension has been granted. The conditions must be met right up to the time the pension was granted. Exemptions to these conditions are only possible under exceptional circumstances. With a few exceptions only the basic amount can be paid in third countries.

#### *Other conditions*

Also other conditions may be at stake which are, in principle, easier to fulfil. For example, in some countries the payment of pensions in third countries is made conditional on the provision of a regular proof of being alive (Belgium, Czech Republic, Greece, Latvia, Liechtenstein, Luxembourg, Slovenia and Slovakia). Other countries require a declaration of transfer of the entitlement to receive pensions (Romania) or a (regular) request to have pensions paid out abroad (Malta, Latvia). Sometimes it was

mentioned that the standard qualification conditions need to be fulfilled (Ireland) or that a minimum state social pension record must be acquired (Lithuania). Austria requires permission to stay abroad which, in practice, is always granted.

Some countries require the availability of a bank account to which the pension can be paid (for example Liechtenstein, Luxembourg). In some cases, it is specified that, in the absence of a bilateral agreement, the bank account should be in the country paying the pension (Bulgaria, Latvia, Poland), with the ensuing transaction fees payable by the person concerned (Bulgaria). In Poland, the pension may alternatively be paid to a resident authorised by the pensioner.

### 2.2.3 *Bilateral agreements*

There are also countries whose national legislation stipulates that pensions can be exported to a third country only on the basis of a bilateral agreement with that country (examples are Estonia, Hungary and Iceland). Sometimes, this condition only applies to a particular kind of pension. For example in Belgium, only the export of invalidity pensions requires a bilateral agreement; for old-age and survivors' pensions this requirement does not apply. In the Netherlands, the export of supplements for singles and single parents to a third country is possible only if a bilateral agreement permits the payment of these supplements.

The national legislation of Croatia stipulates that, if there is no bilateral agreement on reciprocity with a third country, then pensions (and other cash benefits) are payable abroad if the payment is approved by the Croatian Pension Insurance Institute.

It is also possible that the national legislation contains nationality requirements. In Slovenia, for example, the pensions of foreign nationals are exportable only if a bilateral agreement has been concluded or if the country concerned recognises the right to have pensions remitted abroad (reciprocity), while these requirements do not apply for nationals. -

### 2.2.4 *In sum*

All in all it seems justifiable to conclude that the national legislation of the 32 countries analysed for this report, allow the payment of pensions in third countries, albeit that in 26 of them this is only possible under certain conditions. These conditions vary from 'mild' conditions which do not really constitute an impediment for exporting pensions to third countries, to conditions which could in actual fact stand in someone's way when it comes to the payment of pensions outside the EU. Mild conditions are for example a regular proof of being alive or the accessibility to a bank account in the country concerned. Examples of conditions which may complicate the possibility of receiving pensions abroad are residence requirements. Especially migrant EU citizens or migrants from third countries, who have not resided long enough in the Member State concerned, may be unable to fulfil these requirements, that is, unless exemptions to the residence conditions apply.

It is also possible that pensioners cannot materialise their pension rights because the applicable national legislation makes the payment of pensions in a third country conditional on the existence of a bilateral agreement and the person concerned moves or moved to a country with which no agreement has been made. If no solutions are provided to solve this problem, migrant EU citizens and migrants from third



countries, may lose acquired pension rights.<sup>39</sup> Conceivable is furthermore that migrant persons cannot enjoy their rights because bilateral agreements concluded with third countries do not contain provisions on the aggregation of insured periods completed in the former State of employment and/or that the agreement does not include the possibility to export pensions.<sup>40</sup> The question is then whether such a loss of acquired rights can be challenged. In principle, the case law of the European Court of Human Rights in *Klein v Austria* would seem to provide an anchor to hold on, especially when the absence of a bilateral agreement, or the absence of provisions on the aggregation and/or export of pensions in a bilateral agreement, have the effect of depriving a pensioner of pension entitlements.<sup>41</sup> If the person concerned has made contributions during his entire professional career, such a deprivation could be qualified as a violation of property rights protected by the European Convention of Human Rights on the basis of the ECHR's ruling in *Klein v Austria*.

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<sup>39</sup> See for examples of possible solutions, the solutions provided for by Slovenia, Poland and Croatia addressed in paragraph 2.2.3 and Annex I.

<sup>40</sup> See for examples of agreements which do not contain provisions on the aggregation of insured periods in regard to pensions the agreements made between: **Bulgaria** and Libya (1985) and Turkey (1999); **Cyprus** and Egypt (1989); **Greece** and Ontario (1985); **Italy** and Mexico (1977); **Latvia** and USA (1993); **Lithuania** and Canada (2006) and USA (2003); **Luxembourg** and Uruguay (2012); **Norway** and Bosnia Herzegovina (2008), Montenegro (2011), Serbia (2003) and Turkey (1981) and the agreements which **Switzerland** concluded with USA (1980) Canada (1995), Australia (2008), Chile (1998), Philippines ((2004), San Marino (1983) Israel (1985), FYROM (2012) and Turkey (1972).

See for examples of agreements which do not include the possibility to export pensions and do not contain provisions on the aggregation of insured periods, the agreements made between: **Denmark** and Quebec (1988); **France** and Madagascar (1968); **Greece** and Syria (2002); **Italy** and Israel (1989) and Korea (2006); **Lithuania** and Russia (2001); **Malta** and Libya (1990); **Switzerland** and India (2011).

See for further details Annex III.

*Note that the year between brackets refers to the date of entry into force of the relevant agreement. This applies for all footnotes in this document.*

<sup>41</sup> In *Klein v Austria* the ECHR ruled that a fair balance between competing interests is lacking, when a worker who made contributions during his whole professional career, is deprived of pension entitlements: ECHR, 3 March 2011, *Klein v Austria*, App. No. 57028/00.



### 3. **Bilateral agreements**

#### 3.1 Introduction into the theme

##### 3.1.1 *Basic principles*

Social security bilateral agreements were historically the first international instrument to coordinate national social security systems so as to solve problems which migrant workers may face due to the territorial nature of social security laws. Indeed, over the years also multilateral and supranational coordination instruments developed.<sup>42</sup> But this does not alter the fact that bilateral agreements still are an important source of social security coordination, at least for States which are not member of the EU and have ratified no or only a few multilateral social security instruments.<sup>43</sup>

Bilateral social security agreements tend to reflect migration patterns related to geography, language and culture, and sometimes also more or less restrictive immigration policies towards some countries in a certain period of time.<sup>44</sup> Hence, in practice, they vary to a great extent. Nevertheless, they share some common features. For example, in general, the agreements are subject to a ratification process and open ended, which implies that they are valid until they are modified, terminated or suspended. Characteristic is furthermore that they are based on the general principle of reciprocity and that they provide the contracting parties with the flexibility to tailor the agreement to the specific conditions of the social security systems of the contracting parties.

According to international legal standards, social security coordination agreements should establish the basic principles of equal treatment, determination of the applicable legislation, maintenance of acquired rights (including the maintenance of rights in the course of acquisition) and the provision of benefits abroad.<sup>45</sup> As to the personal scope, the contracting parties can in theory opt for 'closed' agreements which are limited to the nationals of the contracting parties, or 'open' agreements applying to all persons covered by the applicable social security legislation regardless of their nationality.<sup>46</sup> In terms of the branches

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<sup>42</sup> The EU social security coordination Regulations are exemplary for supranational social security coordination. See for this evolution: G. Srban, The existing bilateral and multilateral social security instruments binding EU States and non-EU States, in: *The Social Security Coordination between the EU and non-EU countries*, D. Pieters and P. Schoukens (eds.), Oxford: Hart Publishing Ltd, 2009, p. 87-88.

<sup>43</sup> Multilateral social security instruments are agreements between three or more States. They can be agreed upon between the States directly or within international organisations. Examples of the first category are: The Nordic Convention on Social Security (1955 and subsequently revised) and the Ibero-American Multilateral Convention of Social Security (2007). Examples of the second category can be found in several ILO Social Security Coordination Conventions and in the European Convention on Social Security (1966) of the Council of Europe. A specific type of multilateral agreements are the Stabilisation and Association Agreements (SAA) which the EU and its Member States concluded with some non-EU States, such as the Maghreb countries (Algeria, Morocco and Tunisia), Turkey (1963) and some Western Balkan countries (FYROM, Croatia, Albania, Montenegro, Serbia and Bosnia Herzegovina). The latter were concluded in the years between 2001 and 2008. Multilateral agreements will not be analysed in this report; the focus will be on bilateral agreements. See for further details on multilateral agreements: ILO, *Social Security Coordination for non-EU States in South and Eastern Europe: a legal analysis*, Budapest, 2012, p. 17-18 and 23-30.

<sup>44</sup> See for further details: J. Nickless and H. Siedl, *Coordination of Social Security Systems in the Council of Europe*, Short Guide, Strasbourg: Council of Europe Publishing, 2003 and G.J. Vonk, Migration, Social Security and the Law, in: *Social Security in Transition*, J. Berghman et. al. (eds.), The Hague: Kluwer Law International, 2002, p. 77-91.

<sup>45</sup> ILO, *Social Security Coordination for non-EU States in South and Eastern Europe: a legal analysis*, Budapest, 2012, p. 1.

<sup>46</sup> Note that 'closed' agreements may also be applicable to family members or survivors who enjoy derived rights from an insured person, even if they are not nationals of one of the contracting parties. They may also apply to stateless persons and refugees. See: ILO, *Social Security Coordination for non-EU States in South and Eastern Europe: a legal analysis*, Budapest, 2012, p. 6.

covered, the traditional social security risks listed in ILO Convention No. 102 (1952) may serve as a guide.<sup>47</sup>

### 3.1.2 *Interconnection between bilateral agreements and EU law*

In principle, European countries are free to define in their bilateral agreements which coordination rules will apply to persons moving between the countries of the contracting parties. Concluding bilateral agreements is, in other words, based on an autonomous approach of each European country. However, in doing so, EU Member States are to respect their obligations arising from EU law. Reference was already made to the fact that these duties include the duty to respect the obligations arising from Regulation (EC) No. 883/2004, Regulation (EC) No. 987/2009 and Regulation (EC) No. 1231/2010. The latter gives the EU exclusive competence as regards the social security coordination rights of third country nationals who are in a cross border situation within the EU.<sup>48</sup> In consequence, EU Regulations take precedence over national rules contained in bilateral agreements with third countries in cases of conflict. Where, for example, a national from a third country is sent to an EU State under the terms of a bilateral agreement with a third country and then moves to work in another Member State, Regulation (EC) No. 1231/2010 will apply to the second move. Likewise, where a national from a third country works in two or more Member States for an employer established outside the EU, the EU rules on the applicable social security legislation will apply.<sup>49</sup>

#### *Gottardo judgment*

When applying bilateral agreements, Member State should also take the Court's ruling in *Gottardo* into account.<sup>50</sup> This is relevant for EU nationals in cases where the personal scope of bilateral agreements is restricted to the nationals of the contracting parties. In its *Gottardo* judgment, the Court of Justice of the EU underlined that Article 39 EC (now Article 45 TFEU) requires EU Member States to treat EU nationals covered by the free movement provisions enshrined in the TFEU, equally under the terms of the agreement, particularly when it comes to the aggregation of insured periods completed in the former State of employment. In short, in bilateral relations, migrant EU nationals should be granted the same rights as the nationals of the Member State which concluded the agreement with the third country in question.

If the non-discrimination principle is not respected, discriminated persons can automatically benefit from the advantages provided for to persons who are covered by the personal scope of the agreement. Exceptions to this rule are only allowed if an objective justification can be provided. In *Gottardo* the Court ruled that an increased financial burden or administrative difficulties cannot constitute an objective

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<sup>47</sup> Some, especially older agreements, tend to define the legislation for which the agreement should apply *ratione materiae*. In contemporary bilateral agreements only social security branches are usually mentioned and not the legislation regulating them. As such, this enables the applicability of the bilateral agreement also to new legislative acts in a specific field of social security law. Sometimes agreements with other third parties are also taken into account, usually on the basis of a 'third country clause' in a bilateral agreement. Schemes based on collective labour agreements and private schemes are usually not covered in bilateral agreements. See G. Strban, The existing bilateral and multilateral social security instruments binding EU States and non-EU States, in: *The Social Security Coordination between the EU and non-EU countries*, D. Pieters and P. Schoukens (eds.), Oxford: Hart Publishing Ltd, 2009, p. 91.

<sup>48</sup> European Commission, *The External Dimension of EU Social Security Coordination*, 30 March 2012, COM(2012), 153 final, p. 4.

<sup>49</sup> See for an example Article 14 (11) Regulation (EC) No. 987/2009. See also COM(2012), 153 final, p. 4.

<sup>50</sup> ECJ, 15 January 2002, Case C-55/00, *Gottardo*, I-413.

justification. Disturbing the balance and reciprocity, on the other hand, may do so. The Court also stressed that an extension of a bilateral agreement following from a correct application of the *Gottardo* judgment should not compromise the rights which a non-EU State derives from the agreement nor impose any new obligation on that State.<sup>51</sup>

### 3.1.3 ‘*Gottardo clause*’

In order to enhance a correct implementation of the Court’s judgment, the Administrative Commission recommended the inclusion of a special clause in bilateral agreements.<sup>52</sup> Such a clause could take the form of a ‘*Gottardo-clause*’ which reflects the Court’s judgment, but could also contain a simple provision stating that the obligations of the Member States under European law should not be affected by the bilateral agreement.<sup>53</sup> Contrary to a ‘*Gottardo-clause*’ such a clause may be easier to agree upon, because it may not seem to involve an extra administrative burden for a third country.<sup>54</sup>

In principle, including this sort of clauses in bilateral agreements only seems necessary if the agreement is restricted to nationals of the contracting parties. Under agreements which apply to all insured persons in the two contracting countries, nationals of any other Member State are covered. Hence, one could say that the ‘*Gottardo*’-ruling is already fulfilled in those cases. Practice shows, however, that also in these cases, bilateral agreements sometimes include a ‘*Gottardo-clause*’. The ratio behind this might be that, via this clause, other provisions of the agreement are also opened to nationals of other Member States. This may be considered as important when, for example, the provision on equal treatment is still restricted to the nationals of the contracting parties. It will be clear that the inclusion of a ‘*Gottardo-clause*’ then has a much more favourable effect than the Court envisaged in its *Gottardo*-ruling which dealt in particular with the aggregation of insured periods.<sup>55</sup>

In the next section the bilateral agreements which EU Member States, EEA countries and Switzerland concluded with third countries will be analysed in order to gain more insight into the way in which the personal scope of these agreements actually has been defined and, in connection with this, into the extent to which the *Gottardo* judgment is respected. Also the material scope of the existing agreements will be scrutinised in order to gain a better understanding of possible coverage gaps.

