

# MoveS

## Recent developments concerning Free Movement of Workers and Social Security Coordination and impact assessment on Cypriot law and practice

E-seminar Cyprus  
27 October 2021

Presentation of the project by  
Dr. Iliana Christodoulou-Varotsi,  
National Expert MoveS Cyprus

# MoveS

EU-wide network  
of independent legal experts  
in the fields of  
free **movement** of workers (FMW) &  
**social security coordination** (SSC)

- Funded by the European Commission (DG EMPL units D1 'FMW' and D2 'SSC')
- 32 countries covered (EU/EEA/CH)
- Implemented by Eftheia, Deloitte Advisory & Consulting, University of Ljubljana, University of Poitiers
- Four-year project (2018-2021)

# Objective 1

- To provide high-quality legal expertise in the areas of FMW and SSC
  - by means of **Legal Reports**
  - by means of monthly **Flash Reports**
  - by means of **replies to ad hoc requests**

## MoveS Legal Reports 2021

- 1 *'The possibility of creating a 33rd /EU social security scheme (and its influence on the existing social security coordination rules)*
- 2 *'The relationships between social security' coordination and taxation law'*
- 3 *'Preliminary assessment of the conformity of national measures implementing Directive (EU) 2018/957 amending Directive 96/71/EC concerning the posting of workers in the framework of the provision of services'*

## Flash Report

- Provided to the EC on a monthly basis
- Covering national developments impacting FMW and SSC
- Based on the inputs of the 32 countries of the network

## Ad hoc support

- When the investigation of specific issues requires a detailed analysis of the national legal framework

# Objective 2

- To disseminate expertise and increase experts' and practitioners' knowledge
  - by organising **seminars**
  - by **sharing information**
  - by **building networks between stakeholders**

# Seminars

- Ca. 10 one-day seminars a year
- 2 webinars
- Audience: Representatives of competent authorities and institutions, social partners, NGOs, judges, lawyers and academics



	<b>Date</b>	<b>Country (City)</b>
1.	22/04	Slovakia (Bratislava)
2.	30/4	Switzerland (Lausanne)
3.	27/05	Czech Republic (Prague)
4.	2/6	Slovenia (Ljubljana)
5.	11/6	France (Paris)
6.	10/9	Spain (Madrid)
7.	24/9	Bulgaria (Sofia)
8.	7/10	Greece (Athens)
9.	27/10	Cyprus (Nicosia)
10.	1-12/11 (tbc)	Norway (Oslo)

## Cooperation and networking

- **MoveS webpage (EUROPA)**

<https://ec.europa.eu/social/main.jsp?catId=1098&langId=en>

### **MoveS LinkedIn group:**

MoveS – free movement and social security coordination

<https://www.linkedin.com/groups/4291726>

# Thank you for your attention!

Contact us at:

[MoveS@eftheia.eu](mailto:MoveS@eftheia.eu)



# **MoveS Seminar**

## **Cyprus**

**27 October 2021**

# **Recent developments at EU level on social security coordination**

**Els Vertongen**  
**European Commission, DG EMPL**  
**Unit E2 – social security coordination**



# Overview

1. Revision of Regulations 883/2004 and 987/2009
2. Digitalisation of Social Security Coordination
3. EU-UK relations

# Revision of the social security coordination Regulations





## State of play – formal steps

- Commission proposal adopted in December 2016
- Provisional agreement achieved between the European Parliament, the Council and the European Commission (March 2019)

<https://data.consilium.europa.eu/doc/document/ST-7698-2019-ADD-1-REV-1/en/pdf>

- No qualified majority in Council (March 2019) and postponement of first reading vote in European Parliament (April 2019)
- Decision to continue the file (October 2019) and resumption of trilogues



# Provisional agreement: Long-term care benefits

- Common definition of long-term care benefits
- Annex listing benefits in each Member State
- Member State of insurance will provide LTC benefits in cash and reimburse the cost of benefits in kind provided by the Member State of residence



## Provisional agreement: Family benefits

- Distinction between parental leave benefits (cash benefits intended to replace income due to child-raising) and all other family benefits
- Two calculations for differential supplement (implementation of the Wiering judgment C-347-12)



# Provisional agreement: Equal treatment

- Recital referring to CJEU judgments (Brey, Dano, Alimanovic, Garcia-Nieto, Commission v UK)

## Provisional agreement: Miscellaneous amendments

- Procedures for recovery of unduly paid social security benefits aligned to Directive 2010/24/EU
- New legal basis to facilitate the identification of fraud and error by way of periodic exchange of personal data between Member States to facilitate data-matching



## Applicable legislation – open topics

- Period of prior affiliation
- Period of interruption
- Prior notification before sending
- Reinforcement of cooperation between institutions

# Unemployment benefits – open topics

- Aggregation: Minimum qualifying period
- Export of unemployment benefit
- Frontier workers and competent MS

# Electronic Exchange of Social Security Information (EESSI)





## What is EESSI?

An IT system that helps social security institutions across the EU exchange information more rapidly and securely, as required by the EU rules on social security coordination.

## Benefits of EESSI

- Faster and more efficient message exchange between social security institutions
- More accurate data exchange between national authorities
- Secure handling of personal data



## State of play

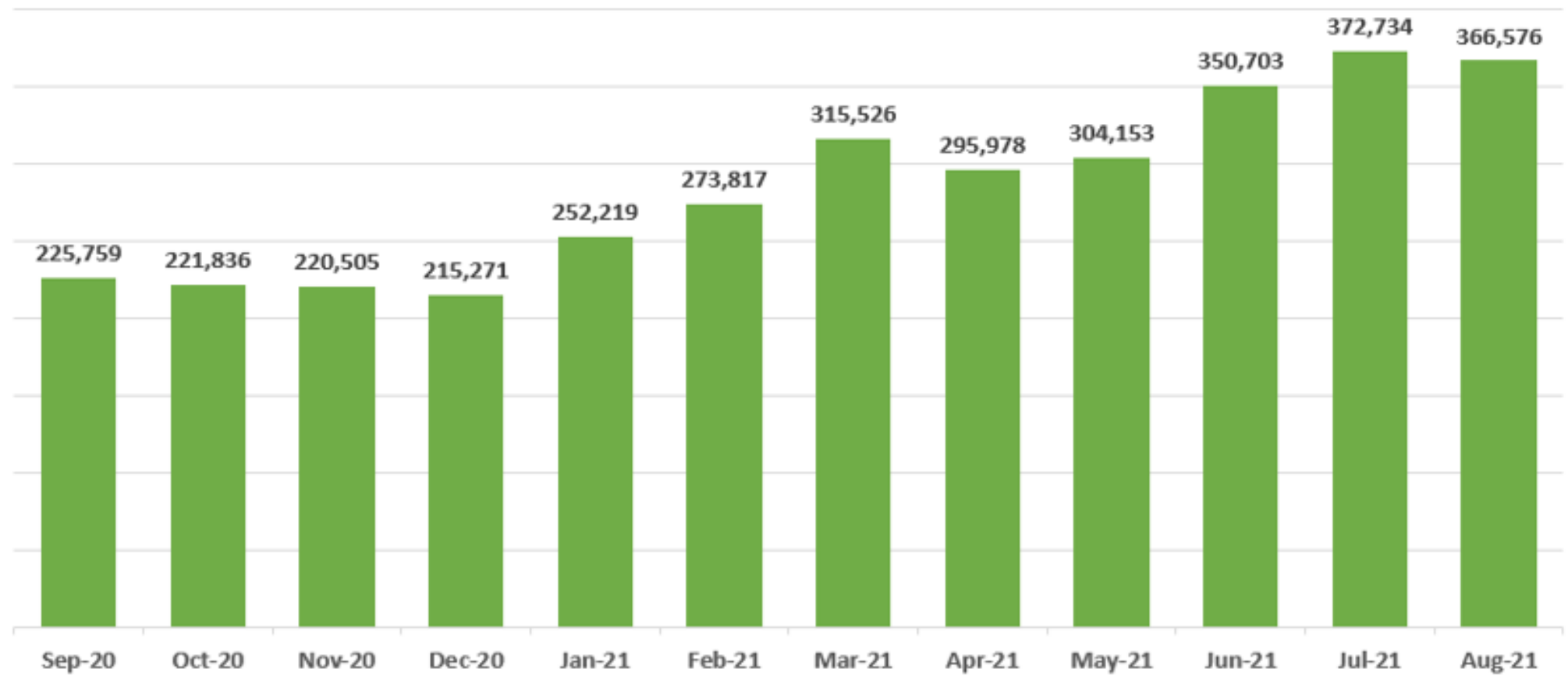
- The central EESSI central system was successfully delivered by the European Commission to the Member States in July 2017.
- The first exchange of an electronic message regarding a concrete case involving the social security situation of citizens, between Austria and Slovenia, took place on 10 January 2019.
- 32 countries are having live exchanges between institutions. 9 countries are now ready to exchange messages for all Business Use Cases.



# EESSI Production Volume

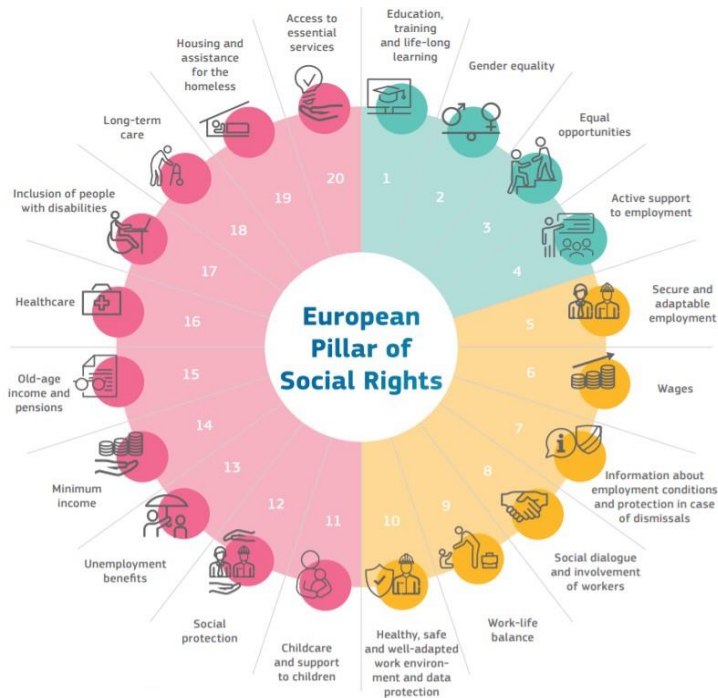
## New Cases Last 12 Months

**Since EESSI start**  
12,757,353 SEDs  
4,424,177 Cases



# European Pillar of Social Rights Action Plan

## Pillar 12: Social Protection



“ Social protection across national borders is a pre-condition of a well-functioning internal market. Existing and new forms of labour mobility facilitated by **digitalisation**, from generalised teleworking across borders to **digital nomads working remotely across the EU**, require seamless interactions between mobile workers and administrations, while reducing the risk of errors and fraud. Innovative solutions, notably digital ones, can facilitate the physical and virtual mobility of citizens, support the portability of social security rights and the cross-border verification of social security coverage by administrations, and address challenges in the identification of people for social security coordination purposes.

In the context of the European Pillar of Social Rights Action Plan, the Commission will:

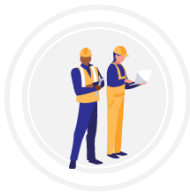
Start a **pilot in 2021 to explore a digital solution** to facilitate the interaction between mobile citizens and national authorities and improve the portability of social security rights across borders (**European Social Security Pass**).



# What is the European Social Security Pass?

The European Social Security Pass is a **blueprint for the end-to-end digitalisation of the social security coordination procedures**. It leverages on existing EU and national digital initiatives to facilitate the interactions between mobile citizens, workers, businesses and public or private social security institutions. The Pass focuses on the following three main areas:

1. **Digitalising** the processes for the **request and issuance of portable documents**;
2. Improving the **identification of mobile citizens and workers** when performing activities or accessing public services abroad; and
3. Introducing **real-time mechanisms for the cross-border verification** of the social security entitlements of mobile citizens and workers.



## Posted Worker's To-Be Journeys

Georgios is an employee of a construction company in Greece. His company is sending him to a site in Belgium for a duration of 1 year.

LIFE EVENT

WORKING ABROAD

MEMBER STATES  
IN THIS SCENARIO

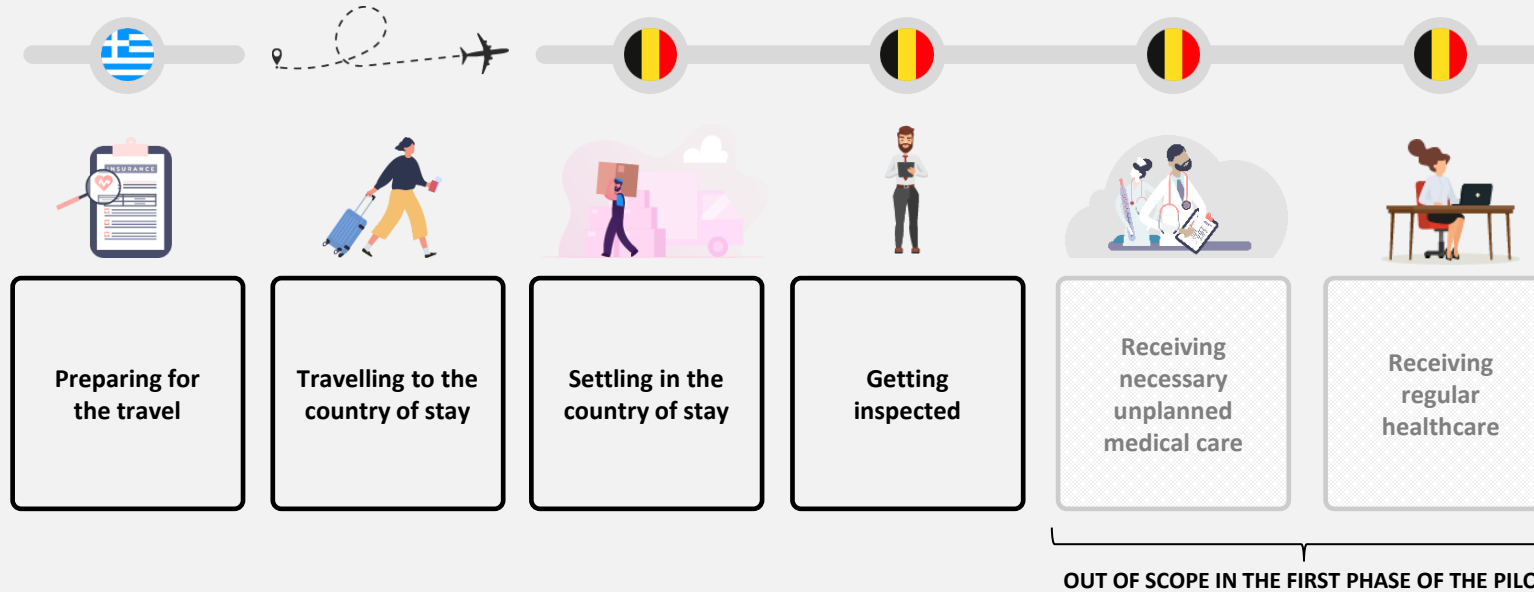


BELGIUM



GREECE

### USER EXPERIENCES



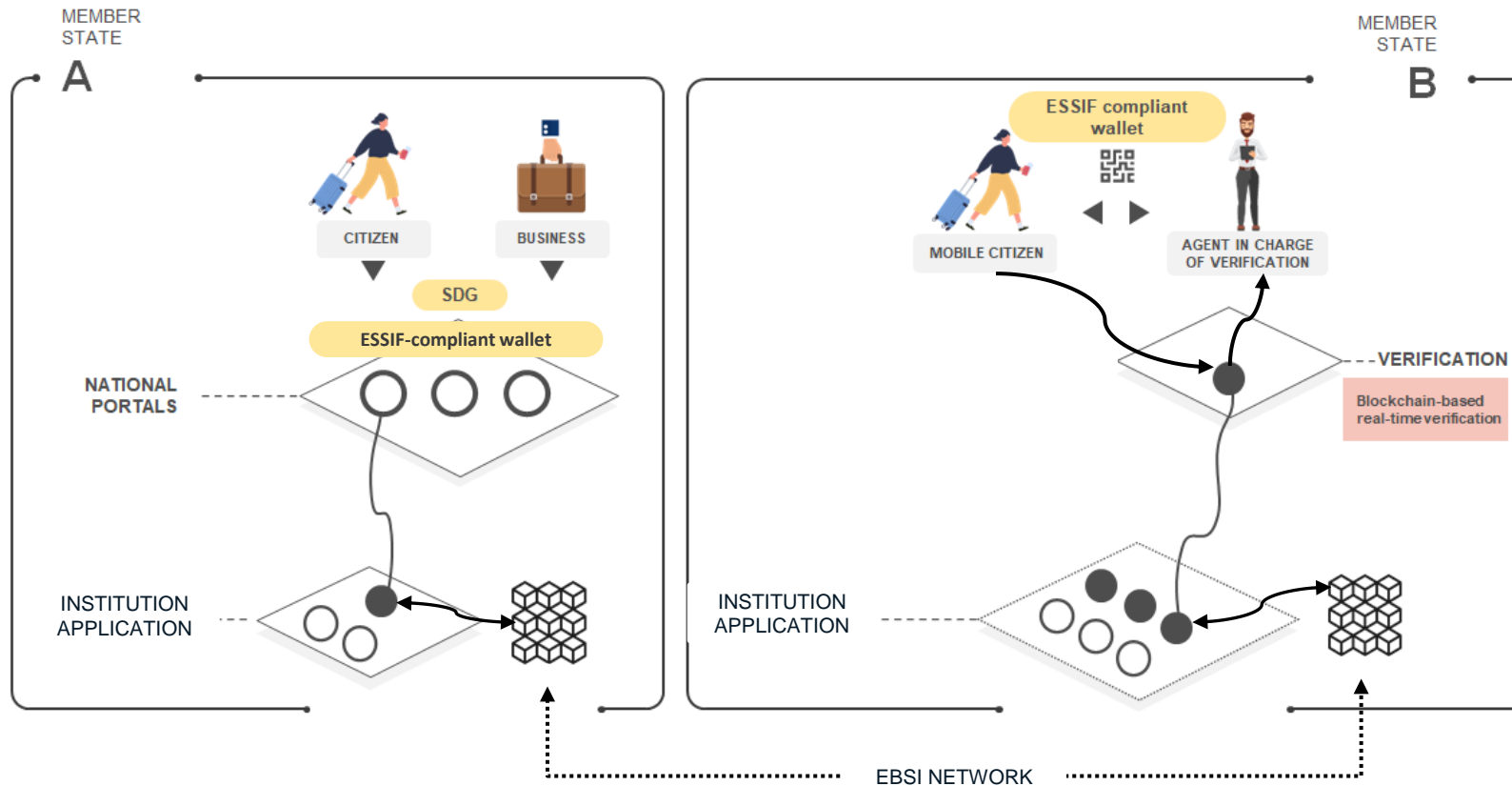
Focus on:

1. Issuance of PDA1

2. Verification of PDA1

# Solution blueprint

## DIGITALISATION PRINCIPLES AND BLUEPRINT



## KEY PRINCIPLES

- **Identification** fully relying on ESSIF compliant wallet
- No need to introduce a unique (pseudo) number
- **Verification** fully leveraging verifiable credentials and verifiable attestations
- No need to identify the person based on the minimum dataset. The verifiable attestation will be shared upon consent using QR-codes, or equivalent techniques

EBSI : European Blockchain Services Infrastructure  
 ESSIF: European Self Sovereign Identity Framework  
 SDG: Single Digital Gateway

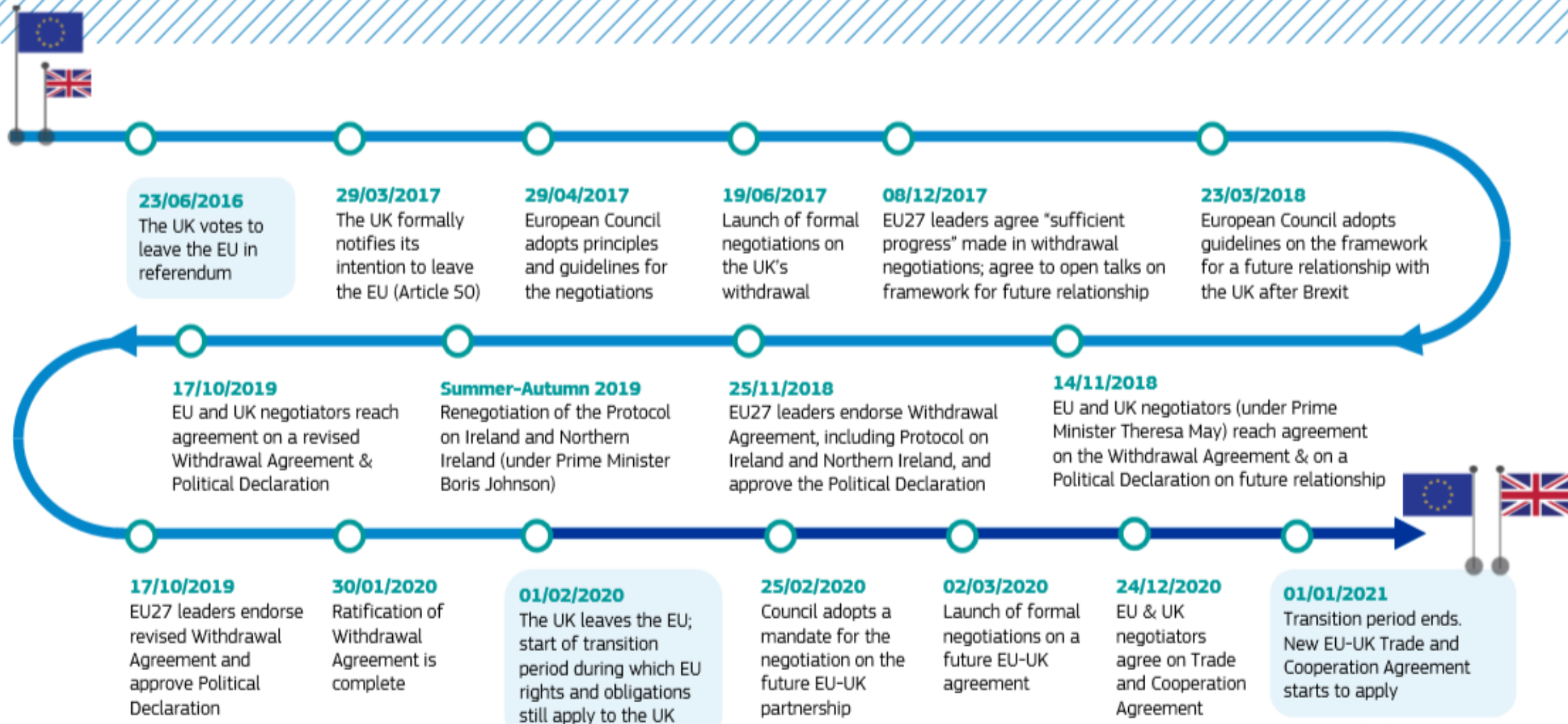
# EU-UK: a new relationship



**EU-UK Withdrawal Agreement**  
**EU-UK Trade and Cooperation Agreement**

# EU-UK RELATIONS:

## From the UK referendum to a new Trade and Cooperation Agreement





# The EU-UK Withdrawal Agreement

- Entered into force on 1 February 2020
- Transitional period until 31 December 2020
- Part Two: “Citizens’ rights” contains a chapter on social security coordination