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<sup>51</sup> ECJ, 15 January 2002, Case C-55/00, *Gottardo*, I-413.

<sup>52</sup> Recommendation No. P1 of 12 June 2009, OJ EU C 106, 22 April 2010.

<sup>53</sup> The ‘*Gottardo clause*’ would state that all persons covered by the freedom of movement under EU law have the same rights in bilateral relations as the nationals of a Member State which concluded the agreement with the third country. After the CJEU decision in 2002, a ‘*Gottardo-clause*’ has been inserted in some bilateral agreements. For example, the agreement made between **Hungary** and Croatia (2005) stipulates that Hungary will treat EU citizens equally as Hungarian citizens and that the contracting parties will cooperate in this respect. Another example is the agreement made between **Germany** and Brazil (2009) which stretches the applicability of the agreement to nationals of a country to which Regulation (EC) No. 1408/71 or Regulation (EC) No. 883/2004 applies. However, it should be noted not all non-EU States are in favour of such a clause for fear of an additional administrative burden. To overcome this problem, Luxembourg, for example, has annexed a unilateral *Gottardo* statement to its bilateral agreements with Morocco and Turkey (see paragraph 3.2.1 of this report). See for further details: ILO, *Social Security Coordination for non-EU States in South and Eastern Europe: a legal analysis*, Budapest, 2012, p. 8.

<sup>54</sup> B. Spiegel, *Analysis of Member States’ Bilateral Agreements on Social Security with Third Countries*, European Commission, December 2010, p. 30.

<sup>55</sup> B. Spiegel, *Analysis of Member States’ Bilateral Agreements on Social Security with Third Countries*, European Commission, December 2010, p. 31. See on this matter also: ILO, *Social Security Coordination for non-EU States in South and Eastern Europe: a legal analysis*, Budapest, 2012, p. 7.

### 3.2 Analysis

The information gathered from the answers to the third question of the questionnaire shows that European countries used their autonomy to conclude a large number of bilateral agreements with third countries. In totality, we are talking about more than 350 agreements. These agreements have been made with a great variety of third countries on miscellaneous subjects. The third countries concerned are not only situated on other continents but also within the European territory. Popular contracting parties on the European continent are, for example, the 'Balkan' countries, Russia and Ukraine.<sup>56</sup> When it comes to countries situated on other continents Canada seems to be on the top of the list, closely followed by Australia, Quebec and the USA. Other countries with which European countries relatively often conclude bilateral agreements are Korea, Israel, Turkey, Argentina, Chile and India.

#### 3.2.1 *Personal scope*

##### *Category 1: Only nationals or only EU nationals*

As to the personal scope of the existing bilateral agreements, the information provided for by the MISSOC Countries reveals that it is not self-evident for EU Member States and their contracting parties to extend the personal scope beyond their own nationals. In fact, there are countries in which all the agreements made only apply to the nationals of the contracting parties<sup>57</sup>. The opposite is also true. So, there are also countries in which all the agreements made with third countries cover EU nationals.<sup>58</sup> These agreements are not necessarily concluded more recently; amongst them are also bilateral agreements concluded in earlier years. It should be noted that, sometimes, the agreements which these countries made, refer to insured persons and thus (indirectly) include EU nationals who are or have been insured under the legislation of the contracting parties.<sup>59</sup> The personal scope may also exclude particular groups. For example, some of the agreements apply to all insured persons regardless of their nationality, except for civil servants and liberal professionals.<sup>60</sup> It is also possible that the agreement only applies to insured persons of one of the contracting parties.<sup>61</sup>

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<sup>56</sup> 'Popular' 'Balkan' countries are, for instance, Serbia and Bosnia Herzegovina, closely followed by Montenegro and FYROM. See for further details Annex II and III.

<sup>57</sup> See the agreements concluded by Malta and Romania with their contracting parties. See for further details Annex II.

<sup>58</sup> See for examples the agreements which Denmark, Finland, Iceland, Ireland, Italy, Lithuania, Norway, Slovenia, Spain and Switzerland concluded with their contracting parties. See for further details Annex II.

<sup>59</sup> See for examples the agreements made by Finland, Iceland, Italy and Slovenia with their contracting parties.

<sup>60</sup> See for examples the agreements which **Italy** made with Argentina (1984), Australia (1988), Israel (1989), Korea (2006), Santa Sede (2004), USA (1978) and Venezuela (1991).

<sup>61</sup> The agreements made by **Finland**, for example, refer to insured persons who have been insured under the Finnish legislation. Also most of the agreements which **Poland** made with third countries only apply to those who are or have been subject to the Polish social security legislation. Switzerland mentioned that in all the agreements made with third countries, the provision on the applicable legislation applies regardless of the nationality of the persons concerned; this may also be the case for some other points of the agreement. See Annex II.

*Category 2: ‘mixed approach’*

There are also agreements which reflect a ‘mixed’ approach. In that case the picture varies: some of the agreements cover EU nationals, whilst others do not. The table below seeks to illustrate this.

MS	Agreements	Nationals	EU nationals
France	36	24	12
Belgium	23	17	6
Portugal	17	7	10
Norway	13	7	6
Sweden	13	5	7
Bulgaria	12	4	8
Germany	24	4	20
Greece	13	4	9
Slovakia	11	4	7
Czech Rep.	18	3	15
Latvia	9	3	6
Croatia	9	3	6
Hungary	11	2	9
Cyprus	6	1	5
Estonia	4	1	3
Poland	7	1	6
Luxembourg	17	1	16

The table shows that, sometimes, the majority of the agreements made, are restricted to the nationals of the contracting parties.<sup>62</sup> Sometimes, it is just the other way around: the majority of the agreements made, include EU nationals and only a few agreements can be classified as ‘closed’ agreements.<sup>63</sup> Luxembourg has a somewhat special position in this context: at first sight, three agreements seem to cover the nationals of the contracting parties only. However, in the agreements made with Morocco and Tunisia, there is a declaration annex to the agreement which states that Luxembourg respects the *Gottardo* judgment and therefore applies the agreements to all EU nationals. Hence, the restriction to nationals seems to apply

<sup>62</sup> As to **France** EU citizens are covered in the agreements made with Andorra (2003), Morocco (2011), Argentina (2012), Canada (1981), Quebec (2006), the USA (1988), Korea (2007), Japan (2007), Chile (2001) and India (2011). As for **Belgium**, EU citizens are covered in the agreements made with: Australia (2005), Argentina (not in force yet), Brazil (not in force yet), Uruguay (2009), India (2009), Japan (2007), FYROM (2009) and Bosnia Herzegovina (2009).

<sup>63</sup> **Portugal** restricted the personal scope to nationals in the agreements made with Argentina (1966), Cape Verde (2005), Morocco (2000), Moldova (2000), Romania (2009), Tunisia (2009) and Ukraine (2012); **Sweden** did so in the agreements made with Israel (1983), Bosnia Herzegovina (2002), former Yugoslavia (1979), Morocco (1982) and Algeria (1988). As for **Bulgaria**, the restriction to nationals concerns the agreements made with Albania (1953), former Yugoslavia (1958), Libya (1985) and Turkey (1999). For **Slovakia** it concerns the agreements made with Russia (1960), Ukraine (2002), former Yugoslavia (1957) and Israel (2012). As for **Germany**, the agreements made with China (2002), Israel (1987 and 1996), Kosovo (1975) and Tunisia (1986) are restricted to nationals. For the **Czech Republic**, this is true for the agreements concluded with Israel (2002), Russia (2011) and Ukraine (2003). As for **Latvia**, it concerns the agreements made with Russia (2011) and the USA (1993) and as for **Croatia** the agreements made with FYROM (1997). **Hungary** limited the personal scope to nationals in the agreements made with Russia (1963) and Ukraine (1963). **Cyprus** did so in the agreement with Egypt (1989), **Estonia** in the agreement with Russia (2011), **Luxembourg** in the agreement with Cape Verde (1992) and **Poland** in the agreement with former Yugoslavia (1959).

only to the agreement which Luxembourg made with Cape Verde, at least here the declaration is not mentioned.

Also in this ‘mixed’ category, some of the agreements made, refer to insured persons (or residents) and thus include EU nationals which are or have been subject to the legislation of the contracting parties.<sup>64</sup> As for the agreements which are restricted to nationals, it should be noted that these ‘closed’ agreements may also apply to stateless persons and refugees.<sup>65</sup> It is also possible that the ‘closed’ agreements exclude particular groups of nationals, such as posted persons, diplomats and members of consular or trade missions or apply, for example, to mariners only.<sup>66</sup>

### *In sum*

It is not easy to detect a pattern in the choices that have been made. However, one could say that the general pictures arising from the agreements made, is that the restriction to nationals more often seems to appear in the agreements concluded with one of the ‘Balkan’ countries, Russia, Ukraine, Turkey, Tunisia, Morocco and Israel. Another observation is that the agreements made with Australia, Canada, Quebec, USA, Chile, India, Korea, Brazil, Argentina and Japan often include EU nationals. But there are exceptions to the rule. For example, the agreements which Malta made with Australia (1991) and Canada (1992) are restricted to nationals. The same is true for the agreements which Belgium made with Canada (1987), Chile (1999) and USA (1984), albeit that, for posting, these agreements are open to all nationalities. In general it would seem that ‘closed’ agreements are not the most recent agreements. But this is not necessarily true. Also more recent agreements may be ‘closed’ and thus be restricted to nationals.<sup>67</sup> A possible explanation for this trend might be that the choices made in this respect trace back to the migration policy of the contracting parties.

All in all it seems justifiable to conclude that, in quite a number of the agreements made with third countries, EU nationals are not included. One could argue that this is not in line with the *Gottardo* judgment of the Court of Justice of the European Union. However, the restriction to nationals does not necessarily mean that the *Gottardo* judgment is not respected. After all, it is always possible that the contracting parties reached consent on granting equal treatment to all persons covered by the agreement regardless of their nationality. It is also possible that the agreement contains a *Gottardo* clause or that a general obligation has been accepted on the basis of which social security benefits are to be exported to beneficiaries residing in a third country. The questionnaire did not include a question from which information can be derived on these issues. Therefore it is hard to come up with a straightforward answer

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<sup>64</sup> Examples of this can be found in the agreements concluded between **Bulgaria** and Ukraine (2013), Russia (2010), FYROM (2013), Serbia (2013), Korea (2010), Moldova (2009), Israel (2009) and Canada (2012). **Slovenia** refers to insured persons in all the agreements made. **Hungary** refers to insured persons (or residents) in almost all the agreements made, except for the agreements made with Russia (1963) and Ukraine (1963). Examples can also be found in the agreements which **Norway** made with USA (2003), Canada (1987), Quebec (1988), Australia (2007), Chile (1998) and Israel (2008) and in the agreements which **Greece** made with: USA (1999), New Zealand (1994), Australia (2008), Brazil (1988), Argentina (1988), Venezuela (1995), Uruguay (1997), Canada (1983) and Quebec (1983).

<sup>65</sup> See for examples the agreements which **Belgium** made with Canada (1987), USA (1984), Chile (1999), Philippines (2005), Korea (2009) and Turkey (1968).

<sup>66</sup> See for examples, the agreements which **Romania** concluded with Albania (1963), Algeria (1984), Libya (1986) and Korea (1983) and the agreement which **Belgium** made with Congo (1971).



to the question whether the *Gottardo* judgment is infringed or not, in cases where the personal scope of the agreements concluded with third countries contains a restriction to the nationals of the contracting parties.

### 3.2.2 *Material scope*

As to the material scope, the analysis concentrates on three particular items, notably the extent to which the agreements concluded between European countries and third countries contain specific provisions for determining the applicable legislation (including posting) and the aggregation and export of pensions and on the extent to which the arrangements made, are fully fletched or not in terms of the social security branches covered. The findings of this investigation will be presented below.

#### *Applicable legislation/Posting*

The information provided for by the MISSOC Countries reveals that an overwhelming majority of the agreements made with third countries contain provisions on the determination of the applicable legislation. Annex III shows that quite a number of countries included such a provision in all the agreements made with third countries.<sup>68</sup> However, there are also agreements which do not contain a provision for determining the applicable legislation at all.<sup>69</sup> Possible is also that a provision on the determination of the applicable legislation is absent in only a few of the agreements made.<sup>70</sup> It is hard to detect a pattern in the choices made by countries falling within this third category. Only a few countries, such as Australia and Russia, appear more than once on the screen. However, this does not necessarily mean that these countries tend to be reluctant towards including a provision on the determination of the applicable legislation in their bilateral agreements. Proof of this can be found in Annex III which shows that in several cases, arrangements in regard to the applicable legislation do figure in the bilateral agreements made with Australia and Russia.

There are also agreements which cover only provisions on the applicable legislation<sup>71</sup>, sometimes in combination with a particular type of benefit.<sup>72</sup> Possible is also that the agreement contains only

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<sup>67</sup> See for examples the agreements made between: **Austria** and Tunisia (2000); **Belgium** and the Philippines (2005) and Korea (2009); the **Czech Republic** and Israel (2002), Ukraine (2003) and Russia (2011); **Estonia** and Russia (2011); **Greece** and Syria (2002); **France** and Bosnia Herzegovina (2003), Montenegro (2003), Serbia (2003) and Kosovo (2013); **Latvia** and Russia (2011); **Norway** and Montenegro (2011) and Serbia (2003); **Portugal** and Morocco (2000), Moldova (2000), Cape Verde (2005), Tunisia (2009) and Ukraine (2012); **Romania** and Turkey (2003), The Republic of Korea (2010), Canada (2011) and Moldova (2011); **Slovakia** and Ukraine (2002) and Israel (2012) and the agreement concluded between **Sweden** and Bosnia Herzegovina (2002).

<sup>68</sup> This is true, for example, for Croatia, Denmark, France, Greece, Ireland, Luxembourg, Norway, Poland, Portugal, Romania, Spain, Sweden and Switzerland. See for further details Annex III.

<sup>69</sup> For example, in all the agreements which Cyprus and Lithuania concluded with their contracting parties, such a provision is lacking. See for further details Annex III.

<sup>70</sup> Examples of this category can be found in the agreements concluded between: **Austria** and Australia (2005); **Belgium** and Congo (1971); **Bulgaria** and Libya (1985) and Turkey (1999); **Denmark** and Australia (2001); **Estonia** and Russia (2011) and Moldova (2011); **Hungary** and India (2003); **Italy** and Australia (1988) and Mexico (1977); **Latvia** and USA (1993); **Malta** and Australia (1991); **Slovakia** and Russia (1960); **Slovenia** and Canada (2001), Quebec (2001), Australia (2003) and Argentina (2007).

<sup>71</sup> An example of this category can be found in the agreements concluded between **Malta** and Libya (1990) and in the agreements which **Germany** made with China EA (2002), India EA (2009) and Australia EA (2008) [EA: *posting agreement* (*Entsendeabkommen*)].

<sup>72</sup> See for an example the agreement made between **France** and Madagascar (1968), which only contains provisions on the applicable legislation and family benefits and benefits related to accidents and work and occupational diseases. Another example



provisions concerning the determination of the applicable legislation and provisions on the export and aggregation of pensions.<sup>73</sup> In other agreements, provisions on the applicable legislation are combined with provisions on the export and aggregation of pensions and invalidity benefits. Annex III shows that this combination is employed frequently.<sup>74</sup> It seems to be particularly popular in agreements concluded with Canada, the USA, Australia and Korea. There are also agreements which combine pension provisions with provisions on invalidity without including a provision for determining the applicable legislation.<sup>75</sup>

Specific information on the posting arrangements made with third countries is not often provided. The information which has been supplied, shows that the posting period sometimes has been extended to five years.<sup>76</sup> Sometimes the posting period is set at four years and sometimes at three or two years.<sup>77</sup> Possible is also that the duration of the posting period depends on the period of employment in the host State.<sup>78</sup> Other information which can be gathered from the answers to the third question of the questionnaire in regard to posting relates to nationality requirements. For example, some agreement which are in principle restricted to nationals, are open to all persons covered by the agreement regardless of their nationality when it comes to posting.<sup>79</sup>

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is the agreement between **Denmark** and Quebec (1988) which only contains provisions on the applicable legislation and sickness benefits and benefits related to accidents at work and occupational diseases.

<sup>73</sup> Examples of this category can be found in the agreements made between: the **Czech Republic** and Australia (2011), India (not in force yet), Japan (2009), Canada (2003), Quebec (2003), USA (2009), Korea (2008) and Moldova (2012) ; **Iceland** and Canada (1989); **Italy** and USA (1978); **Latvia** and Canada (2006); **Norway** and USA (2008), Canada (1987), Quebec (1988), Chile (1998), Australia (2007) and Israel (2008), **Germany** and Canada ZA (2003) and **Slovakia** and USA (not in force yet). [ZA: *additional agreement (Zusatzabkommen)*].

<sup>74</sup> Examples are the agreements concluded between: **Austria** and Australia ZA (2002 and 2012), Chile (1999), India (not in force yet), Canada (1987 and 1996), Quebec (1994), Korea (2010), Moldova (2012), Uruguay (2011), USA (1991 and 1997 (ZA); **Belgium** and Argentina (not in force yet), Brazil (not in force yet), Canada (1987), Chile (1999), South Korea (2009), USA (1984), India (2009), Japan (2007), Philippines (2005), Uruguay (2009); **Croatia** and Canada (1999), Quebec (2001), Australia (2004); **Czech Republic** and Syria (not in force yet); **Denmark** and Canada (1986), Chile (1995), India (2001), New Zealand (1997), South Korea (2011), USA (2008); **Estonia** and Canada (2006); **Finland** and Canada (1988) and India (not in force yet); **France** and Canada (1981), Korea (2007), USA (1988); **Greece** and USA (1991), New Zealand (1994), Canada (1983 en 2010) and Egypt (1986); **Hungary** and Canada (2003), Quebec (2006), Korea (2007), India (2013), Mongolia (2012) and Australia (2012); **Ireland** and Australia (2006), New Zealand (1994), Canada (1992), Korea (2009), Japan (2010) and USA (1993); **Luxembourg** and Canada (1990), Chile (1999), USA (1993) and India (2011); **Malta** and Canada (1992); **Poland** and Korea (2009); **Portugal** and Canada (1981) and USA (1989); **Slovakia** and Australia (2012), Canada (2003), Quebec (2005) and Ukraine (2002); **Spain** and Canada (1988), Colombia (2008), Korea (2013), USA (1988) and Japan (2009); **Sweden** and Canada (2003), USA (1987) and India (not in force yet) and **Germany** and USA (1979 and 1996).

<sup>75</sup> Examples of this category can be found in the agreements concluded between **Austria** and Australia (2005); **Cyprus** and Canada (1991), Quebec (1991) and Australia (1993); **Denmark** and Australia (2001); **Estonia** and Russia (2011); **Hungary** and India (2013); **Malta** and Australia (1991), **Germany** and Australia (2003) and **Slovenia** and Argentina (2007).

<sup>76</sup> See for examples the agreements made between **Greece** and the USA (1994), Canada (1993), Quebec (1983), Egypt (1986) and Syria (2002). The latter applies to Syrian airline staff only. See also the agreements made between **Germany** and Japan (2000), Canada (1988), Quebec (1988) and USA (1979).

<sup>77</sup> In the agreement concluded between **Greece** and Australia (2008), the posting period is set at four years. This is also true for the agreements made between **Germany** and Australia (2003), China EA (2002) and India EA (2009). The posting period has been set at three years in the agreements between **Germany** and Chile (1994) and Morocco (1986). In the agreements concluded between **Greece** and Argentina (1988) and Uruguay (1997) the posting period has been set at two years. This is also true for the agreements made between **Germany** and Brazil (2013) and Korea (2003). In the agreements which **Greece** made with Brazil (1988) and Venezuela (1995), the posting period is one year. This is also true for the agreement made **Germany** and Tunisia (1986).

<sup>78</sup> See for examples of this category, the agreements made between **Germany** and Bosnia Herzegovina (1975), Israel (1987), Kosovo (1975), FYROM (2005), Montenegro (1975), Serbia (1975) and Turkey (1972).

<sup>79</sup> See for examples the agreements concluded between: **Belgium** and Canada (1987) and the USA (1984) and between **Norway** and Turkey (1981), Bosnia Herzegovina (2008), Montenegro (2011), and Serbia (2003).

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*Pensions*

As far as pensions are concerned, the information provided for by the MISSOC Countries shows that many agreements contain provisions on both the exportability of pensions and the aggregation of insured periods in the former State of employment. But also in this area, there are exceptions to the rule. For example, in some agreements provisions on both issues are absent.<sup>80</sup> These agreements have in common that, overall, they are limited in scope.<sup>81</sup> Possible is also that the agreements do not contain a provision on the aggregation of insured periods.<sup>82</sup> Many of these agreements are also limited in scope.<sup>83</sup>

Sometimes additional comments were made. These comments learn, for example, that sometimes pensions are granted only in accordance with the legislation of the country where the person concerned resides.<sup>84</sup> Sometimes, it was mentioned that contributions are transferred at the end of the person's activity or that the contributions are to be refunded.<sup>85</sup>

As to the aggregation of insured periods, bilateral agreements usually seem to apply the rule that insured periods completed in the territory of one of the contracting parties are aggregated only if these periods do not suffice to guarantee access to pension rights. In this context, it has been specified sometimes that the aggregation rule applies if there are no identical periods of insurance completed in the territory of the contracting parties.<sup>86</sup> Some agreements include a 'third country clause' according to which the aggregation rule is extended to insured periods completed in the territory of another third country with which the contracting parties have concluded separate bilateral agreements.<sup>87</sup>

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<sup>80</sup> See for examples the agreements concluded between: **France** and Madagascar (1968); **Greece** and Syria (2002); **Italy** and Korea (2006); **Lithuania** and Russia (2001); **Malta** and Libya (1990); **Romania** and Libya (1986) and Korea (1983); **Switzerland** and India (2011). The agreements which **Sweden** concluded with Australia (1989) and Algeria (1988) do not contain export and aggregation provisions either, but here the comment is made that the agreements only concern health care.

<sup>81</sup> The agreements which **Lithuania** made with Russia (2001) and **Sweden** with Australia (1989) and Algeria (1988), for example, only cover invalidity benefits, whereas the agreements made between **Greece** and Syria (2002), **Italy** and Korea (2006) and **Malta** and Libya (1990) only contain a provision on the applicable legislation. The agreement made between **Romania** and Libya (1986) and **Switzerland** and India (2011) are broader in scope, but still limited to provisions on the applicable legislation, sickness benefits, invalidity benefits and benefits related to accidents at work. The **French agreement** with Madagascar (1968) provides provision on the applicable legislation and covers family benefits and benefits related to accidents at work only.

<sup>82</sup> Examples of this category can be found in the agreements between: **Belgium** and Israel (1973); **Bulgaria** and Turkey (1999); **Cyprus** and Egypt (1989); **Germany** and Quebec (1988) and Serbia (1975); **Italy** and Mexico (1977); **Latvia** and USA (1993); **Lithuania** and USA ((2003) and Canada (2006); **Norway** and Turkey (1981), Bosnia Herzegovina (2008), Montenegro (2011) and Serbia (2003); **Switzerland** and Australia (2008), Canada (1995), Chile (1998), India (2011) Israel (1985), FYROM (2012) Philippines (2004), San Marino (1983), Turkey (1972) USA (1980) and Former Yugoslavia (1964).

<sup>83</sup> For example, the agreements made between: **Lithuania** and USA; **Latvia** and USA; **Cyprus** and Egypt and **Italy** and Mexico only contain a provision on the export of pensions. The **Norwegian agreements** mentioned in the previous footnote only contain provisions on the export of pensions and the applicable legislation, whereas the agreements between **Switzerland** and Canada, Australia, Israel and the Philippines are limited to provisions on the applicable legislation, export of pensions and invalidity benefits. This is also true for the agreement between **Germany** and Quebec.

<sup>84</sup> See, for example, the agreements which **Romania** made with Russia (1961) and Albania (1963).

<sup>85</sup> See, for example, the agreement concluded between **Romania** and Algeria (1984) and between **Cyprus** and Egypt (1989). See also the agreements which **Greece** made with Egypt (1986) and Libya (1991).

<sup>86</sup> Examples of this can be found in all the agreements **Greece** concluded with third countries, except for the agreement with Ontario and Syria.

<sup>87</sup> Examples of this particular clause can be found in the agreements made between **Greece** and New Zealand (1994), Argentina (1988), Venezuela (1998) and Canada (1983) and between **Bulgaria** and Canada (not in force yet). It should be noted that if only one of the contracting parties has made separate social security arrangements with the third country concerned, such a 'third country clause' may be applicable only to nationals or all persons covered by the agreement with that third country.

As for the agreement concluded between Croatia and Bosnia Herzegovina, the comment has been made that pensions acquired from 8 October 1991 to 1 November 2001 are to be recalculated, if they were based upon insurance periods completed in the territory of Croatia and Bosnia Herzegovina. A similar provision is included in the agreement between Croatia and FYROM, albeit that in this agreement the relevant period reaches from 8 October 1991 to 1 November 1997.

### *Branches covered*

As to the branches covered, there are varying differences. For example, there are bilateral agreements which cover all the traditional branches of social security.<sup>88</sup> There are also agreements in which only one of the traditional branches is missing. For example, quite a number of agreements, cover all the traditional branches but unemployment benefits.<sup>89</sup> But it is also possible that no arrangements are made in regard to family benefits<sup>90</sup> or sickness benefits.<sup>91</sup> Yet, on balance, it seems that unemployment is a branch which more frequently is not included in bilateral agreements than the other traditional branches of social security. Invalidity benefits, on the other hand, are almost always included, also in agreements which are far from fully fletched. In fact, there are quite a number of agreements which contain provisions only on the applicable legislation, invalidity benefits and the export and aggregation of pensions.

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<sup>88</sup> Examples of fully fletched agreements can be found in the agreements concluded between:

**Austria** and Israel (1975 and 2001); **Belgium** and Bosnia Herzegovina (2009), FYROM (2009) and former Yugoslavia (1956); **Bulgaria** and former Yugoslavia (1958), FYROM (2003) and Serbia (2003); **Croatia** and FYROM (1997); **Czech Republic** and Montenegro (2002), FYROM (2007), Serbia (2002), Turkey (2005) and Ukraine (2003); **Denmark** and Morocco (1984 and 1988), Pakistan (1983) and former Yugoslavia (1977); **Ireland** and Channel Islands, Isle of Man (2007); **Estonia** and Ukraine (2012); **Hungary** and former Yugoslavia (1958); **Iceland** and Faroe Island (2004) and Greenland (2004); **Italy** and Jersey (1958), Channel Islands (1967), Turkey (1990), Uruguay (1985), San Marino (1975) and former Yugoslavia (1961); **Latvia** and Ukraine (1999), Russia (2011) and Belorussia (2010); **Luxembourg** and former Yugoslavia (2009), Bosnia Herzegovina (2012), Montenegro (2009), Serbia (2005), Morocco (2013), Tunisia (2013) and Turkey (2006); **Poland** and FYROM (2007); **Portugal** and Cape Verde (2005), Morocco (2000), Tunisia (2009) and Ukraine (2012); **Romania** and FYROM (2008) and Russia (1961); **Slovakia** and Serbia (2013); **Slovenia** and FYROM (2001), Bosnia Herzegovina (2008), Serbia (2010) and Montenegro (2011); **Spain** and Australia (2003) and Chile (1998); **Sweden** and Morocco (1982).

<sup>89</sup> Unemployment benefits are left out, for example, in the agreements concluded between: **Belgium** and Algeria (1969), San Marino (1956), Morocco (1971), Tunisia (1996) and Turkey (1968); **Bulgaria** and Russia (2010), Ukraine (2003) and Moldova (2009); **Czech Republic** and Bosnia Herzegovina (1957); **Denmark** and Turkey (1978 and 2003); **Germany** and Turkey (1972 and 1987); **Hungary** and Russia (1963) and Ukraine (1963); **Italy** and Argentina (1984), Cape Verde (1983), Venezuela (1991) and Monaco (1985); **Poland** and former Yugoslavia (1959); **Portugal** and Brazil (2006 and 2013) and Quebec (1981); **Romania** and Turkey (2003); **Slovakia** and former Yugoslavia (1957); **Spain** and Brazil (1995), Morocco (1982), Paraguay (2006), Peru (2005), Dominican Republic (2006), Russia (1996), Tunisia (2002), and Ukraine (1998); **France**: all agreements; **Greece**: all agreements.

<sup>90</sup> Family benefits are missing, for example, in the agreements concluded between **Austria** and Bosnia Herzegovina (2001) and FYROM (1997); **Bulgaria** and Moldova (2009); **Croatia** and Bosnia Herzegovina (2001), former Yugoslavia (2003) and Turkey (2006); **Hungary** and Montenegro(2009) and Bosnia Herzegovina (2009); **Poland** and Ukraine (not in force yet); **Portugal** and Moldova (2010).

<sup>91</sup> Sickness benefits are left out, for example, in the agreements concluded between **Italy** and Australia (1988); **Slovakia** and Turkey (2013); **Sweden** and Cape Verde (1991).