## Full Coordination (Art. 30)

### ***Who benefits?***

- Those who have continuously been in a cross-border situation involving the EU and the UK since before the end of the transition period and their family members / survivors
  - E.g. EU nationals residing or working in the UK since 2020 or earlier

### ***Which rules apply?***

- The complete social security coordination acquis (Regulations (EC) Nos 883/2004 and 987/2009)



## Partial Coordination (Art. 32)

### ***Who benefits?***

- Persons who are not covered by Art. 30 but have been subject to UK / EU social security legislation before the end of the transition period

### ***Which rules apply?***

- EU rules concerning the aggregation of periods, rights and obligations deriving from such periods
- EU rules regarding the coordination of sickness and family benefits
- General principles of the EU Regulations, such as equality of treatment



## Other Aspects

- Triangulation: EU and UK have concluded agreements with Switzerland & the EEA EFTA States to protect persons in triangular situations
- UK has observer status in the Administrative Commission for the Coordination of Social Security Systems
- UK participates in the Electronic Exchange of Social Security Information for cases covered by the WA and bears the related costs
- Dynamic alignment in case the relevant EU Regulations are amended or replaced

# EU-UK Trade and Cooperation Agreement (TCA)

- Agreed between the EU and the UK on 24 December 2020
- Entered into force on 1 May 2021 (already applied since 1 January 2021)



## Main issues covered:

- Free Trade Agreement
- Framework for law enforcement and judicial cooperation
- Horizontal agreement on governance

# Protocol on Social Security Coordination

## ***Who is covered?***

All persons who

- are or have been covered by the social security legislation of an EU Member State or of the UK
- are legally residing in an EU Member State or the UK
- are or have been in a cross-border situation between an EU Member State and the UK as of 1 January 2021

# Protocol on Social Security Coordination

## *What is covered?*

- Full coordination of all branches of social security coordination that are currently coordinated under Regulation 883/2003 except:
  - Family Benefits
  - Long-term care
  - Special non-contributory cash benefits
  - Assisted reproduction services
- Partial coordination: invalidity benefits and unemployment benefits



# Protocol on Social Security Coordination

- Principle of non-discrimination between Member States
- Principle of equal treatment of persons covered
- Unicity of legislation
- Aggregation of periods of insurance/work/residence
- Waiving of residence clauses
- Sunset clause



# Protocol on Social Security Coordination

- The Protocol does not apply to:
  - Situations involving an UK national moving between two or more Member States → Regulation 1231/2010 applies
  - Cross-border situations involving Switzerland, Norway, Iceland and Liechtenstein
- The Protocol applies without prejudice to the Withdrawal Agreement
- The Protocol does not provide a right to reside and to work in respectively the UK or the EU
  - Only persons fulfilling the national requirements regarding visa/residence/labour market access can benefit from the Protocol





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Visit us @ <http://ec.europa.eu/social>



# MoveS seminar

## Cyprus

27 October 2021

# Recent developments on labour mobility post-Brexit

**Salvatore Sofia**

**European Commission, DG EMPL**

**Unit E1 – Labour Mobility, Public Employment Services, ELA**

# Overview

- *State of play on residence and work related rights*
- *Enforcement of the Citizens' rights part*

# State of play - Constitutive systems

**Table 1: applications for a new residence status in constitutive systems – overview**

	Total	Report date
<b>European Union</b>		<b>10 September 2021</b>
Estimated number of UK nationals and their family members that need to apply	293 900	
Applications received	257 200	
Applications concluded	232 100	
<b>United Kingdom</b>		<b>16 September 2021</b>
Estimated number of EU citizens and their family members that need to apply	3 500 000 – 4 100 000 <sup>5</sup>	
Applications received	6 159 800	
Applications concluded	5 709 200	

# State of play - Constitutive systems

**Table 2: applications for a new residence status in constitutive systems – by host State**

Host State	Estimated number of residents <sup>6</sup>	Total received	Total concluded	Report date
<b>European Union</b>	<b>293 900</b>	<b>257 200</b>	<b>232 100</b>	<b>10 September 2021</b>
Austria	11 500	6 400	5 200	30 June 2021
Belgium	18 600	6 800	5 200	27 August 2021
Denmark	19 000	10 900	7 100	23 August 2021
Finland	5 000	4 000	2 400	9 September 2021
France	148 300	162 100	151 300	6 September 2021
Hungary	5 500	1 100	800	31 July 2021
Latvia	1 200	800	800	31 August 2021
Luxembourg	5 300	4 400	3 800	1 September 2021
Malta	13 600	10 000	8 300	10 September 2021
The Netherlands	45 000	38 700	38 400	31 August 2021
Romania	3 000	900	800	31 August 2021
Slovenia	900	322	272	31 August 2021
Sweden	17 000	10 800	7 700	9 September 2021
<b>United Kingdom</b>	<b>3 500 000 – 4 100 000</b>	<b>6 159 800</b>	<b>5 709 200</b>	<b>16 September 2021</b>

# State of play - Constitutive systems

Table 3: outcomes for a new residence status in constitutive systems – by host State

Host State	Permanent residence (Article 15)	Non-permanent residence (Article 13)	Refused	Withdrawn or void	Incomplete	Report date
<b>European Union</b>	<b>136 400</b>	<b>79 900</b>	<b>3 300</b>	<b>7 900</b>	<b>6 500</b>	<b>10 September 2021</b>
Austria	3 200	2 000	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	30 June 2021
Belgium	2 300	2 500	75	<i>no data available</i>	<i>no data available</i>	31 August 2021
Denmark	5 700	1 200	135	39	*7	23 August 2021
Finland	1 300	1 100	7	35	0	9 September 2021
France	97 000	40 800	2 200 <sup>8</sup>	7 100	4 300	6 September 2021
Hungary	800	0	2	29	332	31 July 2021
Latvia	191	488	1	0	0	31 August 2021
Luxembourg	1 900	1 900	0	0	0	1 September 2021
Malta	600	7 700	0	0	1 700	10 September 2021
The Netherlands	22 200	15 600	250	388	<i>no data available</i>	31 August 2021
Romania	295	500	2	0	0	31 August 2021
Slovenia	120	138	2	12	50	31 August 2021
Sweden	800	6 000	600	286	80	9 September 2021
<b>United Kingdom</b>	<b>2 974 100</b>	<b>2 411 100</b>	<b>145 200</b>	<b>94 300</b>	<b>84 300</b>	<b>16 September 2021</b>

# State of play - Declaratory systems

**Table 1: applications for a new residence document in declaratory systems – overview**

	<b>Total</b>	<b>Report date</b>
<b>European Union</b>		<b>9 September 2021</b>
Estimated number of UK nationals and their family members that may apply	<b>754 700</b>	
Applications received	<b>245 200</b>	
Applications concluded	<b>208 100</b>	

# State of play - Declaratory systems

**Table 2: applications for a new residence document in declaratory systems – by host State**

Host State	Estimated number of residents <sup>9</sup>	Total received	Total concluded	Report date
<b>European Union</b>	<b>754 700</b>	<b>245 200</b>	<b>208 100</b>	<b>9 September 2021</b>
Bulgaria	11 000	9 400	9 400	30 August 2021
Czechia	9 500	2 100	1 800	31 July 2021
Germany	85 400 <sup>10</sup>	<i>no data available</i>	25 000 <sup>11</sup>	31 July 2021
Estonia	1 500	400	354	31 August 2021
Ireland	115 000	87	87	30 April 2021
Greece	34 000	14 600	14 300	8 September 2021
Spain	381 400	168 700	141 700	2 September 2021
Croatia	1 100	700	700	31 August 2021
Italy	32 800	11 000	9 700	9 September 2021
Cyprus	38 500	2 100	1 400	6 September 2021
Lithuania	700	190	172	3 September 2021
Poland	6 500	2 900	2 200	6 September 2021
Portugal	34 500	31 700	<i>no data available</i>	29 August 2021
Slovakia	2 800	1 300	1 300	24 August 2021



# State of play - Declaratory systems

**Table 3: outcomes for a new residence document in declaratory systems – by host State**

Host State	Permanent residence (Article 15)	Non-permanent residence (Article 13)	Refused	Withdrawn or void	Incomplete	Report date
<b>European Union</b>	<b>98 200</b>	<b>77 900</b>	<b>2 469</b>	<b>938</b>	<b>75</b>	<b>8 September 2021</b>
Bulgaria	2 000	7 400	0	3	2	30 August 2021
Czechia	431	1 300	6	83	2	31 July 2021
Germany	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	31 July 2021
Estonia	119	235	0	0	0	31 August 2021
Ireland	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	30 April 2021
Greece	9 300	4 900	3	6	53	8 September 2021
Spain	81 200	57 300	2 400	800	<i>no data available</i>	2 September 2021
Croatia	196	499	0	3	0	31 August 2021
Italy	3 300	3 200	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	8 June 2021
Cyprus	600	700	0	0	0	6 September 2021
Lithuania	68	104	0	0	18	3 September 2021
Poland	500	1 500	60	43	*12	6 September 2021
Portugal	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	<i>no data available</i>	29 August 2021
Slovakia	489	800	0	0	0	24 August 2021

## State of play - Frontier workers

- MS legislation and procedure for applying for the frontier worker document

[https://ec.europa.eu/info/sites/info/files/20210329\\_table\\_on\\_procedure\\_for\\_frontier\\_worker\\_document\\_en.pdf](https://ec.europa.eu/info/sites/info/files/20210329_table_on_procedure_for_frontier_worker_document_en.pdf)

- UK legislation on EU Frontier workers within the scope of the Withdrawal Agreement

<https://www.legislation.gov.uk/ukxi/2020/1213/contents/made>

# Enforcement of the Agreement as regards the Citizens' rights part

- *In the EU*

[https://ec.europa.eu/info/sites/info/files/enforcement\\_of\\_individual\\_rights\\_under\\_the\\_withdrawal\\_agreement\\_v5\\_en.pdf](https://ec.europa.eu/info/sites/info/files/enforcement_of_individual_rights_under_the_withdrawal_agreement_v5_en.pdf)

## *In the UK*

*The Independent Monitoring Authority*

<https://ima-citizensrights.org.uk/>

# State of play - Posted workers

- *After Brexit*
- *State of transposition of Directive 2018/957/EU*

# Gibraltar

- *The TCA does not apply to Gibraltar, nor does it have any effects on its territory.*
- *Discussion on Gibraltar's future relationship with the EU*
- *Non-paper setting out an agreed framework + request to initiate negotiations of an EU-UK agreement on Gibraltar.*
- *On 30 September 2021 the Council adopted the negotiation mandate recommended by the Commission. Negotiations ongoing with the UK.*
- *The EU workers who worked in Gibraltar before 1 January 2021 and continue to work there: they keep their rights.*

# Additional information

[https://ec.europa.eu/info/relations-united-kingdom/eu-uk-withdrawal-agreement/citizens-rights\\_en#more-information](https://ec.europa.eu/info/relations-united-kingdom/eu-uk-withdrawal-agreement/citizens-rights_en#more-information)

<https://www.eurightshub.york.ac.uk/>

# Cross-border health care: Recent developments

prof. dr. Grega Strban

MoveS seminar: Recent developments concerning Free Movement of Workers and Social Security Coordination on the EU level, and assessment of impacts on Cypriot law and practice (emphasis on posting, family benefits, Brexit, and healthcare), Cyprus (on-line), 27 October 2021

# Introductory thoughts

- **Always an intriguing topic**
- When is cross-border healthcare required?
- Cross-border healthcare provision
  - Not export of benefits *stricto sensu*, but
  - „export“ of the right to healthcare



# Introductory thoughts

- **Legal grounds**

- National law
- Bilateral social security agreements (database)
- Multilateral (social security) agreements
  - a.o. Trade and cooperation agreement with UK (TCA)
    - Protocol on social security coordination
    - e.g. LTC (in EU linked to cross-border healthcare) is excluded
      - MS have to list benefits (in Part 2 of Annex SSC-1)
      - Could this list be used *a contrario* to establish LTC benefits under the amended SSC Regulation?