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*Restrictions on the scope of the benefits provided*

From the comments made to question 3 of the questionnaire, it seems to follow that the branches covered in the agreements, sometimes provide for a limited coverage. For example, if sickness benefits are included, this may relate to cash benefits only.<sup>92</sup> It is also possible that sickness benefits in kind are included, albeit only for pensioners<sup>93</sup>, or only in the case of unexpected birth<sup>94</sup>, or only in as far as the maternity allowance is concerned.<sup>95</sup> Also restrictions to particular groups may be agreed upon.<sup>96</sup> Possible is also that a specific reference is made to the principle of equal treatment in regard to sickness benefits.<sup>97</sup>

Restrictions may also be at stake when it comes to invalidity benefits. For example, sometimes, the provisions on invalidity benefits will apply only if the invalidity is not occupational related.<sup>98</sup> As for benefits related to accidents at work or occupational diseases it has been specified that these benefits sometimes do not cover support measures or temporary payments, or that they apply only to insured workers in the case of permanent disability.<sup>99</sup>

When unemployment benefits are covered, there may be only a provision on the aggregation of insured periods, not for the export of unemployment benefits.<sup>100</sup> Possible is also that the aggregation principle only applies to residents of one of the contracting parties.<sup>101</sup> Sometimes, it has been specified that both the principle of aggregation and the principle of equal treatment applies to unemployment benefits or that only of these principles is applicable.<sup>102</sup> The comments also make clear that some agreements only include the aggregation, but not the export of family benefits.<sup>103</sup> Possible is also that the provision on family benefits only applies to pensioners or to agricultural workers or self-employed farmers.<sup>104</sup>

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<sup>92</sup> See for examples the agreements concluded between **Bulgaria** and Ukraine (2003), Russia (2010) and Moldova (2009); the **Czech Republic** and Ukraine (2003); **Portugal** and Moldova (2010) and Ukraine (2012 and between **Spain** and Australia (2003), Russia (1996), Ukraine (1998), Ecuador (2011), Paraguay (2006), the Dominican Republic (2006) and Venezuela (1990).

<sup>93</sup> See for an example the agreement which the **Czech Republic** made with Chile (2004).

<sup>94</sup> See for an example the agreement which the **Czech Republic** made with Israel (2002).

<sup>95</sup> See the agreement which the **Czech Republic** made with Syria (not in force yet) and Russia (2011) and the agreement which **Cyprus** made with Serbia (2011). A similar restriction may apply to family benefits. See, for example, the agreements made between **Slovenia** and FYROM (2001), Bosnia Herzegovina (2008) and Serbia (2010).

<sup>96</sup> For example, in the agreement which **Slovenia** concluded with Australia (2003), sickness benefits are only awarded to severely disabled persons and in the agreement concluded between **Slovenia** and Argentina (2007) sickness benefits are only granted to Argentinean nationals. In the agreement between **Switzerland** and Chile (1998), on the other hand, sickness benefits are only granted to pensioners.

<sup>97</sup> See for example the agreement made between **Portugal** and Quebec (1981).

<sup>98</sup> See for an example the agreements made between **Spain** and Canada (1988), Colombia (2008) and the USA (1988).

<sup>99</sup> An example thereof can be found in the agreement between **Greece** and Ontario (1985).

<sup>100</sup> See for an example the agreement concluded between **Portugal** and Ukraine (2012) and between **Luxembourg** and Bosnia Herzegovina (2012), Montenegro (2009), Serbia (2005), Morocco (2013), Tunisia (2013) and Turkey (2006).

<sup>101</sup> See for an example the agreement concluded between **Portugal** and Australia (2002).

<sup>102</sup> See for examples of the first category the agreements which **Portugal** made with Moldova (2000) and Cape Verde (2005). See for an example of the second category the agreement made between **Portugal** and Morocco (2000) and Tunisia (2009). The agreement between **Portugal** and Ukraine (2013) provides only for the aggregation of unemployment benefits.

<sup>103</sup> See, for example, the agreements between **Portugal** and Ukraine (2012) and Argentina (1966).

<sup>104</sup> See, for example, the agreements made between: **Portugal** and Australia (2002) respectively between **Switzerland** and FYROM (2012).

*In sum*

The general picture arising from the analysis of the material scope confirms that there is no common approach as to the items covered in the bilateral agreements made with third countries. Nevertheless it seems justifiable to state that, to some extent, it is possible to detect certain patterns. For example, most of the agreements analysed for this report contain provisions on the applicable legislation and the export and aggregation of pensions. Moreover, there are several agreements which cover all the traditional social security branches. This, however, cannot be taken for granted. As Annex III shows, there are also quite a number of agreements which are not fully fledged.

In the agreements in which only one of the traditional branches is missing, unemployment benefits seem to be most frequently left out. Invalidity benefits, on the other hand, are almost always included, albeit, in quite a number of cases, only in combination with provisions on the determination of the applicable legislation and the export and aggregation of pensions. Last but not least, it should be noted that when traditional branches are covered, it is quite possible that the scope of these branches is restricted in some way or another. All in all, it seems justifiable to conclude that the approach employed by European countries in regard to the material scope is indeed patchy. Potential coverage gaps are therefore always on the lurk.



## 4. Concluding remarks

This report aims to contribute to increased transparency in two particular issues, notably in the conditions under which it is possible for nationals to have their pensions paid in third countries and in the content and scope of existing bilateral agreements on social security coordination, concluded between EU Member States, EEA countries and Switzerland with third countries. Both issues have been examined on the basis of the information provided for by the MISSOC Countries in their answers to the questionnaire, which was approved at the May MISSOC Network Meeting in Dublin. The findings of this investigation will be summarised below.

### 4.1 Payment of pensions in third countries

#### *Basic rules*

As a general rule, the payment of old-age, invalidity and survivors' pensions to a country outside the EU, requires the nationals of Member State to fulfil the conditions set out in the national legislation to which they have been subject. Also for migrant EU nationals, meeting the conditions defined in the applicable national legislation is in the end decisive for the payment of pensions in third countries. However, to benefit from the coordination rules laid down in Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009, migrant EU nationals also have to meet the conditions defined in these Regulations. The same rule applies to third country nationals who fall within the scope of Regulation (EC) 1231/2010 and have gone back to their home country after having moved within the EU. The applicability of these Regulations does, in itself, not create a principle that requires pensions to be exported to third countries. However, persons to whom these Regulations apply, still can rely on the principle of equal treatment enshrined in Regulation (EC) No. 883/2004. Accordingly, they should be granted the same benefits under the legislation of any Member State as the nationals thereof. This means that, where the applicable national legislation gives nationals a right to export a pension to a third country, then this right should be accorded, under the same conditions, to foreign nationals who obtain rights by virtue of Regulation (EC) No. 883/2004 or Regulation (EC) No. 1231/2010.

#### *Conditions*

The analysis made for this report revealed that the national legislation of almost all the MISSOC Countries allows the payment of pensions in third countries, albeit that in quite a number of cases this is only possible under certain conditions. These conditions vary from 'mild' conditions to conditions which may complicate the possibility of receiving pensions outside the EU. Residence requirements, for example, may constitute an impediment for exporting pensions to third countries. Especially foreign nationals may be unable to meet these requirements and therefore run the risk of losing acquired pension rights when moving within and out of the EU, unless exceptions apply. The risk of losing acquired pension rights may also arise when the applicable national legislation makes the payment of pensions in a third country conditional on the existence of a bilateral agreement and the person concerned moved to a third country with which no agreement has been made. But also when there is a bilateral agreement, pensioners may be unable to materialise their pension rights, for example, because the agreement does not include provisions on the aggregation and/or the exportability of pensions.

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*Possible remedies*

Within the legal framework, there are, in principle, two possible remedies available to pensioners who cannot exercise their rights because they fail to meet the conditions defined in the applicable national legislation with regard to the exportability of pensions. The first relates to case law of the European Court of Human Rights in which the Court ruled that pensions which are based on employment can, under certain circumstances, be assimilated to a property right protected under the European Convention of Human Rights.<sup>105</sup> This case law may provide an anchor to hold on, especially when the person concerned has made contributions during his entire professional career. The second remedy relates to the principle of equal treatment enshrined in Article 4 of Regulation (EC) No. 883/2004. Foreign nationals to whom this Regulation applies can invoke this principle, for example, in order to challenge residence requirements defined in the applicable national legislation which deprive them from acquired pension rights. They could argue that Article 4 of Regulation (EC) No. 883/2004 not only prohibits direct discrimination but also indirect discrimination. The latter may be at stake when the applicable national legislation requires claimants to have been resident of the country concerned for some time. After all, in general, it will be much easier for the nationals of that State to fulfil this condition than for foreign nationals. However, such a claim can be refuted if proof can be provided that the residence requirement at hand is appropriate and necessary to the objective it pursues and can be justified by objective factors which are not related to nationality. Whether such a claim will be successful will therefore depend on the arguments presented in court and on how the court will weigh them. Hence, it cannot be taken for granted that residence requirements can be successfully challenged by invoking the principle of equal treatment enshrined in Article 4 Regulation (EC) No. 883/2004. It is still possible that relying on this principle will in the end not offer consolation.

#### 4.2 Content and scope of bilateral agreements

*Personal scope*

As to the content and scope of the existing bilateral agreements, the analysis made for this report revealed that it is not self-evident for EU Member States and their contracting parties to extend the personal scope beyond their own nationals. In fact, in quite a number of the bilateral agreements EU nationals are not included. The question is how this finding relates to the *Gottardo* judgment of the Court of Justice of the European Union, according to which Member States must treat EU nationals covered by the free movement provisions enshrined in the TFEU, equally under the terms of the agreement.<sup>106</sup> At first sight, the exclusion of EU nationals in bilateral agreements seems to be incompatible with this ruling. However, one should not jump to conclusions here. After all, the questionnaire did not ask for particular information, for example, on the question whether the contracting parties reached consent on including a ‘*Gottardo*’ clause in the agreement, on granting equal treatment to all persons covered by the agreement regardless of their nationality, or on a general obligation on the basis of which social security benefits are to be exported to beneficiaries residing in a third country. As information on these issues is lacking, it is hard to come up with a straightforward answer to the question whether the *Gottardo* judgment is infringed or not and,

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<sup>105</sup> ECHR, 3 March 2011, *Klein v Austria*, App. No. 57028/00.

<sup>106</sup> ECJ, 15 January 2002, Case C-55/00, *Gottardo*, I-413.



therefore, whether there is a need for more effective enforcement of the principle of equal treatment in this area.

### *Material scope*

The general picture arising from the analysis of the material scope confirms that there is no common approach as to the items covered in the bilateral agreements made with third countries. Nevertheless it seems justifiable to state that most of the agreements analysed for this report contain provisions on the applicable legislation and the export and aggregation of pensions. Moreover, there are several agreements which cover all the traditional social security branches. However, this cannot be taken for granted. There are also quite a number of agreements which are not fully fledged. In some agreements only one of the traditional branches is missing. In these agreements unemployment benefits seem to be most frequently left out. Invalidity benefits, on the other hand, are almost always included, albeit, in quite a number of cases, only in combination with provisions on the determination of the applicable legislation and the export and aggregation of pensions. Another observation is that in several agreements, the scope of the branches which are covered, is restricted in some way or another.

### 4.3 In sum

All in all, the information gathered from the questionnaire shows that the network of bilateral agreements is by no means complete. It is also hard to discover common patterns in the agreements which European countries made with third countries. Nevertheless, the Annexes to this report may be helpful in obtaining an impression as to who or what is covered under the existing bilateral agreements. As such, this may serve as a first step towards increased transparency on what has been agreed upon with which third country. European countries wishing to start negotiations or to continue bilateral agreements can use this information in order to gain a picture of the arrangements made by other European countries with a given State. This may strengthen their bargaining position vis-à-vis this country and may also provide a platform for discussing common problems. At the end of the day, this may contribute to enhancing greater cooperation between European countries which in the long run may eventually result in a more coherent approach to social security coordination with third countries.

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### **Annexes**

Annex I: Overview of national legislation: payment of pensions in third countries

Annex II: Overview of bilateral agreements: the personal scope

Annex III: Overview of bilateral agreements: the material scope

Annex IV: List of bilateral agreement websites

Annex V: Questionnaire

Annex I: Overview of national legislation: payment of pensions in third countries

<b>Country</b>	<b>Export possible</b>	<b>Export conditional upon a bilateral agreement</b>	<b>Conditions</b>
<b>Austria</b>	<b>X</b>		Prior permission required to stay abroad. In practice, this permission is always granted.
<b>Belgium</b>	<b>X</b>	<b>X</b> for invalidity pensions	Proof of life statement is to be provided once a year
<b>Bulgaria</b>	<b>X</b>		Payment through Bulgarian bank or post office
<b>Croatia</b>		<b>X</b>	If there is no agreement, pensions are payable abroad after approval by the Croatian Pension Insurance Institute
<b>Cyprus</b>	<b>X</b>		
<b>Czech Rep.</b>	<b>X</b>		Proof of life statement
<b>Estonia</b>		<b>X</b>	
<b>Finland</b>	<b>X</b> Earnings-related pensions are paid to foreign employees residing in any country		The national or guaranteed pension is not paid abroad
<b>France</b>	<b>X</b> -Basic and complementary pensions financed through pay as you go system -Invalidity pensions		
<b>Germany</b>	<b>X</b> Since 1 October 2013; before in principle only 70% of the pension was paid out if there was no social security agreement		

Annex I: Overview of national legislation: payment of pensions in third countries

<b>Country</b>	<b>Export possible</b>	<b>Export conditional upon a bilateral agreement</b>	<b>Conditions</b>
<b>Greece</b>	<b>X</b>		Proof of life statement
<b>Hungary</b>		<b>X</b>	
<b>Iceland</b>		<b>X</b>	
<b>Ireland</b>	<b>X</b> For contributory pensions		The standard qualifying conditions are to be fulfilled
<b>Italy</b>	<b>X</b>		
<b>Latvia</b>	<b>X</b>		-Latvian bank account -Submission yearly of a written claim for the continuation of the payment abroad -Proof of life statement
<b>Liechtenstein</b>	<b>X</b>		-Proof of life statement -Bank account
<b>Lithuania</b>	<b>X</b>		-At least the minimum state social pension record must be acquired or the entire state social pension record while working in Lithuanian undertakings, agencies or organisations -Rehabilitated political prisoners or deportees can acquire part of the record during imprisonment or at the place of deportation
<b>Luxembourg</b>	<b>X</b>		-Proof of life or death certificate of spouse/ partner -Bank account
<b>Malta</b>	<b>X</b>		-Being eligible for Maltese contributory pension -Request to have the pension paid abroad
<b>Netherlands</b>	<b>X</b> First pillar state pension	<b>X</b> Supplements for singles and single parents	

Annex I: Overview of national legislation: payment of pensions in third countries