# Cross-border healthcare within EU

- Coordination of social security systems – Regulation (EC) 883/2004
  - Three situations
  - Two paradoxes

# Cross-border healthcare within EU

- Free movement of (medical) goods and (medical) services
  - Open questions
    - Personal scope?
    - Material scope?
      - Vaccination against Covid-19 in another MS?
      - Medical treatment of Covid-19 patients in another MS?
      - Coordinated social security or uncoordinated social compensation or free movement of medical services?
    - Distinguishing between moving and non-moving persons?

# Latest CJEU decisions - WO

- C-777/18 WO, 23 September 2020
  - Facts of the case
  - Regulation (EC) 883/2004
    - Was medical treatment urgent or planned?
      - If planned, prior authorisation is required
    - Was is public or private?
  - Is it required to reimburse medical costs also without prior authorisation?
    - Denied against the law
    - Urgency of treatment

# Latest CJEU decisions - WO

- Directive 2011/24/EU and Art. 56 TFEU
  - Prior authorisation is an obstacle to (passive) freedom of movement
  - Can it be justified?
    - Hospital treatment or costly treatment?
    - Proportionality of the measure, if prior authorisation is always required?
    - Always individual assessment
      - Including procedure (deadline for issuing a decision) ...

# Latest CJEU decisions - *Veselības ministrija*

- C-243/19 *Veselības ministrija*, 29 October 2020
  - Facts of the case
  - Regulation (EC) 883/2004
    - Medical treatment is among benefits in LV
    - But, medically equally efficient treatment is readily available in LV
    - Only medical situation of a patient is relevant, no personal choice
  - Charter of fundamental rights EU (CFR-EU)
    - Indirect discrimination based on religion
    - But, it can be justified (safeguarding financial balance of social security)

# Latest CJEU decisions - *Veselības ministrija*

- Directive 2011/24/EU in relation to the CFR-EU
  - Is it possible to justify indirect discrimination based on religion?
  - No higher costs
  - Final decision by national court
- More general questions
  - Should only medical situation be relevant when authorising CB hc?
  - Or, shall medical treatment not only be necessary and provided *lege artis*, but also adjusted and acceptable (in the environment and for the individual)?
  - Prior authorisation is not the same under the Regulation and under the Directive!

# Latest CJEU decisions - A

- C-535/19 A (also against LV Veselības ministrija), 15 July 2021
  - Facts of the case
  - Distinction between social security and social (and medical) assistance
  - Relation between Regulation (EC) 883/2004 and Directive 2004/38/EC
    - Period between 3 months and 5 years
    - Both instruments contain equal treatment clause
    - For coverage Regulation, for payment Directive?
    - Priority of MS public finances?



# Latest CJEU decisions - *CAK*

- C-636/19 *CAK*, pending
  - Facts of the case
  - Question of insured person
  - Referral to a third country is not new
  - Denying prior authorisation in all cases is not proportionate and limits free movement of services

# Concluding remarks

- Rather dynamic legal landscape
- All cases shall be considered individually, general and absolute restrictions are disproportionate
- CJEU could provide more clarity (or even more dynamically construe a combination of various legal acts)?

# Brexit and Social Security

Prof. Herwig VERSCHUEREN  
University of Antwerp

Nicosia (online), 27 October 2021

# Overview

- Withdrawal Agreement (WA)
  - OJ L 29 of 31 January 2020
  - Guidance note of the European Commission (EC)
    - OJ C 173 of 20 May 2020
- Trade and Cooperation Agreement (TCA)
  - OJ L 149 of 30 April 2021
  - Protocol on Social Security

# Withdrawal Agreement (WA)

## Continued application of the complete EU social security coordination (EU SSC)

- Principles: Article 31 WA
  - EU social security coordination **remains fully applicable**
    - But not the Patient Mobility Directive 2011/24
  - For the persons defined in Article 30 (see further)
  - For 3<sup>rd</sup> country nationals: reference to Regulation 859/2003 and Regulations 1408/71 and 574/72

# Continued application of the complete EU SSC

- Principles: Article 31 WA
  - Reference to the **'rules and objectives'** set out in Article 48 TFEU and the regulations
  - The EU and the UK 'shall take due account of the Decisions and Recommendations of the Administrative Commission'

# Continued application of the complete EU SSC

- Article 39: Lifelong protection
  - ‘shall enjoy the rights ... for their lifetime, unless ... cease to meet the conditions’
  - Such situations may continue to exist for decades to come



# Continued application of the complete EU SSC

- Persons covered (Article 30)
  - Persons in a cross-border situation between the UK and a Member State (MS) on 31 December 2020
    - Union citizens subject to UK legislation and vice versa
    - Union citizens residing in the UK but subject to the legislation of a MS and vice versa (frontier workers)
    - Posted workers
    - Working in the UK but subject to the legislation of a MS, and vice versa (multi-state employment)

# Continued application of the complete EU SSC

- Persons covered (Article 30)
  - Includes their family members and survivors
    - For derived rights and obligations (Article 30(5) WA)
    - These persons don't have to be in a cross-border situation on 31 December 2020
    - For instance: access to health care in the MS of residence
  - Also applies to stateless persons, refugees and 3<sup>rd</sup> country nationals

# Continued application of the complete EU SSC

- Persons covered (Article 30)
  - Paragraph 2: ‘for as long as they continue without interruption to be in one of these situations’
- Guidance note:
  - ‘short periods in between two situations are not harmful, for instance a break of one month before starting a new contract’

# Continued application of the complete EU SSC

- Examples
  - A UK national working in Cyprus, but changes employment in Cyprus
  - A Cypriot national posted to the UK
    - Situation ends at the end of the posting
    - But continues when this person, after the end of the posting period, starts working for an employer in the UK
  - Switch between categories of Article 30(1) is possible

# Continued application of the complete EU SSC

- Definitions used (Article 31(2) WA)
  - The definitions of Article 1 Reg. 883/2004 apply
    - And not definitions in other instruments such as Dir. 2004/38
  - See definition of:
    - ‘activity as an employed or self-employed person’
    - ‘family member’
    - ‘residence’
    - ‘stay’

# Partial application of the EU SSC

- Situations not covered by Article 30 WA
  - Cross-border situations that took place only prior to or after 31 December 2020
    - Having worked in the UK during a period prior to 31 December 2020
  - Cross-border situations existing on 31 December 2020 but which are discontinued afterwards

## Partial application of the EU SSC

- Reliance on past periods of insurance, employment or residence (Article 32(1)(a))
  - Application of the rules on aggregation of periods before and after 31 December 2020 and all rights and obligations deriving thereof
    - Manner of calculation and export of benefits (pensions)
    - Includes the right to sickness and family benefits related to these benefits (Article 32(2))
    - May lead to a revival of the application of the provisions of EU SSC

## Partial application of the EU SSC

- Health care (Article 32(1)(b) and (c))
  - For requests for a prior authorisation submitted before 31 December 2020
  - Stay in a MS or the UK on 31 December 2020 and prolonged afterwards (EHIC)
- Sickness benefits as a derived right for family members in a cross-border situation on 31 December 2021 (Article 32(1)(e))



# Partial application of the EU SSC

- Family benefits (Article 32(1)(d))
  - Continued entitlement to (export) family benefits for which there was an entitlement on 31 December 2020
    - Therefore not for children born after 31 December 2020

## Future amendments to EU SSC

- Future amendments to the EU SSC will also apply to situations covered by the WA (Article 36 WA)
  - Amendments have to be confirmed by the Joint Committee
- Confirmation is mandatory except for amendments:
  - To the material scope of the EU SSC
  - On the exportability of benefits
  - Joint Committee has six months to decide not to align

# Trade and Cooperation Agreement (TCA)

## TCA: main provisions: Articles 488-491

- Reference to ‘Protocol on Social Security Coordination’
- Applies to all persons legally residing in a MS or the UK
  - Right to cash benefits based on previous periods of legal residence are not affected
- Only in situations arising between one or more MSs and the UK
  - Not in purely internal situations

## TCA: main provisions: Articles 488-491

- MSs and the UK have the right to charge a health fee in connection with the application for a permit to enter, to stay, to work, or to reside
  - In the UK: up to £624 per year
  - To be paid upfront
  - Unless the costs are to be borne by an EU MS: frontier workers, pensioners, planned health care (S1 or S2): reimbursement of the fee
- The Protocol does not cover or affect the right to enter, stay or work in a Member State

# Protocol on Social Security Coordination

- 71 ‘SSC’ Articles
- 8 Annexes ‘SSC’
  - Including Annex SSC-7: ‘Implementing Part’
    - with 75 ‘SSCI’ Articles and 3 Appendixes
- 246 pages in the Official Journal
- Fully fledged multilateral (international) social security coordination between the 27 MSs and the UK
- Sunset clause (Article SSC.70): it will cease after 15 years

# Protocol on Social Security Coordination

- Definitions (Article 1): comparable to the definition of Reg. 883/2004
- Personal scope (Article 2): persons who are or have been subject to the legislation of one or more States
  - Irrespective of their nationality
  - Including family members and survivors
  - But: application of the WA has priority

# Protocol on Social Security Coordination

- Material scope (Article 3):
  - See scope of Reg. 883/2004
  - Excluded, in particular:
    - Special non-contributory cash benefits (list in Annex SSC-1)
    - Social and medical assistance
    - Assisted reproduction services
    - Long-term care benefits (list in Annex SSC-1)
    - Benefits linked to expenses for heating in cold weather (list in Annex SSC-1)
    - Family benefits



# Protocol on Social Security Coordination

- Provisions on
  - Equal treatment (Articles SSC.5 and SSC.6)
  - Aggregation of periods (Article SSC.7)
  - Waiving of residence clauses (Article SSC.8), except for:
    - Invalidity benefits
    - Unemployment benefits

# Protocol on Social Security Coordination

- Provisions on the determination of the applicable legislation
  - Comparable to the rules in Reg. 883/2004, but:
    - No provision on unemployed frontier workers
    - No provisions on the entitlement to unemployment benefits for frontier workers at all
  - On ‘Detached workers’ (Article SSC.11)
    - Comparable to the rules on posting in Reg. 883/2004
    - Possibility to opt in: but all MSs opted in

# Protocol on Social Security Coordination

- Provisions on the determination of the applicable legislation
  - On ‘multi-state’ activities (Article SSC.12)
    - Comparable to the rules in Reg. 883/2004
    - Special provision on multi-state activities in MSs (but not in the UK) in case the employer is located in the UK or the self-employed person has the centre of interest in the UK
      - Submission to the legislation of the UK
  - No equivalent to Article 16 Reg. 883/2004
    - Possibility of the MSs to agree on exceptions

## Protocol SSC: Title III: special provisions

- Mirrors Reg. 883/2004
- Sickness benefits
  - EHIC for EU MSs
  - ‘Global Health Insurance Card’ for the UK
- Limited coordination for invalidity benefits
  - No pro rata calculation
  - Only calculation pursuant to national law
  - No export
- Unemployment benefits
  - No provisions on frontier workers
  - No export for jobseekers

## UK nationals as 3<sup>rd</sup> country nationals

- May rely on Reg. 1231/2010 extending the scope of the EU SSC to 3<sup>rd</sup> country nationals
  - When the WA or the TCA don't apply
  - UK nationals in a cross-border situation between MSs, with no link with the UK

## UK nationals as 3<sup>rd</sup> country nationals

- Covered by the EU Directives applicable to 3<sup>rd</sup> country nationals, such as:
  - Directive 2003/109 (Long term residence)
  - Directive 2009/50 (Blue Card)
  - Directive 2011/95 (Single Permit)
  - Directive 2014/66 (ICT)
  - Directive 2016/801 (Researchers and students)
- Contain provisions on equal treatment for matters covered by Reg. 883/2004
  - Including benefits excluded from the scope of the Protocol

## Future bilateral agreements?

### Council Decision (EU) 2021/689 of 29 April 2021

- ‘The Member States are empowered to negotiate, sign and conclude **bilateral agreements with the UK** ..... in the area of **social security coordination** as regards subject **matters not covered** by the Protocol on SSC, subject to the following conditions:
  - The ... agreement shall be compatible with, and shall not undermine, the functioning of the TCA or of the internal market;
  - It shall be compatible with Union law;
  - It shall comply with the principle of non-discrimination on grounds of nationality enshrined in the TFEU.’