<b>Country</b>	<b>Export possible</b>	<b>Export conditional upon a bilateral agreement</b>	<b>Conditions</b>
<b>Norway</b>	<b>X</b>		-Voluntary insurance or -At least 20 years of residence in Norway between the ages of 16 and 67 or -Having earned the right to a supplementary pension (surviving child)
<b>Poland</b>		<b>X</b>	If there is no bilateral agreement the pensions are paid (to the bank account of the pensioner) in Poland
<b>Portugal</b>	<b>X</b> For contributory pensions		Non-contributory pensions are paid only to beneficiaries residing in Portugal
<b>Romania</b>	<b>X</b>		-Declaration of transferability of entitlements to pensions abroad -Bank statement -Copy of identity card of the beneficiary
<b>Slovenia</b>	<b>X</b>	<b>X</b> For foreign nationals; or if the country concerned recognises the right to have pensions remitted abroad to Slovenian citizens	Proof of life statement at least once a year
<b>Slovakia</b>	<b>X</b> For contributory pensions		Proof of life statement
<b>Spain</b>	<b>X</b>		

Annex I: Overview of national legislation: payment of pensions in third countries

<b>Country</b>	<b>Export Possible</b>	<b>Export conditional upon a bilateral agreement</b>	<b>Conditions</b>
<b>Sweden</b>	<b>X</b> Earning related old-age, survivors and invalidity pensions		Export of residence based pensions require the claimant to uphold residence in Sweden; exceptions are only possible under strict conditions
<b>Switzerland</b>	<b>X</b> Ordinary old-age, invalidity and survivor pensions		
<b>UK</b>	<b>X</b>		
<b>Denmark</b>	<b>X</b> Supplementary pension (ATP)		Social pension: -30 years of residence in Denmark between the age of 15 and 65 -When moving after having become a pensioner a residence period of at least 10 years is required or -A residence period of at least $\frac{1}{4}$ of the time between the age of 15 and the date from which the pension was granted; exceptions possible only under exceptional circumstances

## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Austria</b>	Australia (1992/1992)		X	
	Australia 1 ZA (2001/2002)		X	ZA: additional agreement (Zusatzabkommen)
	Australia 2 ZA (2010/2012)		X	ZA: additional agreement (Zusatzabkommen)
	Bosnia (1999/2001)		X	
	Chile (1997/1999)		X	
	India (2013)		X	Not in force yet
	Israel (1973/1975)		X	
	Israel I ZA (2000/2001)		X	ZA: additional agreement (Zusatzabkommen)
	Canada (1987/1987)		X	
	Canada 1 ZA (1995/1996)		X	ZA: additional agreement (Zusatzabkommen)
	Quebec (1993/1994)		X	
	Quebec 1 ZA (1996/1997)		X	ZA: additional agreement (Zusatzabkommen)
	Kosovo		X	Suspended except for applicable legislation
	Korea (2010/2010)		X	
	Croatia (1997/1998)		X	
	FYROM (1997/1998)		X	
	Moldova (2011/2012)		X	
	Montenegro (2010/2011)		X	
	Philippines (1980/1982)	X		
	Philippines 1 ZA (2000/2004)		X	
	Serbia (1998/2002)		X	
	Serbia (2012/2012)		X	
	Tunisia (1999/2000)	X		
	Turkey (1999/2000)		X	
	Uruguay (2009/2011)		X	
	USA (1990/1991)		X	
	USA 1 ZA (1995/1997)		X	ZA: additional agreement (Zusatzabkommen)
<b>Belgium</b>	Algeria (1968/1969)	X		
	Argentina (2010)	X	X	Not entered into force yet
	Australia (2002/2005) (2006/2009)	X	X	
	Bosnia (2006/2009)	X	X	

Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Belgium</b>	Brazil (2009)	X	X	Not entered into force yet
	Canada (1984/1987)	X		For posting all nationalities also stateless persons and refugees
	Chile (1996/1999)	X		Also stateless persons and refugees
	Congo (1968/1971)	X		Only for mariners
	Croatia (2001/2005)	X		Also stateless persons and refugees nationalities of former Yugoslavia
	South Korea (2005/2009)	X		Also stateless persons and refugees
	USA (1982/1984)	X		For posting all nationalities also stateless persons and refugees
	India (2006/2009)	X	X	
	Israel (1971/1973)	X		
	Japan (2005/2007)	X	X	
	FYROM (2007/2009)	X	X	
	Morocco (1968/1971)	X		
	Philippines (2001/2005)	X		Also stateless persons and refugees
	San Marino (1955/1956)	X		
	Tunisia (1975/1996)	X		
	Turkey (1966/1968)	X		Also stateless persons and refugees
	Uruguay (2006/2009)	X	X	
	Yugoslavia (Serbia, Montenegro and Kosovo) (1954/1956)	X		
<b>Bulgaria</b>	Albania (1952/1953)	X		Citizens of both countries
	Former Yugoslavia (1957/1958); at present applicable to Bosnia H. and Montenegro	X		Nationals of the contracting parties; at present Bosnia Herzegovina and Montenegro
	Libya (1984/1985)	X		Including family members
	Turkey (1998/1999)	X		
	Ukraine (2001/2003)	X	X	Persons who are or have been subject to the legislation of one of the contracting parties family members and survivors
	Moldova (2008/2009)	X	X	Idem



## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Bulgaria</b>	FYROM (2003/2003)	X	X	Idem
	Israel (2008/2009)	X	X	Idem
	Russia (2009/2010)	X	X	Citizens residing in the territory of one of the contracting parties family members who are or have been subject to the legislation of one of the contracting parties
	Korea (2009/2010)	X	X	Persons who are or have been subject to the legislation of one of the contracting parties family members and survivors
	Serbia (2011/2013)		X	Idem
	Canada (2012; not in force yet)	X	X	Persons who are or have been subject to the legislation of one or both of the contracting parties; family members and survivors within the meaning of the applicable legislation of the contracting parties
<b>Croatia</b>	Australia (2003/2004)		X	
	Bosnia and Herzegovina (2000/2001)		X	
	FR Yugoslavia (1997/2003)		X	
	Canada (1998/1999)		X	
	FYROM (1997/1997)	X		
	Quebec (1999/2001)		X	
	Turkey (2005/2012)		X	
	Norway (1974/1976)	X		
	Switzerland (1996/1998)	X		
<b>Cyprus</b>	Egypt (1988/1989)	X		
	Canada (1991/1991)		X	
	Quebec (1990/1991)		X	
	Australia (1992/1993)		X	
	Syria (2009/2010)		X	
	Serbia (2010/2011)		X	
<b>Czech Rep.</b>	Australia (2009/2011)		X	
	Bosnia and Herzegovina (1957/1957)		X	New agreement under negotiation

## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Czech Rep.</b>	Montenegro (2002/2002)		X	
	Chile (2000/2004)		X	
	India (2010)		X	Not in force yet
	Israel (2000/2002)	X		
	Japan (2008/2009)		X	
	Canada (2001/2003)		X	
	Korea (2007/2008)		X	
	FYROM (2005/2007)		X	
	Moldova (2011/2012)		X	
	Quebec (2002/2003)		X	
	Russia (2011)	X		Not in force yet
	Serbia (2002/2002)		X	
	Syria (2010)		X	Not in force yet
	Turkey (2003/2005)		X	
	Ukraine (2001/2003)	X		
	USA (2007/2009)		X	
<b>Denmark</b>	Australia (1999/2001)	X	X*	* Only if covered by the EU regulation
	Canada (1985/1986)	X	X*	
	Chile (1995/1995)	X	X*	
	India (2010/2011)	X	X*	
	Israel (1995/1996)	X	X*	
	Croatia (2005/2006)	X	X*	
	Morocco (1982/1984) (1988/1988)	X	X*	
	New Zealand (1997/1997)	X	X*	
	Pakistan (1982/1983)	X	X*	
	Quebec (1987/1988)	X	X*	
	Switzerland (1983/1983)	X	X*	
	South Korea (2010/2011)	X	X*	
	Turkey (1976/1978) (1999/2003)	X	X*	

## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Denmark</b>	USA (2007/2008)	X	X*	
	Former Yugoslavia (1977/1979)	X	X*	
	Bosnia and H. /FYROM/ Mont/Serb			Succession; see former Yugoslavia
<b>Estonia</b>	Canada (2005/2006)		X	
	Ukraine (2010/2012)		X	
	Russia (2011/2011)	X		
	Moldova (2011/2012)		X	
<b>Finland</b>	Canada (1986/1988)		X	Persons who are or have been subject to the legislation of Finland
	Quebec (1986/1988)		X	Idem
	USA (1991/1992)		X	Idem
	Israel (1997/1999)		X	Idem
	Chile (1997/2008)		X	Idem
	Australia (2008/2009)		X	Idem
	India (2012; not in force yet)		X	Idem
	Japan (negotiation)		X	Idem
	China (negotiation)		X	Idem
<b>France</b>	Algeria (1980/1982)	X		
	Andorra (2000/2003)	X	X	
	Argentina (2008/2012)	X	X	
	Benin (1979/1981)	X		
	Bosnia and Herzegovina (2003/2003)	X		
	Cameroun (1990/1992)	X		
	Canada (1979/1981)	X	X	
	Cape Verde (1980/1983)	X		
	Chile (1999/2001)	X	X	
	Congo (1987/1988)	X		

Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>France</b>	Korea (2004/2007)	X	X	
	Cote d' Ivoire (1985/1987)	X		
	USA (1987/1988)	X	X	
	Gabon (1980/1983)	X		
	Channel Islands (1956/1958)	X		
	India (2008/2011)	X	X	
	Israel (1965/1966)	X		
	Japan (2005/2007)	X	X	
	Jersey (1979/1980)	X		
	Kosovo (2013/2013)	X		
	FYROM (1995/1995)	X		
	Madagascar (1967/1968)	X		
	Mali (1979/1983)	X		
	Morocco (2007/2011)	X	X	
	Mauritania (1965/1967)	X		
	Montenegro (2003/2003)	X		
	Monaco (1952/1954)	X	X	
	Niger (1973/1974)	X		
	Philippines (1990/1994)	X		
	Quebec (2003/2006)	X	X	
	San Marino (1949/1951)	X		
	Senegal (1974/1976)	X		
	Serbia (2003/2003)	X		
	Togo (1971/1973)	X		
	Tunisia (2003/2007)	X		
	Turkey (1972/1973)	X		
<b>Germany</b>	Australia (2000/2003) + EA (2007/2008)	X	X	
	Bosnia Herzegovina (1974/1975)	X	X	Continuity: 1992

Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Germany</b>	Brazil (2009/2013)	X	X	
	Chile (1993/1994)	X	X	
	China EA (2001/2002)	X		EA: posting agreement (Entsendeabkommen)
	India EA (2008/2009)	X	X	EA: posting agreement (Entsendeabkommen)
	Israel (1986/1987)	X		
	Israel ZA (1995/1996)	X		ZA: additional agreement (Zusatzabkommen)
	Japan (1998/2000)	X	X	
	Canada (1985/1988)	X	X	
	Canada ZA (2002/2003)	X	X	ZA: additional agreement (Zusatzabkommen)
	Korea (2000/2003)	X	X	
	Kosovo (1974/1975)	X		Continuity: 2011
	Morocco (1981/1986)	X	X	
	FYROM (2003/2005)	X	X	
	Montenegro (1974/1975)	X	X	Continuity: 2011
	Quebec (1987/1988)	X	X	
	Serbia (1974/1975)	X	X	Continuity: 1997
	Turkey (1969/1972)	X	X	
	Turkey ZA (1984/1987)	X	X	ZA: additional agreement (Zusatzabkommen)
	Tunisia (1984/1986)	X		
	USA (1976/1979)	X	X	
	USA ZA (1995/1996)	X	X	ZA: additional agreement (Zusatzabkommen)
<b>Greece</b>	USA (1993/1994)	X	X	Persons who are or have been insured in both states regardless of their nationality Family members
	New Zealand (1993/1994)	X	X	Persons who are or have been subject to the legislation of one or another state, regardless of their nationality Family members
	Australia (2007/2008)	X	X	Idem
	Brazil (1984/1988)	X	X	Idem
	Argentina (1986/1988)	X	X	Idem
	Venezuela (1994/1995)	X	X	Idem
	Uruguay (1994/1997)	X	X	Idem

## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Greece</b>	Canada (1983/1983) (1997/1997)	X	X	Idem
	Quebec (1981/1983) (2004/2010)	X	X	Idem
	Ontario (1983/1985)	X		
	Egypt (1986/1986)	X		
	Libya (1988/1991)	X		
	Syria (2000/2002)	X		
<b>Hungary</b>	Yugoslavia (1957/1958)	X		In effect for Serbia and FYROM; workers and insured persons
	USSR (1962/1963)	X		In effect for the Russian Federation and Ukraine
	Canada (2002/2003)		X	Persons who are or have been subject to the legislation of the contracting parties family members
	Korea (2006/2007)		X	Idem
	Quebec (2004/2006)		X	Idem
	Montenegro (2008/2009)		X	Idem
	Bosnia Herzegovina (2008/2009)		X	Idem
	India (2010/2013)		X	Idem
	Mongolia (2011/2012)		X	Idem
	Australia (2011/2012)		X	Idem and Australian residents
<b>Iceland</b>	Canada (1988/1989)		X	Persons that are or have been subject to the relevant legislation of the contracting parties
	Faroe Islands (2003/2004)		X	Idem the Faroe Islands joint the Nordic Convention on Social Security
	Greenland (2003/2004)		X	Idem
<b>Ireland</b>	Australia (2005/2006)	X	X	
	Austria (1989/1989)	X	X	
	Canada (1991/1992)	X	X	
	Japan (2010/2010)	X	X	
	Korea (2008/2009)	X	X	
	New Zealand (1994/1994)	X	X	
	Quebec (1995/1994)	X	X	

## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Ireland</b>	Switzerland (1999/1999)	X	X	
	United Kingdom (2007/2007)	X	X	Mostly refers to Isle of Man and Channel Islands
	USA (1993/1993)	X	X	
<b>Italy</b>	Argentina (1981/1984)	X	X	Insured persons regardless of nationality except civil servants and liberal professions
	Australia (1986/1988)	X	X	Idem
	Brazil (1974/1977)	X	X	
	Cape Verde (1980/1983)	X	X	
	Canada-Quebec (1977/1979)	X	X	Insured persons regardless of nationality except civil servants and liberal professions
	Former Yugosl. (1957/1961)	X	X	
	Israel (1987/1989)	X	X	Idem
	Jersey Channel Islands (1951/1958- 1967)	X	X	
	Korea (2000/2006)	X	X	Idem
	Mexico (1977/1977)	X	X	
	Monaco (1982/1985)	X	X	
	Santa Sede (2000/2004)	X	X	Idem
	Tunisia (1984/1987)	X	X	
	Turkey (1972/1990)	X	X	
	Uruguay (1979/1985)	X	X	Idem
	USA (1973/1978)	X	X	Idem
	Venezuela (1988/1991)	X	X	Idem
	San Marino (1974/1975)	X	X	
<b>Latvia</b>	USA (1993-1993)	X		This is not a bilateral agreement but provisions were made in diplomatic notes
	Ukraine (1998/1999)	X	X	
	Norway (2004/2004)	X		The agreement was made to apply to Reg. 1408/71
	Canada (2005/2006)	X	X	
	Estonia (2007/2008)	X	X	The agreement specifies which country takes into account USSR periods covered by the legislation of the contracting parties
	Belarus (2008/2010)	X	X	
	Russia (1994/1995)	X		Only military retirees of the Russian Federation living in Latvia



## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Latvia</b>	Russia (2007/2011)	X		The agreement applies to the nationals of the contracting parties and to Latvian non-citizens
	Australia (2011/2013)	X	X	
	Lithuania (2012/2013)	X	X	The agreement specifies which country takes into account USSR periods covered by the legislation of the contracting parties
<b>Lithuania</b>	Estonia (2007/2008)		X	
	Latvia (2012/2013)		X	
	Ukraine (2001/2002)		X	
	Belarus (1999/1999)		X	
	Russia (1999/2001)		X	
	USA (2001- 2003/2003)		X	
	Canada (2005/2006)		X	
<b>Luxem- bourg</b>	Argentina (2010; not ratified yet)		X	
	Bosnia Herzegovina (2011/2012)		X	
	Brazil (1965/1967)		X	
	Canada (1986/1990)		X	
	Cape Verde (1989/1992)	X		
	Chile (1997/1999)		X	
	USA (1992/1993)		X	
	India (2009/2011)		X	
	FYROM (2006/2009)		X	
	Morocco (2006/2013)	X	X	A declaration annex to the agreement states that Luxembourg applies the agreement to EU citizens in accordance with the Gottardo judgment of the ECJ
	Moldova (2010/2012)		X	
	Montenegro (2008/2009)		X	
	Quebec (1987/1990)		X	
	Serbia (2003/2005) (new convention 2013; not yet into force)		X	

## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Luxem- bourg</b>	Tunisia (2010/2013)	X		Idem
	Turkey (2003/2006)		X	
	Uruguay (2012; not in force yet)		X	
<b>Malta</b>	Libya (1990)	X		Agreement covers payments of social security benefits for nationals working in the territory of the partner state
	Australia (1990/1991) (rev. 2004)	X		
	Canada (1991-1992)	X		
<b>Norway</b>	USA (2001/2003)		X	Persons who are or have been subject to the legislation referred to in the Agreement family members and survivors
	Canada (1985/1987)		X	Idem
	Quebec (1987/1988)		X	Idem
	Chile (1997/1998)		X	Idem
	Australia (2003/2004)		X	Persons who are residents of Australia and members of the Norwegian national social security scheme
	Australia (2005/2007)		X	Persons who are or have been subject to the legislation referred to in the Agreement family members and survivors
	Israel (2006/2008)		X	Idem
	Switzerland (1979/1980)	X		
	Turkey (1978/1981)	X		The posting provisions do not contain any nationality requirements
	Bosnia Herzegovina (2008/2008)	X		Idem
	Croatia (1999/1999)	X		Idem
	Montenegro (2011/2011)	X		Idem
	Serbia (2003/2003)	X		Idem
	Slovenia (1997/1997)	X		Idem
<b>Poland</b>	FYROM (2006/2007)	X	X	Persons who are or have been subject to the Polish social security legislation (insured persons) irrespective of their nationality
	USA (2008/2009)	X	X	Idem
	Canada (2008/2009)	X	X	Idem
	Korea (2009/2010)	X	X	Idem

## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Poland</b>	Australia (2009/2010)	X	X	Idem
	Ukraine (2012; not in force yet)	X	X	Idem
	Former Yugoslavia (1958/1959)	X		Currently applies to Croatia, Bosnia and Herzegovina, Serbia and Montenegro
<b>Portugal</b>	Andorra (1988/1991)		X	
	Argentina (1966/1967)	X		
	Australia (2001/2002)		X	
	Brazil (1991/2005) (2006/2013)		X	
	Canada (1980/1981)		X	
	Ontario (1982/1984)		X	
	Quebec (1981/1981)		X	
	Cape Verde (2001/2005)	X		
	Chile (1999/2001)		X	
	Morocco (1998/2000)	X		
	Moldova (2009/2010)	X		
	Romania (2006/2009)	X		
	Tunisia (2006/2009)	X		
	Uruguay (1987/1987)		X	
	USA (1988/1989)		X	
	Ukraine (2009/2012)	X		
	Venezuela (1989/1993)		X	
				<i>note: Portugal listed only agreements in force</i>
<b>Romania</b>	Russia (1960/1961)	X		
	Albania (1961/1963; new agreement negotiated but not yet signed)	X		The agreement is not applicable to members of diplomatic, consular missions and trade missions and to posted workers who are citizens of the sending state
	Algeria (1981/1984; ongoing negotiations about new agreement)	X		Members of diplomatic and consular missions are not covered by the agreement
	Libya (1985/1986)	X		The agreement covers only posted persons for whom it is specified that pensions are paid by the sending contracting party

## Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Romania</b>	Korea (1982/1983)	X		Idem
	Turkey (1999/2003)	X		
	FYROM (2006/2008)	X		
	Rep. of Korea (2008/2010)	X		
	Israel (2011/2013)	X		
	Canada (2009/2011)	X		
	Moldova (2010/2011)	X		
<b>Slovakia</b>	Australia (2010/2012)	X	X	
	Israel (2010/2012)	X		
	Former Yugoslavia (1957/1957)	X		
	Canada (2002/2003)	X	X	
	South Korea (2009/2010)	X	X	
	Russia (1959/1960)	X		
	Serbia (2012/2013)	X	X	
	Ukraine (2000/2002)	X		
	Turkey (2007/2013)	X	X	
	Quebec (2003/2005)	X	X	
	USA (2012; not in force yet)	X	X	
<b>Slovenia</b>	Croatia (1997/1997)			
	FYROM (1998/2001)	X	X	Insured persons
	Bosnia Herzegovina (2007/2008) (2010/2011)	X	X	Idem
	Serbia (2009/2010)	X	X	Idem
	Montenegro (2010/2011)	X	X	Idem
	Canada (1998/2001)	X	X	Idem
	Quebec (2000/2001)	X	X	Idem
	Australia (2002/2003) (2003/2004)	X	X	Idem and residents of Australia
	Argentina (2008/2007)	X	X	Insured persons

Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Spain</b>	Andorra (2001/2003)		X	
	Argentina (1997/2004)		X	
	Australia (2002/2003)		X	
	Brazil (1991/1995)		X	
	Canada (1986/1988)		X	
	Chile (1997/1998)		X	
	Colombia (2005/2008)		X	
	Korea (2011/2013)		X	
	Ecuador (2009/2011)		X	
	USA (1986/1988)		X	
	Philippines (2002/2012)		X	
	Japan (2008/2009)		X	
	Morocco (1979/1982)		X	
	Mexico (1994/1995)		X	
	Paraguay (1998/2006)		X	
	Peru (2003/2005)		X	
	Dominic. Rep. (2004/2006)		X	
	Russia (1994/1996)		X	
	Tunisia (2001/2002)		X	
	Ukraine (1996/1998)		X	
	Uruguay (1997/2000)		X	
	Venezuela (1988/1990)		X	
<b>Sweden</b>	Canada (2002/2003)		X	
	Quebec (1986/1988)		X	
	USA (1985/1987)		X	
	Australia (1989/1989)		X	
	Chile (1995/1996)		X	
	Cape Verde (1988/1991)		X	
	Turkey (1978/1981)		X	

Annex II: Overview of bilateral agreements: the personal scope

<b>MS</b>	<b>Third country</b> (date signature/ entry into force)	<b>Nationals</b>	<b>All EU citizens</b>	<b>Comments</b>
<b>Sweden</b>	India (2012; not in force yet)		<b>X</b>	
	Bosnia and Herzegovina (2002) Former Yugoslavia (1978/1979)	<b>X</b>		
	Israel (1982/1983)	<b>X</b>		
	Algeria (1987/1988)	<b>X</b>		
	Morocco (1980/1982)	<b>X</b>		
<b>Switzer- land</b>	Australia (2006/2008)	<b>X</b>	<b>X</b>	Provision on the applicable legislation apply to any person regardless of their nationality. This may also be the case for some other points of the Agreement
	Canada (1994/1995)	<b>X</b>	<b>X</b>	Idem
	Chile (1996/1998)	<b>X</b>	<b>X</b>	Idem
	Croatia (1996/1998)	<b>X</b>	<b>X</b>	Idem
	India (2009/2011)	<b>X</b>	<b>X</b>	Idem
	Israel (1984/1985)	<b>X</b>		
	Japan (2010/2012)	<b>X</b>	<b>X</b>	Idem
	FYROM (1999/2002)	<b>X</b>	<b>X</b>	Idem
	Philippines (2001/2004)	<b>X</b>	<b>X</b>	Idem
	San Marino (1981/1983)	<b>X</b>		
	Turkey (1969/1972)	<b>X</b>	<b>X</b>	Idem
	USA (1979/1980)	<b>X</b>		
	Former Yugoslavia (1992/1964; at present applicable in Bosnia and Herzegovina, Montenegro and Serbia	<b>X</b>	<b>X</b>	Idem/at present the agreement applies to Bosnia and Herzegovina, Montenegro and Serbia

## Annex III: Overview of bilateral agreements: the material scope

MS	Third country (date entry into force)	App L posting	Pension		UB	FB	SB	IB	AW OD	Comments
			exp	aggr						
Austria	Australia (1992)		x	x				x		
	Australia 1 ZA (2002)	X	x	x				x		ZA: additional agreement
	Australia 2 ZA (2012)	X	x	x				x		ZA: additional agreement
	Bosnia (2001)	X	x	x	x		x	x	x	
	Chile (1999)	X	x	x				x		
	India (signed in 2013; not in force yet)	X	x	x				x		
	Israel (1975)	X	x	x	x	x	x	x	x	
	Israel I ZA (2001)	X	x	x	x	x	x	x	x	ZA: additional agreement
	Canada (1987)	X	x	x				x		
	Canada 1 ZA (1996)	X	x	x				x		ZA: additional agreement
	Quebec (1994)	X	x	x				x		
	Quebec 1 ZA (1997)	X	x	x				x		ZA: additional agreement
	Kosovo	X								Suspended since 29.08.12 except for applic. legisl.
	Korea (2010)	X	x	x				x		
	Croatia (1998)	X	x	x	x		x	x	x	
	FYROM (1997)	X	x	x	x		x	x	x	
	Moldova (2012)	X	x	x				x		
	Montenegro (2011)	X	x	x			x	x	x	
	Philippines (1982)	X	x	x				x	x	
	Philippines 1 ZA (2004)	X	x	x				x	x	ZA: additional agreement
	Serbia (2002)	X	x	x	x		x	x	x	
	Serbia (2012)	X	x	x	x		x	x	x	
	Tunisia (2000)	X	x	x			x	x	x	
	Turkey (2000)	X	x	x			x	x	x	
	Uruguay (2011)	X	x	x				x		
	USA (1991)	X	x	x				x		
	USA 1 ZA (1997)	X	x	x				x		ZA: additional agreement
Belgium	Algeria (1969)	X	x	x		x	x	x	x	
	Argentina (signed in 2010; not in force yet)	X	x	x				x		
	Australia (2005)	X	x	x				x		
	Australia (2009)						x			Health care insurance
	Bosnia (2009)	X	x	x	x	x	x	x	x	
	Brazil	X	x	x				x		Not in force yet
	Canada (1987)	X	x	x				x		For posting all nationalities also stateless and refugees
	Chile (1999)	X	x	x				x		
	Congo (1971)		x	x		x		x	x	
	Croatia (2005)	X	x	x	x	x	x	x	x	
	South Korea (2009)	X	x	x				x		



## Annex III: Overview of bilateral agreements: the material scope

MS	Third country (date entry into force)	App L posting	Pension		UB	FB	SB	IB	AW OD	Comments
			exp	aggr						
Belgium	USA (1984)	X	x	x				x		For posting all nationalities also stateless and refugees
	India (2009)	X	x	x				x		
	Israel (1973)	X	x						x	
	Japan (2007)	X	x	x				x		
	FYROM (2009)	X	x	x	x	x	x	x	x	
	Morocco (1971)	X	x	X		x	x	x	x	
	Philippines (2005)	X	x	x				x		
	San Marino (1956)	X	x	x		x	x	x	x	
	Tunisia (1996)	X	x	x		x	x	x	x	
	Turkey (1968)	X	x	x		x	x	x	x	
	Uruguay (2009)	X	x	x				x		
	Yugoslavia (1956)	X	x	x	x	x	x	x	x	
	(Serbia/Montenegro/ Kosovo)									
Bulgaria	Albania (1953)	X	x	X	x		x	x	x	
	Former Yugoslavia (1958); at present applicable to Bosnia Herzegovina and Montenegro	X	x	x	x	x	x	x	x	
	Libya (1985)		x		x	x	x	x	x	Only claims covered by social security contributions made in home country; not possible to claim rights in country of employment
	Turkey (1999)		x					x	x	Pensions are granted according to Bulgarian pension insurance legislation to persons who moved to Turkey after 01.05.1989 or have acquired but not exercised their rights after 01.05.1989
	Ukraine (2003)	X	x	X	x		x	x	x	SB: only cash benefits
	Moldova (2009)	X	x	x	x		x	x	x	No sickness benefits in kind
	FYROM (2003)	X	x	x	x	x	x	x	x	
	Israel (2009)	X	x	x			x	x	x	
	Russia (2010)	X	x	x		x	x	x	x	No sickness benefits in kind
	Korea (2010)	X	x	x	*			x		Unemployment included in the determination of the applicable legislation

## Annex III: Overview of bilateral agreements: the material scope

<b>MS</b>	<b>Third country</b> (date entry into force)	<b>App L</b> <b>posting</b>	<b>Pension</b>		<b>UB</b>	<b>FB</b>	<b>SB</b>	<b>IB</b>	<b>AW</b> <b>OD</b>	<b>Comments</b>
<b>Bulgaria</b>	Serbia (2013)	X	x	x	x	x	x	x	x	
	Canada (signed in 2012; not in force yet)	X	x	x*				x		* if eligibility cannot be derived from insurance periods completed under the legislation of both Parties, these periods and periods completed in a third country shall be totalised (third country clause)
<b>Croatia</b>	Australia (2004)	X	x	x				x		Social risk of death is only covered by the Croatian social insurance scheme
	Bosnia and Herzegovina (2011)	X	x	x	x		x	x	x	Recalculation of pensions acquired from 8 October 1991 to 1 November 2001 if they were based upon insurance periods completed in Croatia and in Bosnia and Herzegovina (which were taken over for entitlement and amount of pension)
	FR Yugoslavia (2003) The agreement is currently being applied to Serbia, Montenegro and Kosovo. The new agreement with Montenegro has been signed but has not entered into force yet. Negotiations with Serbia and Kosovo are in progress	X	x	x	x		x	x	x	Recalculation of pension acquired from 8 October 1991 to 1 May 2003 if they were based upon insurance periods completed in Croatia and in Former Yugoslavia
	Canada (1999)	X	x	x				x		
	FYROM (1997)	X	x	x	x	x	x	x	x	Recalculation of pensions acquired from 8 October 1991 to 1 November 1997; if they were based upon insurance periods completed in Croatia and FYROM (which were taken over for entitlement and amount of pension)
	Quebec (2001)	X	x	x				x		
	Turkey (2012)	X	x	x	x		x	x	x	
	Norway (1976)	X	x	x	x	x	x	x	x	

### Annex III: Overview of bilateral agreements: the material scope

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## Annex III: Overview of bilateral agreements: the material scope

<b>MS</b>	<b>Third country</b> (date entry into force)	<b>App L</b> <b>posting</b>	<b>Pension</b>		<b>UB</b>	<b>FB</b>	<b>SB</b>	<b>IB</b>	<b>AW</b> <b>OD</b>	<b>Comments</b>
<b>exp</b>	<b>aggr</b>									
<b>Denmark</b>	Quebec (1988)	x					x		x	
	Switzerland (1983)	x	x	x		x	x	x	x	
	South Korea (2011)	x	x	x				x		
	Turkey (1978 and 2003)	x	x	x		x	x	x	x	
	USA (2008)	x	x	x				x		
	Former Yugoslavia (1977)	x	x	x	x	x	x	x	x	
	Bos/FYROM/Mont/Serbia									Succession; see Former Yugoslavia
<b>Estonia</b>	Canada (2006)	x	x	x				x		
	Ukraine (2012)	x	x	x	x	x	x	x	x	
	Russia (2011)		x	x*				x		*In accordance with case law ECJ
	Moldova (2011)		x	x				x		
<b>Finland</b>	Canada (1988)	x	x	x				x		
	Quebec (1988)	x	x	x			x	x	x	SB: only students & researchers
	USA (1992)	x	x	x		x		x		FB: only posted workers
	Israel (1999)	x	x	x		x	x	x	x	FB & SB: only posted workers FB: child & maternity grant
	Chile (2008)	x	x	x			x*	x		SB: only pensioners
	Australia (2009)	x	x	x			x	x		SB: health Care Agreement; only temporary visitors
	India (signed in 2012; not in force yet)	x	x	x				x		
	Japan									Negotiations
	China									Negotiations
<b>France</b>	Algeria (1982)	x	x	x		x	x	x	x	
	Andorra (2003)	x	x	x		x	x	x	x	
	Argentina (2012)	x	x	x		x	x	x	x	
	Benin (1981)	x	x	x		x		x	x	
	Bosnia Herzegovina (2003)	x	x	x		x	x	x	x	
	Cameroon (1992)	x	x	x		x		x	x	
	Canada (1981)	x	x	x				x		
	Cape Verde (1983)	x	x	x		x	x	x	x	
	Chile (2001)	x	x	x				x		
	Congo (1988)	x	x	x		x		x	x	
	Korea (2007)	x	x	x				x		
	Cote d' Ivoire (1987)	x	x	x		x			x	
	USA (1988)	x	x	x				x		
	Gabon (1983)	x	x	x		x	x	x	x	

## Annex III: Overview of bilateral agreements: the material scope

<b>MS</b>	<b>Third country</b> (date entry into force)	<b>App L</b> <b>posting</b>	<b>Pension</b>		<b>UB</b>	<b>FB</b>	<b>SB</b>	<b>IB</b>	<b>AW</b> <b>OD</b>	<b>Comments</b>
			<b>exp</b>	<b>aggr</b>						
<b>France</b>	Channel Islands (1958)	x	x	x			x	x	x	
	India (2011)	x	x	x		x		x		
	Israel (1966)	x	x	x		x			x	
	Japan (2007)	x	x	x		x		x		
	Jersey (1980)	x	x	x		x	x	x	x	
	Kosovo (2013)	x	x	x		x	x	x	x	
	Former Yugoslavia (1995)	x	x	x		x	x	x	x	
	Madagascar (1968)	x				x			x	
	Mali (1983)	x	x	x		x	x		x	
	Morocco (2011)	x	x	x		x	x	x	x	
	Mauritania (1967)	x	x	x		x		x	x	
	Montenegro (2003)	x	x	x		x	x	x	x	
	Monaco (1954)	x	x	x		x	x	x	x	
	Niger (1974)	x	x	x		x	x	x	x	
	Philippines (1994)	x	x	x		x		x		
	Quebec (2006)	x	x	x		x	x	x	x	
	San Marino (1951)	x	x	x		x	x	x	x	
	Senegal (1976)	x	x	x		x		x	x	
	Serbia (2003)	x	x	x		x	x	x	x	
	Togo (1973)	x	x	x		x		x	x	
	Tunisia (2007)	x	x	x		x	x	x	x	
	Turkey (1973)	x	x	x		x	x	x	x	
<b>Greece</b>	USA (1994)	x*	x	x**				x		* posting extended to 5 years **absence of identical insurance periods in both states/partial pension proportional to periods of insurance/minimum period of insurance required (Gr: 300 days insurance) (USA: 18 months insurance)/minimum pension payment when the beneficiary resides in Greece

## Annex III: Overview of bilateral agreements: the material scope

MS	Third country (date entry into force)	App L posting	Pension		UB	FB	SB	IB	AW OD	Comments
			exp	aggr						
Greece	New Zealand (1994)	x*	x	x**				x		*Posting period: 5 years **Absence of identical insurance periods in both States/partial pension proportional to periods of insurance/non-credible and credible periods in third country are totalized (third country clause)/minimum pension payment when the beneficiary resides in Greece
	Australia (2008)	x*	x	x**						* Posting period: 4 years **Absence of identical insurance periods in both states/partial pension proportional to periods of insurance/minimum pension payment when the beneficiary resides in Greece
	Brazil (1988)	x*	x	x**		x	x	x	x	* Posting period: 1 year **Absence of identical insurance periods in both states/partial pension proportional to periods of insurance
	Argentina (1988)	x*	x	x**		x	x	x	x	* Posting period: 2 years ** Absence identical insurance periods/ partial pension proportional to periods of insurance/non-credible and credible periods are totalised (third country clause)
	Venezuela (1995)	x*	x	x**		x	x	x	x	* Posting period: 1 year ** Absence identical insurance periods/partial pension proportional to periods of insurance/ non-credible and credible periods are totalised (third country clause)
	Uruguay (1997)	x*	x	x**		x	x	x	x	* Posting period: 2 years **Absence of identical insurance periods/ partial pension proportional to periods of insurance/ minimum pension payment when the beneficiary resides Greece

## Annex III: Overview of bilateral agreements: the material scope

MS	Third country (date entry into force)	App L posting	Pension		UB	FB	SB	IB	AW OD	Comments
			exp	aggr						
Greece	Canada (1983 and 2010)	x*	x	x**				x		* Posting period: 5 years **Absence of identical insurance periods/partial pension proportional to periods of insurance/ non-credible and credible periods are totalised (third country clause)
	Quebec (1983 and 2010)	x*	x	x**		x	x	x	x	* Posting period: 5 years **Absence of identical insurance periods/partial pension proportional to periods of insurance
	Ontario (1985)		x				x		x	AW: permanent disability
	Egypt (1986)	x*	x	x**				x		* Posting period: 5 years **Absence of identical insurance periods/ partial pension proportional to periods of insurance/ pension contributions paid by insured nationals on the basis of residence in the territory of the contracting party are transferable under certain conditions
	Libya (1991)		x	x**						** Absence identical insurance periods/partial pension proportional to periods of insurance/pension contributions are transferable under certain conditions
	Syria (2002)	x*								*Posting period: 5 years/for Syrian airline staff and seconded staff in each of the two countries
Germany	Australia (2003)		x	x				x		Posting: 4 years
	Australia EA (2008)	X								EA: posting agreement
	Bosnia Herzegovina (1975/1992)			x		x	x		x	Posting: for employment period in host state
	Brazil (2013)	X	X	X				X	x	Posting: 2 years
	Chile (1994)	X	X	x				x		Posting: 3 years
	China EA (2002)	x								Posting: 4 years
	India EA (2009)	x								idem
	Israel (1987)	X	X	X				X	x	Posting: for employment period in host state
	Israel ZA (1996)	X	X	x				x	X	ZA: additional agreement
	Japan (2000)	X	X	x				x		Posting: 5 years



## Annex III: Overview of bilateral agreements: the material scope

MS	Third country (date entry into force)	App L posting	Pension		UB	FB	SB	IB	AW OD	Comments
			exp	aggr						
Germany	Canada (1988)	X	X	x				x		idem
	Canada (ZA (2003)	X	X	x						ZA: additional agreement
	Korea (2003)	X	X	x				x		Posting: 2 years
	Kosovo (1975/2011)			X	X	X	x		x	Posting: for employment period in host state
	Morocco (1986)	X	X	x		x	x		x	Posting: 3 years
	FYROM (2005)	X	X	X			x		x	Posting: for employment period in host state
	Montenegro (1974/2011)		X	X	X	X	X		x	idem
	Quebec (1988)	X	x					x		Posting: 5 years
	Serbia (1975/1997)		x		x	x	x		x	Posting: for employment period in host state
	Turkey (1972	X	X	x		X	X	X	X	idem
	Turkey ZA (1987)	X	X	X		X	X	X	x	ZA: additional agreement
	Tunisia (1986)					x	x		x	Posting: 1 year
	USA (1979)	X	x	X				x		Posting: 5 years
	USA ZA (1996)	X	X	x				x		ZA: additional agreement
Hungary	Former Yugoslavia (1958)	x	x	x	x	x	x	x	x	In effect for Serbia and FYROM
	Russia (1963)	x	x	x		x	x	x	x	
	Ukraine (1963)	x	x	x		x	x	x	x	
	Canada (2003)	x	x	x				x		
	Korea (2007)	x	x	x				x		
	Quebec (2006)	x	x	x				x		
	Montenegro (2009)	x	x	x	x		x	x	x	
	Bosnia Herzegovina (2009)	x	x	x	x		x	x	x	
	India (2013)		x	x				x		
	Mongolia (2012)	x	x	x				x		
	Australia (2012)	x	x	x				x		
Iceland	Canada (1989)	x	x	x						
	Faroe Islands (2004)	x	x	x	x	x	x	x	x	Faroe Islands joint the Nordic Convention on Social Security
	Greenland (2004)	x	x	x	x	x	x	x	x	Idem
Ireland	Australia (2006)	x	x	x				x		
	Austria (1989)	x	x	x				x		
	Canada (1992)	x	x	x				x		
	Japan (2010)	x	x	x				x		
	Korea (2009)	x	x	x				x		
	New Zealand (1994)	x	x	x				x		
	Quebec (1994)	x	x	x						
	Switzerland (1999)	x	x	x						
	USA (1993)	x	x	x				x		

## Annex III: Overview of bilateral agreements: the material scope

<b>MS</b>	<b>Third country</b> (date entry into force)	<b>App L</b> <b>posting</b>	<b>Pension</b>		<b>UB</b>	<b>FB</b>	<b>SB</b>	<b>IB</b>	<b>AW</b> <b>OD</b>	<b>Comments</b>
<b>Ireland</b>	UK (2007)	x	x	x	x	x	x	x	x	Isle of Man and Channel Islands
<b>Italy</b>	Argentina (1984)	x	x	x		x	x	x	x	
	Canada/Quebec (1979)	x	x	x			x	x	x	SB: except for tuberculosis AW: on the basis of ad hoc protocols provinces
	Australia (1988)		x	x	x	x		x	x	
	Brazil (1977)	x	x	x			x	x	x	
	Cape Verde (1983)	x	x	x		x	x	x	x	
	Former Yugoslavia (1961)	x	x	x	x	x	x	x	x	
	Israel (1989)	x								
	Jersey/Channel Islands (1958 and 1967)	x	x	x	x	x	x	x	x	
	Korea (2006)	x								
	Mexico (1977)		x							Material scope is limited to transferability of pension payments
	Monaco (1985)	x	x	x		x	x	x	x	
	Santa Sede (2004)	x	x	x		x			x	
	Tunisia	x	x	x		x	x	x	x	
	Turkey (1990) (via Eur. Conv. Soc. Sec.; bilateral agreement was drafted in 2005, but not ratified yet)	x	x	x	x	x	x	x	x	
	Uruguay (1985)	x	x	x	x	x	x	x	x	
	USA (1978)	x	x	x						
	Venezuela (1991)	x	x	x		x	x	x	x	
	San Marino (1975)	X	x	x	x	x	x	x	x	
<b>Latvia</b>	USA (1993)		x							
	Ukraine (1999)	X	x	x	x	x	x	x	x	
	Norway (2004)	X								
	Canada (2006)	X	x	x						
	Estonia (2008)	X								
	Belarus (2010)	x	x	x	x	x	x	x	x	
	Russia (2011)	x	x	x	x	x	x	x	x	
	Russia (1995)						x			Only for Russian military retirees living in the territory of Latvia
	Australia (2013)	x	x	x						
	Lithuania (2012)	x								
<b>Lithuania</b>	Estonia (2008)		x	x				x		
	Latvia (2013)		x	x				x		

## Annex III: Overview of bilateral agreements: the material scope

<b>MS</b>	<b>Third country</b> (date entry into force)	<b>App L</b> <b>posting</b>	<b>Pension</b>		<b>UB</b>	<b>FB</b>	<b>SB</b>	<b>IB</b>	<b>AW</b> <b>OD</b>	<b>Comments</b>
<b>exp</b>	<b>aggr</b>									
<b>Lithuania</b>	Ukraine (2002)		x	x	x	x	x	x	x	
	Belarus (1999)		x	x	x	x	x	x	x	
	Russia (2001)							x		
	USA (2003)		x							
	Canada (2006)		x							
<b>Luxem- bourg</b>	Argentina (signed 2010; not ratified yet by Argentina)	x	x	x		x		x		FB: only aggregation, no export
	Bosnia Herzegovina (2012)	x	x	x	x	x	x	x	x	UB: only aggregation, no export of benefits
	Brazil (1967)	x	x	x		x		x	x	A new agreement has been signed on 22 June 2012
	Canada (1990)	x	x	x				x		
	Cape Verde (1992)	x	x	x		x	x	x	x	
	Chile (1999)	x	x	x				x		
	USA (1993)	x	x	x				x		
	India (2011)	x	x	x				x		
	Former Yugoslavia (2009)	x	x	x	x	x	x	x	x	FB: only aggregation, no export of benefits
	Morocco (2013)	x	x	x	x	x	x	x	x	UB and FB: only aggregation, no export of benefits
	Moldova (2012)	x	x	x		x		x		FB: only aggregation, no export of benefits
	Montenegro (2009)	x	x	x	x	x	x	x	x	FB and UB: only aggregation, no export of benefits
	Quebec (1990)	x	x	x			x	x	x	
	Serbia (2005)	x	x	x	x	x	x	x	x	Idem /a new agreement has been signed on 7 June 2013; until this agreement becomes applicable, the agreement of 2005 applies to the Community of Serbia and Montenegro
	Tunisia (2013)	x	x	x	x	x	x	x	x	FB and UB: only aggregation, no export of benefits
	Turkey (2006)	x	x	x	x	x	x	x	x	Idem
	Uruguay (signed in 2012; ratification is still ongoing for both countries)	x	x			x				FB: only aggregation, no export of benefits
<b>Malta</b>	Libya (1990)	x								