## To conclude

- Complex set of provisions
- WA will be applicable for decades to come
- Protocol: sunset clause
- Situations and rights may change over time
- Problems of interpretation will rise



Thank you for your attention  
[herwig.verschueren@uantwerpen.be](mailto:herwig.verschueren@uantwerpen.be)

# The EURES Network and the challenges ahead

**The Network that facilitates Job Mobility in Europe**

[www.eures.gov.cy](http://www.eures.gov.cy)

[www.eures.europa.eu](http://www.eures.europa.eu)

Antonios Kafouros  
EURES Cyprus NCO  
8 June 2021



# Presentation Content

1. EURES Background
2. How the EURES Network Works
3. The EURES Portal
4. Leaving the Pandemic behind – the challenges



# Background

- EURES was set up in 1993 by the EU to help European Jobseekers to find employment throughout Europe
- The most frequently visited portal of the European Union.
- The network operates based on a new EU Regulation (2016/589) – “*On a European network of employment services (EURES), workers' access to mobility services and the further integration of labour markets*” – Helping EU citizens to become mobile workers and Promoting the freedom of movement of workers is now a Law for all..
- The new Regulation is enabling the *transparent exchange of vacancies and job applications in Europe, making European labour markets open to all citizens.*
- EURES is becoming a “*TRUE*” *matching tool for vacancies and CVs* fostering employment and working mobility in the EU.
- EURES has moved under the new **European Labour Agency (ELA)** in June 2021.



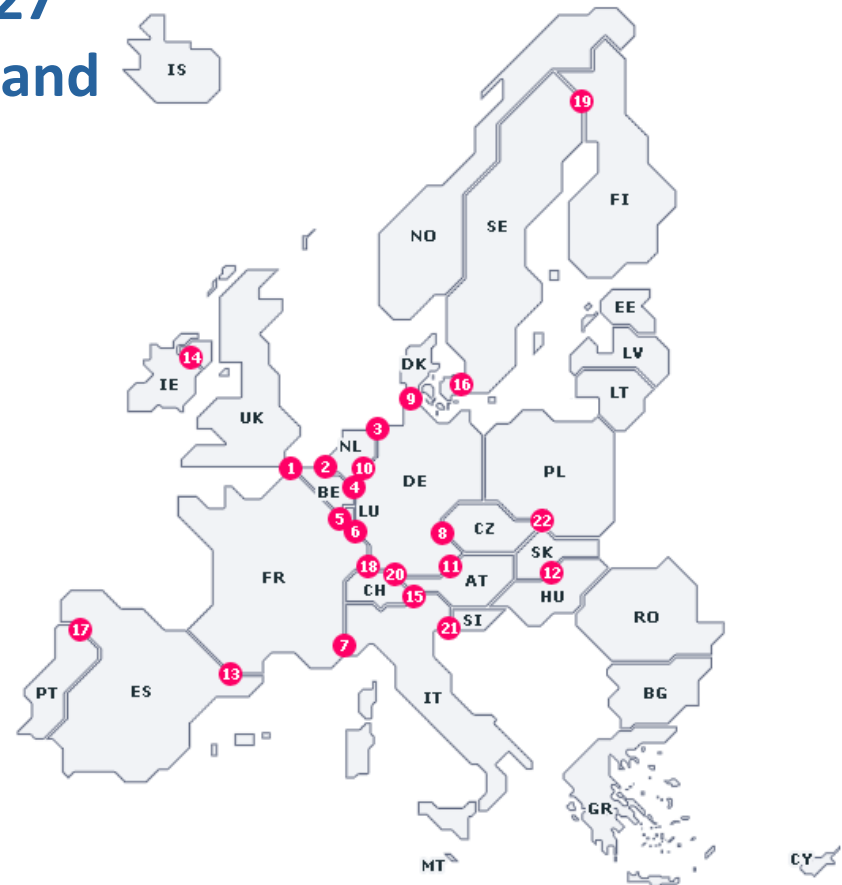
## Why Labour Mobility is of high importance for the European Union

- Limited geographical mobility
- High number of unfilled jobs in many countries
- High unemployment rates co-existing with bottleneck vacancies and skills shortages across the Union
- Free movement of workers is one of the fundamental rights of European citizenship

# The EURES Network

Co-operation network between the European Commission and the 27 EU Member States and Switzerland and the EEA countries (Norway, Iceland, Lichtenstein)

**BREXIT** - a strong ally of the Network is no longer with us





# EURES Purpose

## EUropean Employment Services

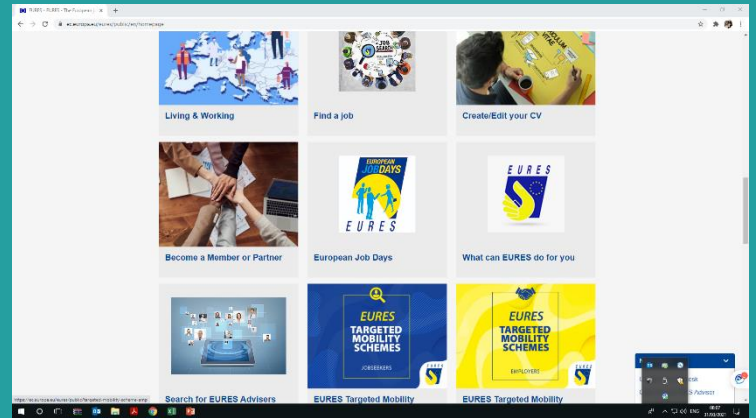
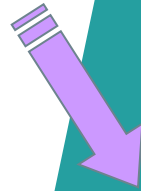
- Provide **information, advice and guidance** to potentially mobile workers on job opportunities as well as living and working conditions in the EU Area
- Provide **services to jobseekers and employers** for recruiting/placing to available positions in 31 countries (including the EEA countries)
- Provide **services to employees, jobseekers** and any citizen wishing to benefit from the **principle of free movement within the EU.**

# How the Network Works

The Network is based on two important axes:



**Human Axis-  
The EURES Advisers**



**EURES Web Portal**

Between them, they provide a broad range of information, vacancies and CVs





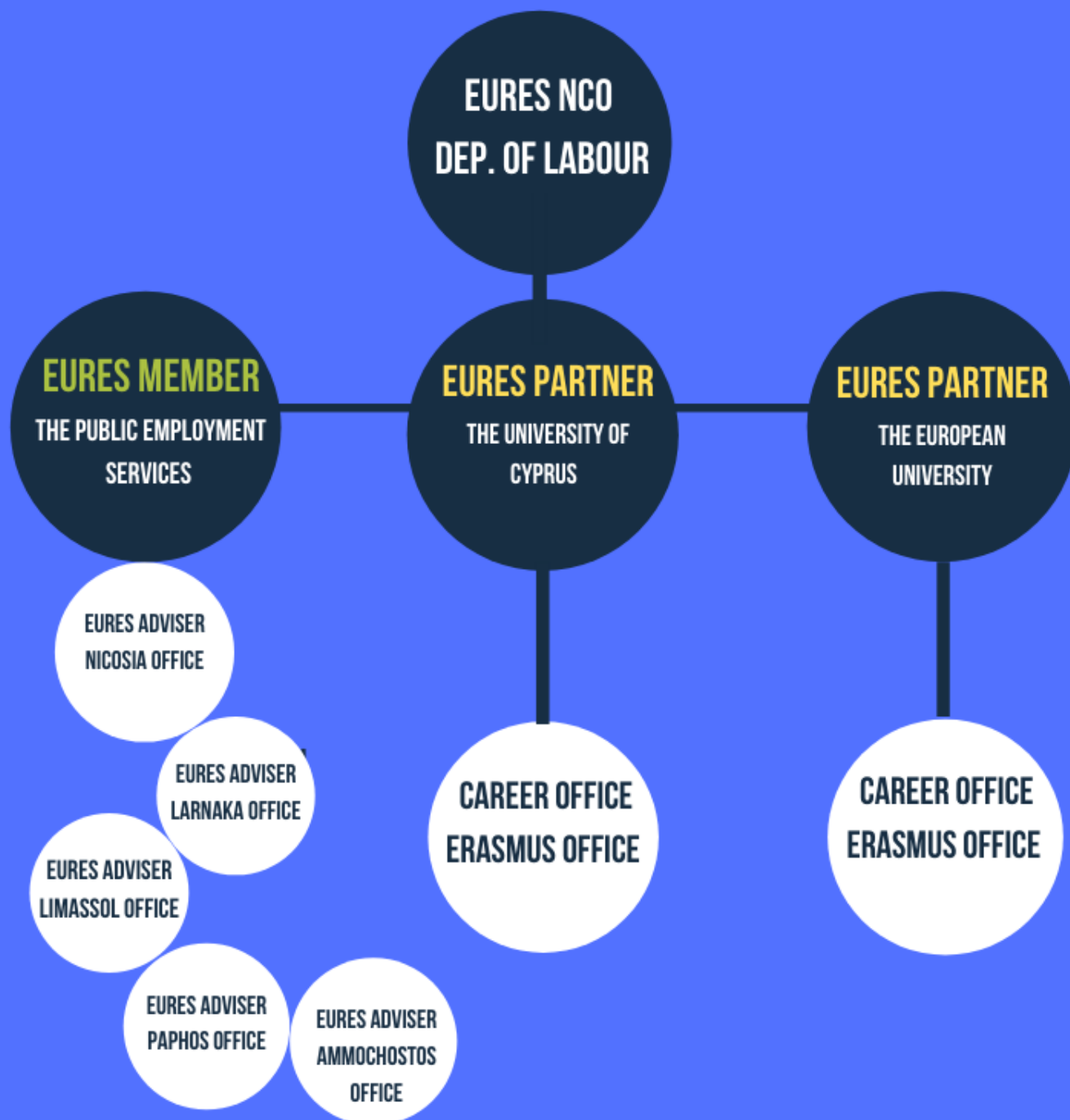
# EURES Advisers

- EURES offers a ***network of more than 1000 EURES Advisers around Europe*** who provide information and support to jobseekers and employers through personal contacts.
- EURES advisers are ***trained specialists*** who provide the three basic services:
  - *information,*
  - *advice and*
  - *guidance*

for placement in vacancies existing in Europe

- They work **within the EURES national structure** in all Member States in the EU and EEA

# EURES CYPRUS NETWORK





# The EURES Portal

[www.eures.europa.eu](http://www.eures.europa.eu)



English EN

Search

European Commission > EURES > Home

## EURES The European Job Mobility Portal

Statistics Help and support Links Log in

Home **Jobseekers** Employers Living & Working EURES Services

### Work anywhere in Europe

Search. Find. Match.

Find a job

Find candidates

Country information

Log in

**2,910,675**  
JOBS ON EURES TODAY

**822,519**  
CVS

**4,950**  
EMPLOYERS

**967**  
EURES ADVISERS

Need help?

Contact the Helpdesk  
Chat with a EURES Adviser



Living & Working



Find a job



Create/Edit your CV



Become a Member or Partner



European Job Days



What can EURES do for you



Search for EURES Advisers



EURES Targeted Mobility



EURES Targeted Mobility

# Find a job in Europe

There are currently **2911795** jobs waiting for you!