### Annex III: Overview of bilateral agreements: the material scope

[illegible]

### Annex III: Overview of bilateral agreements: the material scope

[illegible]

### Annex III: Overview of bilateral agreements: the material scope

[illegible]

## Annex III: Overview of bilateral agreements: the material scope

<b>MS</b>	<b>Third country</b> (date entry into force)	<b>App L</b> <b>posting</b>	<b>Pension</b>		<b>UB</b>	<b>FB</b>	<b>SB</b>	<b>IB</b>	<b>AW</b> <b>OD</b>	<b>Comments</b>
			<b>exp</b>	<b>aggr</b>						
<b>Sweden</b>	Canada (2003)	x	x	x				x		
	Quebec (1988)	x	x	x				x	x	The agreement covers also health care
	USA (1987)	x	x	x				x		
	Australia (1989)						x			The agreement covers only health care
	Chile (1996)	x	x	x	x			x	x	The agreement covers also health care
	Cape Verde (1991)	x	x	x	x	x		x	x	
	Turkey (1981)	x	x	x	x	x			x	
	India (signed in 2012)	x	x	x				x		Not in force yet
	Former Yugoslavia (1979)	x	x	x		x			x	
	Bosnia Herzegovina (2002)	x	x	x		x			X	
	Israel (1983)	x	x	x	x	x		x	x	The agreement covers also health care
	Algeria (1988)						x			The agreement covers only health care
	Morocco (1982)	x	x	x	x	x	x	x	x	
<b>Switzer-land</b>	Australia (2008)	x	x					x		
	Canada (1995)	x	x					x		
	Chile (1998)	x	x				x*	x		SB: only for pensioners
	Croatia (1998)	x	x			x	x	x	x	FB: only agricultural workers & self-employed farmers SB: only the facilitated transition from a national scheme to another
	India (2011)	x					x	x	x	The agreement only covers applicable legislation
	Israel (1985)	x	x					x		
	Japan (2012)	x	x	x			x	x		
	FYROM (2012)	x	x			x	x	x	x	FB: only agricultural workers & self- employed farmers SB: only the facilitated transition from a national scheme to another
	Philippines (2004)	x	x					x		
	San Marino (1983)	x	x			x	x	x	x	Idem
	Turkey (1972)	x	x			x	x	x	x	Idem
	USA (1980)	x	x					x		



Annex III: Overview of bilateral agreements: the material scope

<i><b>MS</b></i>	<i><b>Third country</b></i> (date entry into force)	<i><b>App L</b></i> <i><b>posting</b></i>	<i><b>Pension</b></i> <i><b>exp</b></i>   <i><b>aggr</b></i>		<i><b>UB</b></i>	<i><b>FB</b></i>	<i><b>SB</b></i>	<i><b>IB</b></i>	<i><b>AW</b></i> <i><b>OD</b></i>	<i><b>Comments</b></i>
<b>Switzer- land</b>	Former Yugoslavia (1964); at present applicable to Bosnia Herzegovina, Montenegro and Serbia	x	x			x	x	x	x	SB: only the facilitated transition from a national scheme to another

Annex IV: List of bilateral agreement websites

Country	Website
Austria	<a href="http://www.sozialministerium.at//siteEN/_Social_Affairs/EU_and_International_Affairs/Bilateral_affairs/">http://www.sozialministerium.at//siteEN/_Social_Affairs/EU_and International Affairs/Bilateral affairs/</a>
Belgium	<a href="http://www.socialsecurity.be/CMS/nl/about/displayThema/about/ABOUT_7/ABOUT_7_3_5.xml">http://www.socialsecurity.be/CMS/nl/about/displayThema/about/ABOUT 7/ABOUT 7 3 5.xml</a>
Bulgaria	<a href="http://www.mlsp.government.bg/bg/integration/agreements/indexn1.htm">http://www.mlsp.government.bg/bg/integration/agreements/indexn1.htm</a>
Croatia	<a href="http://www.mirovinsko.hr/default.aspx?id=4">http://www.mirovinsko.hr/default.aspx?id=4</a>
Cyprus	<a href="http://www.mlsi.gov.cy/sid">http://www.mlsi.gov.cy/sid</a>
Czech Republic	<a href="http://www.mpsv.cz/en/1877">http://www.mpsv.cz/en/1877</a>
Denmark	<a href="http://www.sm.dk/Lovstof/Regler-og-afgoerelser/Sider/Start.aspx?LawID=348">http://www.sm.dk/Lovstof/Regler-og-afgoerelser/Sider/Start.aspx?LawID=348</a>
Estonia	<a href="http://www.ensib.ee/lepingud-valisriikidega/">http://www.ensib.ee/lepingud-valisriikidega/</a> (overview) <a href="https://www.riigiteataja.ee/akt/958572">https://www.riigiteataja.ee/akt/958572</a> (Estonia-Canada) <a href="https://www.riigiteataja.ee/akt/2240/5201/2004/Moldova_sotskindl_ingl.pdf">https://www.riigiteataja.ee/akt/2240/5201/2004/Moldova_sotskindl ingl.pdf</a> (Estonia-Moldova)
Finland	<a href="http://www.kela.fi/web/en/general-principles_social-security-agreements">http://www.kela.fi/web/en/general-principles_social-security-agreements</a>
France	<a href="http://www.cleiss.fr/docs/textes/index.html">http://www.cleiss.fr/docs/textes/index.html</a>
Greece	<a href="http://ggka.gr">http://ggka.gr</a>
Hungary	<a href="http://njt.hu">http://njt.hu</a>
Iceland	<a href="http://www.utanrikisraduneyti.is/log-og-reglugerdir/">http://www.utanrikisraduneyti.is/log-og-reglugerdir/</a>
Ireland	<a href="http://www.welfare.ie/en/Pages/Bilateral-Agreements---Guidelines-on-Application-of-Bilatera.aspx">http://www.welfare.ie/en/Pages/Bilateral-Agreements---Guidelines-on-Application-of-Bilatera.aspx</a>
Italy	<a href="http://www.inail.it/internet/default/INAILcosafa/Tuteladeilavoratori/Prestazioniiperilavoratorimigranti/Convenzioniperchilavoraneipaesiextraeuropei/IPaesi convenzionati/index.html">http://www.inail.it/internet/default/INAILcosafa/Tuteladeilavoratori/Prestazioniiperilavoratorimigranti/Convenzioniperchilavoraneipaesiextraeuropei/IPaesi convenzionati/index.html</a> <a href="http://www.inps.it/portale/default.aspx?sID=%3b0%3b9398%3b9419%3b9420%3b7143%3b9423%3b&amp;lastMenu=9423&amp;iMenu=1&amp;iNodo=9423&amp;p4=2">http://www.inps.it/portale/default.aspx?sID=%3b0%3b9398%3b9419%3b9420%3b7143%3b9423%3b&amp;lastMenu=9423&amp;iMenu=1&amp;iNodo=9423&amp;p4=2</a>
Latvia	<a href="http://www.lm.gov.lv/text/877">http://www.lm.gov.lv/text/877</a>
Liechtenstein	No website available
Lithuania	<a href="http://www.socmin.lt/en/cooperation/international-agreements.html">http://www.socmin.lt/en/cooperation/international-agreements.html</a>

Annex IV: List of bilateral agreement websites

Country	Website
Luxemburg	<a href="http://www.secu.lu/conv-internationales/conventions-bilaterales/">http://www.secu.lu/conv-internationales/conventions-bilaterales/</a> <a href="http://www.mss.public.lu/international/conventions_bilaterales/index.html">http://www.mss.public.lu/international/conventions_bilaterales/index.html</a>
Malta	<a href="http://www.socialsecurity.gov.mt">http://www.socialsecurity.gov.mt</a> <a href="https://secure3.gov.mt/socialpolicy/other_conventions/bilateral_convent">https://secure3.gov.mt/socialpolicy/other_conventions/bilateral_convent</a>
Netherlands	<a href="http://www.minbuza.nl/producten-en-diensten/verdragen/zoek-in-de-verdragenbank">http://www.minbuza.nl/producten-en-diensten/verdragen/zoek-in-de-verdragenbank</a> , search topic "sociale zekerheid"
Norway	<a href="http://www.nav.no/rettskildene/Forside/Hovednummer/Hovednummer+42+-+Trygdeavtaler.151669.cms">http://www.nav.no/rettskildene/Forside/Hovednummer/Hovednummer+42+-+Trygdeavtaler.151669.cms</a>
Poland	<a href="http://www.mpips.gov.pl/koordynacja-systemow-zabezpieczenia-spolecznego/umowy-miedzynarodowe-o-zabezpieczeniu-spolecznym/">http://www.mpips.gov.pl/koordynacja-systemow-zabezpieczenia-spolecznego/umowy-miedzynarodowe-o-zabezpieczeniu-spolecznym/</a>
Portugal	<a href="http://www.seg-social.pt">http://www.seg-social.pt</a>
Romania	<a href="http://www.mmuncii.ro/j33/index.php/ro/protectie-sociala/securitate-sociala-pentru-lucratorii-migranti/2121-acorduri-bilaterale-in-domeniul-securitatii-sociale1">http://www.mmuncii.ro/j33/index.php/ro/protectie-sociala/securitate-sociala-pentru-lucratorii-migranti/2121-acorduri-bilaterale-in-domeniul-securitatii-sociale1</a>
Slovenia	<a href="http://www.zpiz.si/wps/wcm/connect/zpiz+internet/zpiz/prvastran/zavod/medsodelovanje/mednarodni+sporazum">http://www.zpiz.si/wps/wcm/connect/zpiz+internet/zpiz/prvastran/zavod/medsodelovanje/mednarodni+sporazum</a>
Slovakia	<a href="http://www.employment.gov.sk/prehľad-zmluv-o-socialnom-zabezpečení.html">http://www.employment.gov.sk/prehľad-zmluv-o-socialnom-zabezpečení.html</a> <a href="http://www.socpoist.sk/zahranicie-a-eu/553s">http://www.socpoist.sk/zahranicie-a-eu/553s</a>
Spain	<a href="http://www.seg-social.es/Internet_1/Normativa/index.htm?C1=1001&amp;C2=2013">http://www.seg-social.es/Internet_1/Normativa/index.htm?C1=1001&amp;C2=2013</a>
Sweden	No website available
Switzerland	<a href="http://www.bsv.admin.ch/themen/internationales/02094/index.html?lang=en">http://www.bsv.admin.ch/themen/internationales/02094/index.html?lang=en</a>
UK	<a href="http://www.legislation.gov.uk">www.legislation.gov.uk</a> <a href="http://www.gov.uk">www.gov.uk</a> <a href="http://www.dwp.gov.uk">www.dwp.gov.uk</a> (this website is closing down soon)

## QUESTIONNAIRE FOR MISSOC CORRESPONDENTS

*External Aspects of Social Security (MISSOC Analysis 2013/2)*

### I. Introduction

This questionnaire, which was drafted by the European Commission, aims to seek input from MISSOC Correspondents regarding certain aspects of the external dimension of social security. The questionnaire was discussed and approved at the May MISSOC Network Meeting in Dublin.

This is a one-off initiative whose outcome will enable the EC to keep its commitment made in the 2012 Communication on the External Dimension of Social Security Coordination<sup>1</sup>. This Communication seeks, among other things, to promote and strengthen cooperation between Member States so that a less fragmented approach to social security coordination with third countries can be developed. A first step in this respect is to obtain increased transparency regarding the existence of bilateral agreements with third countries. Another objective relates to safeguarding the principle of equal treatment when it comes to paying pensions in third countries, especially in the light of EU legislation (such as Regulation 1231/2010).

It is foreseen that the information obtained will be made available on the EC website, according to modalities which will be further discussed at the October Network Meeting in Vilnius. The replies will be processed by the MISSOC Secretariat and will form the basis for the MISSOC Analysis report 2013/2.

The first question is limited in scope; it refers to *national* legislation (or other national regulations, excluding international agreements) and is concerned only with (invalidity, old-age and survivors') *pensions*, in particular the possibility of pension payment to your country's nationals in third countries. The second and third questions deal with bilateral agreements on social security concluded by your country with third (non-EU/EEA/CH) countries.

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<sup>1</sup> COM(2012) 153 final of 30 March 2012: "The Commission believes there is a need for effective enforcement of the principle of equal treatment when it comes to paying pensions in a third country. This is all the more important given the case-law of the European Court of Human Rights, to the effect that the right to a pension which is based on employment can in certain circumstances be assimilated to a property right protected by the European Convention on Human Rights. To this end, the Commission will use its network of national social security experts to gather information about legislation and other measures at national level concerning the payment of pensions in third countries. This information will be added to the country-specific social security profiles on the Commission's website, and will be supplemented with information on Member States' bilateral agreements with third countries, again using information provided by national social security experts".

## II. Questionnaire

**1. Is there a possibility provided for in the national legislation or other measures at national level for nationals to have their pensions paid in third countries? If there is, please state the relevant conditions.**

**2. Please refer to a website which contains the full list of bilateral agreements on social security concluded by your country with third countries.**

Ideally, we are looking for websites in English, French or German, which include the full text or a summary of the agreements. However, we would also be interested in websites which only list the agreements and/or are in the national language.

**3. Please classify all the bilateral agreements on social security with third countries in the table on the next page.**

Information on the personal and material scope of the agreements should be provided by marking "X" in the appropriate columns. The far right column is optional (should you wish that any information you include here is not published, please indicate so).

**Table (question 3)**

Country	Date of signature (dd/mm/yyyy)	Date of entry into force (dd/mm/yyyy)	Personal scope		Material scope								Comments/ any other relevant information <i>(optional)</i>
			Nationals	All EU citizens	Applicable legislation/ Posting	Pensions		Unemployment benefits	Family benefits	Sickness	Invalidity	Accidents at work & occupational diseases	
						Export	Aggregation						