Keywords, company, job title, ... All European Countries Search

Advanced search

Specific data quality disclaimer and terms of use for job vacancies

Jobs by

Location Sector Occupations

Austria (68405)	Greece (4802)	Norway (36790)
Belgium (190913)	Hungary (4275)	Poland (21868)
Bulgaria (6963)	Iceland (111)	Portugal (2235)
Croatia (5658)	Ireland (688)	Romania (8533)
Cyprus (4770)	Italy (14677)	Slovakia (15)
Czech Republic (87391)	Latvia (16310)	Slovenia (819)
Denmark (1773)	Liechtenstein (256)	Spain (23655)
Estonia (1713)	Lithuania (6438)	Sweden (57859)
Finland (27034)	Luxembourg (1499)	Switzerland (9429)
France (497999)	Malta (307)	
Germany (609270)	Netherlands (165936)	

1  
3



English EN

European Commission > EURES > Living & Working

# EURES Διαβίωση και εργασία σε μια χώρα

Statistics Help and support Links Log in

Home Jobseekers v Employers v Living & Working ^ EURES Services v

Austria	Czech Republic	Germany	Italy	Netherlands	Slovakia
Belgium	Denmark	Greece	Latvia	Norway	Slovenia
Bulgaria	Estonia	Hungary	Lithuania	Poland	Spain
Croatia	Finland	Iceland	Luxembourg	Portugal	Sweden
Cyprus	France	Ireland	Malta	Romania	Switzerland



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Contact EURES Helpdesk  
Data Protection Statements

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Commission and its priorities  
Policies information and services

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### European Union

EU institutions  
European Union

Need help? v

- Contact the Helpdesk
- Chat with a EURES Adviser



# Where the EURES portal can be useful

- Through the EURES portal you have access to information from a network of **1000 EURES Advisers** across Europe
- Selecting "**Search for a Job**" you have access millions of jobs in 31 European countries (real time).
- **Create your personal «EURES» account.** To **subscribe** to EURES as a jobseeker, you must complete the **registration form** found on the Portal. After completing the process you will receive in your **e-mail** a **confirmation message**, where you will find a link to verify the address of your email.
- Once you have your personal account at EURES you can **post your CV on-line** to make it available to search to thousands of registered employers from Europe. Whenever your resume **meets the criteria** of an employer, the employer has the ability to send you quick and easy communication request through the EURES portal.



# EURES Services

- EURES services are completely **free of charge**.  
Advertising is not allowed.
- **Employers are not allowed to ask for any payment** from jobseekers concerning placements.





# EURES Cyprus - [www.eures.gov.cy](http://www.eures.gov.cy)

eures.gov.cy/



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- + Living & Working in Cyprus
- + Jobseekers
- + Employers
- News and Events
- Useful Links & Downloads
- EURES for Single Digital Gateway
- Contact us

## Welcome to our Website

**CYPRUS & EU CAREER FAIR: TOMORROW EMPOWERED**

08 JUNE 2021

Online event

REGISTER FOR THIS EVENT

8/6/2021 - "Cyprus & EU Career Fair: Tomorrow Empowered"

### QUICK LINKS

ENTER TITLE HERE

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EURES CYPRUS  
SERVICES

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PRESS AND INFORMATION OFFICE



\*\*\*\*\*

### **Important Announcement regarding EURES Services during COVID-19 pandemic:**

EURES Cyprus announces that, until further notice, the services provided by the EURES Advisers in Public Employment Services (PES), will only be provided through telephone or email:



# European On line Job Days

[www.europeanjobdays.eu](http://www.europeanjobdays.eu)

INTERESTED IN FINDING A JOB IN EUROPE?

## SLOVENIAN CROSS BORDER ONLINE JOB DAY

08 APRIL 2021  
Online event

The Slovenian Cross Border Online Job Day event will take place ONLINE only on 8 April 2021, from 11 a.m. to 4 p.m. (CET) and give a jobseeker looking for new job opportunities in a beautiful part of Adriatic region bordered by Slovenia, Croatia and Italy? Then you are at...

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INTERESTED IN FINDING A JOB IN EUROPE?

## FINLAND - NORWAY - SWEDEN DAY

15 APRIL 2021  
Online event

Look up and discover the north and the opportunities on offer in Finland, Norway and Sweden. This is an opportunity for you to find work and for the employer to find the right people. Finland, Norway and Sweden are arranging an online recruitment event to provide you with the chance...

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INTERESTED IN FINDING A JOB IN EUROPE?

## HELP2HARVEST2021 - HORTICULTURE RECRUITMENT EVENT - IRELAND

22 APRIL 2021  
Online event

Welcome to "Help2Harvest2021" - Horticulture European Online Job Day, Ireland Are you a jobseeker looking for a career in the Horticulture sector in Ireland? We all know how important trips to the shops to buy food have become in the past year, Ireland's farmers and food producers are looking for...

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INTERESTED IN FINDING A JOB IN EUROPE?

## MAKE IT IN GERMANY 2021 - TAKE YOUR CHANCE!

28 APRIL 2021  
Online event

Are you looking for a job in Germany? Do you need information about the German labour market? Join us at Make It in Germany 2021 and take YOUR Chance now! Save the date and visit our online event on 28 April 2021 between 2.00 pm and 4.30 pm (CEST)...

[VISIT THE EVENT PAGE](#)

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# Lessons Learned from Covid

- Working from home is not science fiction anymore
- Most Member States face recruitment difficulties in similar economic sectors raising competition in the labour market for the best talents
- Young jobseekers and long term unemployed face more difficulties finding a job
- Digitalisation and automation place pressure on the labour market to keep up with the rapid changes
- Working from home for an Employer abroad complicates the social security and taxation coordination around Europe.



# EURES Network challenges

- Strengthen support to employers regarding new ways of working and find new methods to satisfy recruitment needs with innovative offers
- Discover the new sectors of the future to train or inform young jobseekers but also students in secondary schools looking for a career
- Define a European strategy and approach on how to help the shortages that all MS face in similar sectors
- Provide a better mix of on line and on site tools, events, job fairs
- Tightening the links between eures and other European networks such as PES network, Erasmus+, Europass, etc..
- Invest in online tools such as video chatting for providing services to our clients, social media, interview simulators, online appointment fixing tools etc
- Expand the services to non-European jobseekers or asylum seekers and refugee status people with work permits
- Become more actively involved with Universities and other higher education institutes in order to promote EURES in students and graduates



# EURES

Facilitating Job Mobility in Europe



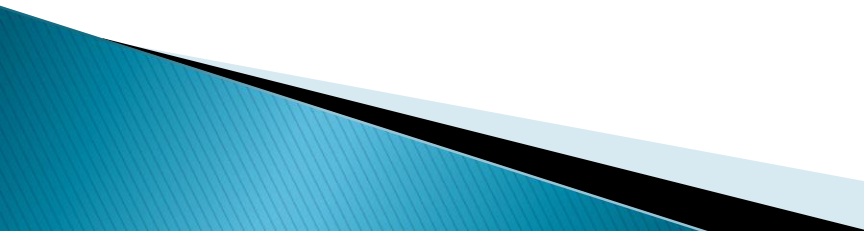


Solutions to problems with your EU rights

# “The operation of SOLVIT network in Cyprus”

*27 October 2021*  
*On -Line*

# What is Solvit;

- ▶ It is a user-friendly service, free of charge , design to help EU citizen and businesses find fast and pragmatic solutions to their internal market problems.
  - ▶ Solvit consists of a network of 30 countries (27 ms plus Iceland, Liechtenstein and Norway)
  - ▶ Aspiring to become the default problem solving mechanism of EU
- 

# How it works;

- ▶ <http://ec.europa.eu/avservices/video/player.cfm?ref=1079671&sitelang=en&videolang=en>



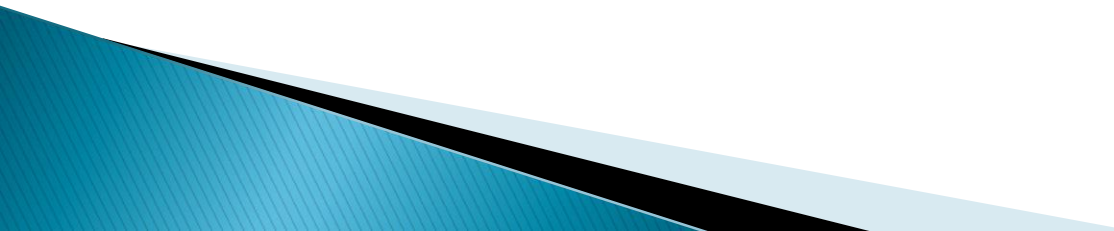


# Solvit Criteria

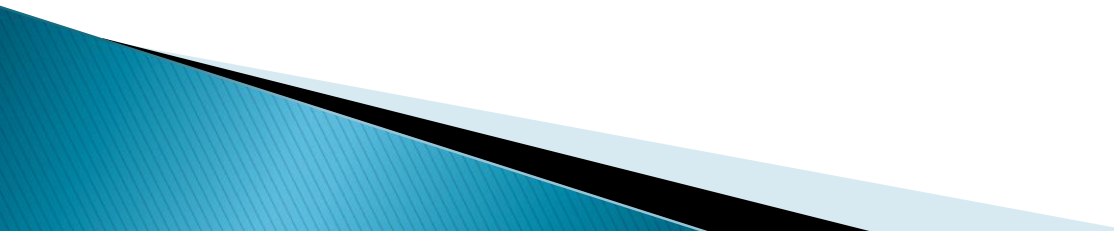


- ✓ Public Authority
- ✓ Cross border element
- ✓ Breach of EU law

# Reasoning behind Solvit

- ▶ Increase cross border mobility
  - ▶ Identify misapplication of eu law
  - ▶ Offer a fast, free-of-charge alternative dispute settlement mechanism
- 

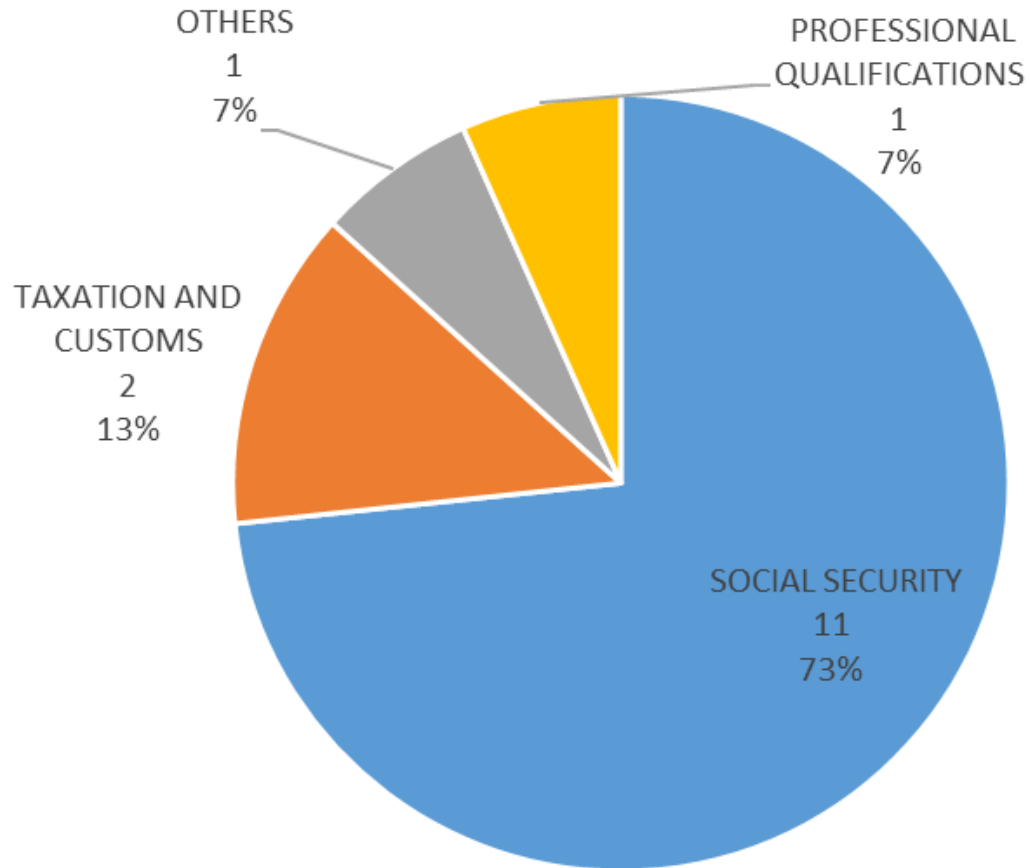
# Major areas

- ▶ Residence rights
  - ▶ Social Security
  - ▶ Recognition of Professional qualifications
  - ▶ Driving Licences
  - ▶ Motor vehicle registration
  - ▶ Market access for products
  - ▶ VAT reimbursement
- 

# Cyprus and Solvit

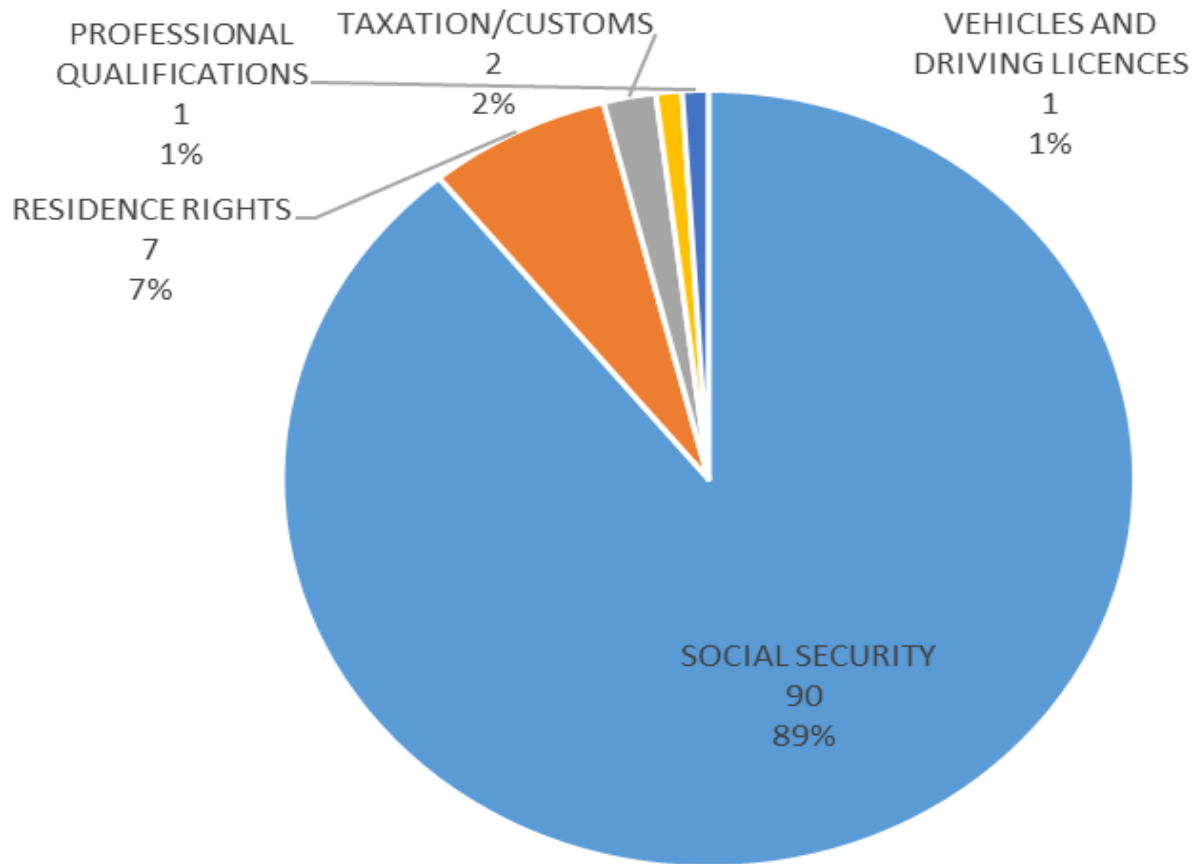
- ▶ 79 cases for 2019 / 116 for 2020/ 189 till today
- ▶ 14.2 cases per million inhabitant
- ▶ Resolution rate – 93,3%
- ▶ Case handling speed as lead – cases closed in 10 weeks – 81,5%

# Cyprus and Solvit



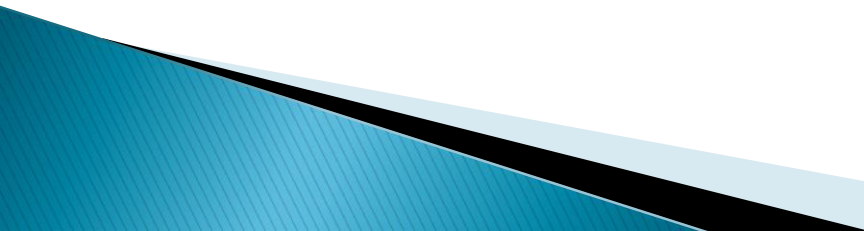
Typology of Cases – Submitted as home center

# Cyprus and Solvit



Typology of Cases – Received as lead center

# Solvit – Free movement of Workers

- ▶ Most requested claims on Social Security
    1. Insurance periods E205
    2. Pension Decisions E210
    3. Unemployment benefits U1
  - Most requested claims on establishment
    1. Recognition of professional qualifications
- 

# Future developments on Solvit

- ▶ Cooperation agreement between Solvit and ELA.  
*(Draft)*
- ▶ SOLVIT centers should be able to refer disputed individual cases to ELA for mediation after failing to solve them by means of direct contact and dialogue
- ▶ SOLVIT may refer those cases which have been closed as unresolved in the SOLVIT database to ELA for its consideration for admission to the mediation procedure. These are cases where no solution could be found under the SOLVIT procedure.



# Solvit Cyprus

- <http://ec.europa.eu/solvit/>
- Ministry of Energy, Commerce, Industry and Tourism, Andrea Araouzou 6, Nicosia
- Tel. 2286733, 22867181, 22867193



*Thank you for your  
attention!*

<http://ec.europa.eu/solvit/>



# **Coordination of Social Security Systems**

**Challenges stemming from the  
increased new forms of work as a  
result of the pandemic and Brexit**

**Nicholas Artemis  
Social Insurance Services**

**MoveS seminar Cyprus  
Nicosia 27/10/2021**

# Presentation Structure

## EU Section of the Social Insurance Services

- Competencies
- Who applies the Regulation

## Challenges

- Pandemic
- Brexit
- New/Atypical Forms of Employment

## Way Forward

- Resilience and Recovery Plan

# European Union Section of the SIS

## Competencies

### Application of Regulations 883/2004 and 987/2009 Benefits in Cash

- Participation in the Administrative Commission
- Participation in the Social Questions Working Group of the Council
- Providing information to the public on relevant EU issues
- Inspections (In complicated cases)
- IMI
- SOLVIT
- Application of ECJ decisions
- Cooperation with Attorney General's office

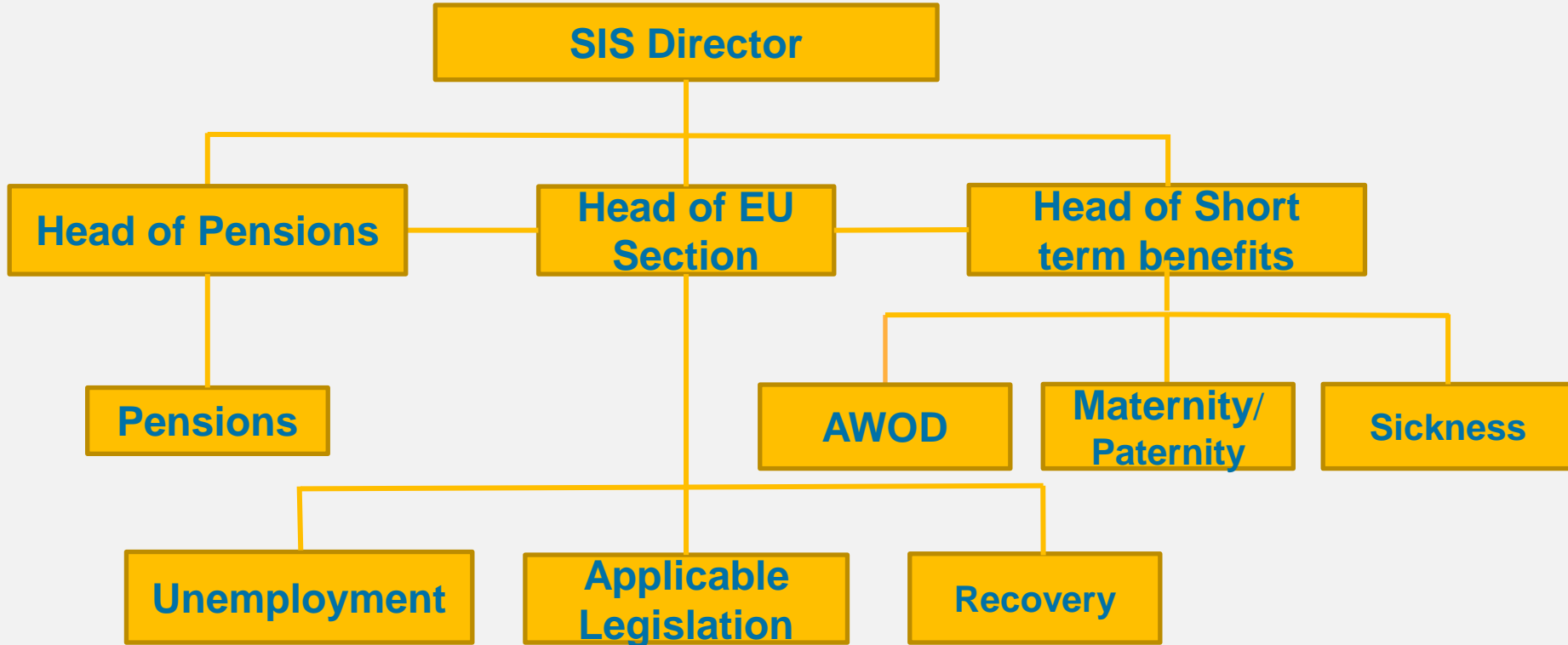
# European Union Section of the SIS

## Competencies

### In addition

- International Organizations/Country Reports (CoE, ILO, ISSA, UN)
- Bilateral Agreements in Social Security (negotiation - application)
- Monitoring and application of EU Regulations and Directives
- Brexit negotiations

# Who applies the Regulation



# Challenges

2020 and 2021 posed challenges in respect of Social Security

- Pandemic
- Brexit
- New Forms of Employment



# Challenges

## Pandemic

- Rise of New/atypical forms of employment
- Special schemes for support of employment- periods of insurance
- Delays in the issue of U1 documents

# Challenges

## Pandemic

### Rise of New/atypical forms of employment

The pandemic worked as a catalyst for new the increase of new/atypical forms of employment in Cyprus mainly telework and platform work (food delivery industry)

- Persons returning to Cyprus continue to work on behalf of companies established in the EU but also outside the EU (Australia USA) through telework
- New hires of persons working with telework for employers outside Cyprus

# Challenges

## Pandemic

Rise of New/atypical forms of employment

### Applicable legislation

According to the guidance note provided by the Commission  
*“The applicable legislation, which applies to persons in accordance with Title II of Regulation (EC) 883/2004, should not change because of the COVID-19 pandemic”*

# Challenges

## **Pandemic** New/atypical forms of employment-Telework

### Applicable legislation

- The Social Insurance Services continued to honor existing applicable legislation decisions taken prior to severe border restrictions and lockdowns
- New employments however were not so clear. As measures relaxed and borders opened, persons continued to telework while employers never stipulated in their contracts that the employee would cease to telework and move. Employers seem adopt this method of employment beyond the end of the Covid 19 measures.
- As a result for new hires the SIS applied the Cyprus social Insurance legislation bearing in mind that in the vast majority of cases concerned persons already living in Cyprus with established insurance records and it was at their best interest to continue to be insured in Cyprus

# Challenges

## Pandemic

### Special schemes for support of employment- periods of insurance

To combat the effects of the pandemic on employment the Cyprus Government introduced various schemes to employed and self-employed persons who were absent from their work either for health reasons or because of measures introduced to deal with the pandemic cannot go to work.

The period during which the employed and self-employed persons received these special benefits as well as the period of the Special Absence Allowance from Work will be treated as a period of insurance for the purpose of contributions to the Social Insurance Fund and their insurance record will be credited accordingly.

# Challenges

## Pandemic

### Special schemes for support of employment- periods of insurance

- Although the emergency measures were introduced along with online applications and the benefits were exported to other MS, the incorporation of credit periods into the SIS IT system took longer than expected affecting:
  - U1 documents
  - E205/P5000

# Challenges

## Pandemic

### Delays in the issue of U1 documents

- Despite being classified as an essential service the SIS also experienced shortage of staff due to staff falling under vulnerable groups that had to stay home or staff who contracted the Covid 19 virus:
  - Sudden increase in demand for U1 documents as many workers especially in the tourist industry returned to their Member States of residence
  - Increase of SOLVIT cases
  - The issue of U1 documents was handled only by 1 person
  - The majority of U1s were requested by Bulgarian citizens

# Challenges

## Pandemic

Delays in the issue of U1 documents-Measures taken to alleviate the problem

- Fixed term contract staff
- Agreed with Bulgarian insurance Institution to send to it U1s electronically through RINA as attachment of Horizontal business case
- Agreed that Bulgarian agency to inform us about emergencies (delayed U1) where their immediate issuance was considered an absolute priority for humanitarian reasons.



# Challenges

## Brexit

- Withdrawal Agreement Vs. Protocol on Social Security Coordination
- Telework and Registration of UK employers

# Challenges

## Brexit

### Withdrawal Agreement Vs. Protocol on Social Security Coordination

- For persons falling into the scope of the withdrawal agreement Regulation 883/2004 continues to apply
- The Trade and Cooperation Agreement contains the protocol on Social Security Coordination which reflects the provisions of Regulation 883/2004 but with some major differences:

# Challenges

## Brexit

### Withdrawal Agreement Vs. Protocol on Social Security Coordination

- No possibility for a special agreement on applicable legislation between UK and MS as provided by Article 16 of Regulation 883/2004
- Special non-contributory benefits are not covered (e.g. CY Social Pension)
- Family benefits are not covered (e.g. CY child benefit)
- Unemployment benefits and disability benefits are not exported

# Challenges

## Brexit

### Withdrawal Agreement Vs. Protocol on Social Security Coordination

- Case by case examination
- Difficulty in certain cases whether the WA or the TCA applies
- Difficulty in determining applicable legislation in case of a worker working in an EU MS Switzerland and UK

# Challenges

## Brexit Telework and Registration of UK employers

- As of 1/01/2021 all UK employers are treated in the same manner as all other employers from third countries
- ⇒▶ All employers established in third countries are required to either register a branch or a Cyprus company with the Department of Company Registrar and Official receiver
- Reluctance of UK employers to proceed with registration with the Department of Company Registrar and Official receiver

# Challenges

## New/Atypical Forms of Employment

### Gaps in insurance coverage::

- ▶ Gaps in the insurance career
- ▶ Difficulty in meeting the conditions for entitlement to benefits
- ▶ Low benefit amount
- ▶ **Even lower pro-rata pension**

### Ambiguous insurance status

- Each category covers different benefits
- **Applicable legislation decisions difficult employed in one MS and Self-employed in another**

### Difficulty of monitoring / control

**Application of basic rule of Regulation 883/2004 Art 11(3)**

### Caregivers (Elderly / child )

- Affects mainly women
- Gaps in their insurance coverage

# Challenges

## New/Atypical Forms of Employment

### Applicable Legislation

Art 11(3)(a):

*“a person pursuing an activity as an employed or self-employed person in a Member State shall be subject to the legislation of that Member State; ”*

- Increase in the number of persons requesting A1 on the basis of Article 11(3)(a) to be exempted from compulsory insurance in another MS
- Claiming to be working in Cyprus remotely (telework)
- Difficult to verify- Request of utility bills, lease agreements, to prove that the individual was residing in CY while teleworking.
- In certain cases documentation was presented but our inspectors could not verify
- Leads to avoiding the rules

# Challenges

## New/Atypical Forms of Employment Applicable Legislation

Art 13(3):

*“A person who normally pursues an activity as an employed person and an activity as a self-employed person in different Member States shall be subject to the legislation of the Member State in which he/she pursues an activity as an employed person or, if he/she pursues such an activity in two or more Member States, to the legislation determined in accordance with paragraph 1.”*

- Requests for A1 on the basis of employed activity in CY and self-employed in another MS (claimed residence CY)
- Line between employment and self-employment in new/atypical forms of employment is blurred
- Difficulty in confirming the self-employed status in another MS
- Combined with the ability to telework a person may in fact work only in one MS
- Leads to avoiding the rules by “choosing applicable legislation”



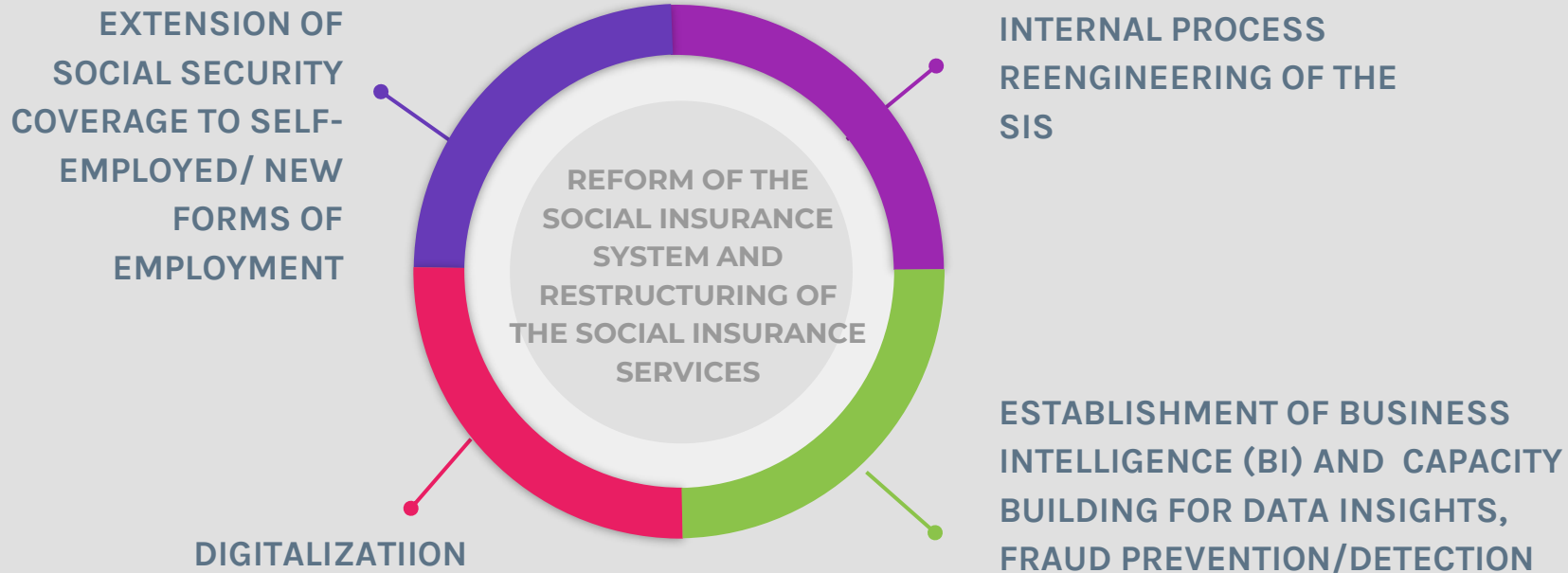
# Challenges

## Way Forward

- Extension of benefit coverage for all categories (e.g. for self-employed, women caregivers)
- Tighter / better control mechanisms to combat undeclared/underdeclared work
- Development of risk analysis methods and tools (targeted checks)
- Improve interaction with citizens, so that they are better informed about their social security rights and their rights and obligations derived from the coordinating Regulations

# Way Forward

## Resilience and Recovery Plan



Thank you for your attention!

# POSTING OF WORKERS



DIRECTIVE 96/71/EC  
2014/67/EU, 2018/957/EU  
LAW NO. 63(I)/2017, 158(I)/2020  
REGULATIONS 196/2017

DEPARTMENT OF LABOUR

# POSTED WORKER



- An employed person ( a worker) who, for a limited period of time, carries out his work in the territory of a Member State other than that in whose territory he is normally employed.

# Scope of posting (Section 4 of the Law)



On the posting of workers in the framework of the provision of services in the EU the above Law applies to undertakings which take one of the three (3) following transnational measures:

## **1. Performance of contract**

Post a worker, on their account and under their direction, in the territory of Cyprus, under a contract concluded between the undertaking making the posting and the receiver of the services operating in Cyprus, provided there is an employment relationship between the sending undertaking and the worker, during the period of posting.

# Scope of posting



## 2. Group of undertakings (holding company and subsidiary)

b) Post a worker, in the territory of Cyprus, to an establishment or to an undertaking owned by the group to which the undertaking making the posting, provided there is an employment relationship between the sending undertaking and the worker, during the period of posting.

# Scope of posting



## **3. Temporary work Agency**

Act as a Temporary Work Agency or placement agency hire out a worker to a user undertaking established or operating in the territory of Cyprus, provided there is an employment relationship between the temporary work Agency or the placement agency and the worker, during the period of posting.

In case of chain posting the worker is considered as being posted by the temporary agency with which the worker has the employment relationship and the temporary agency must therefore comply with all the provisions of the said Law





- Exception

The Law does not apply to merchant shipping companies in respect of workers on seagoing vessels.

## Cumulative duration of the posting periods of the individual posted workers



- Where an undertaking as referred to section 4 of the Law replaces a posted worker by another posted worker performing the same task at the same place (is examined taking into consideration, inter alia, the nature of the service to be provided, the work to be performed and the address(es) of the workplace) , the duration of the posting shall, be cumulative duration of the posting periods of the individual posted workers concerned.

## Terms and conditions of employment(section 7)



- The Undertakings which are referred to section 4 of the relevant law guarantee workers posted in the territory of Cyprus the terms of employment which are provided by Cyprus law and/ or by collective agreement. Regarding collective agreement insofar as they concern the activities referred to in the Annex of the Law.
- The terms of employment which the undertakings must provide to the posted workers according to the section 7, refer to:

# Terms and conditions of employment(section 7)



- – Remuneration ( including minimum wage and overtime rates) this point does not apply to supplementary occupational retirement pension schemes;
- – Annual leaves
- – Work periods
- – Health, safety and hygiene at work
- – Protection of children, young persons and pregnant women at work
- – Equality and non- discrimination



- – The conditions of workers' accommodation where provided by the employer to workers away from their regular place of work;
- – Allowances or reimbursement of expenditure to cover travel, board and lodging expenses for workers away from home for professional reasons. This shall apply exclusively to travel, board and lodging expenditure incurred by posted workers where they are required to travel to and from their regular place of work in the territory of Cyprus to whose territory they are posted, or where they are temporarily sent by their employer from that regular place of work to another place of work.



- Where the effective duration of a posting exceeds 12 months in the territory of Cyprus, the undertakings as referred to section 4 of the Law continue to guarantee, on the basis of equality of treatment, to workers who are posted to the territory of Cyprus the terms and conditions, irrespective of which law applies to the employment relationship according to section (7) (1).

This does not apply to the following matters:

- (a) procedures, formalities and conditions of the conclusion and termination of the employment contract, including non-competition clauses;
- (b) supplementary occupational retirement pension schemes.



Where the service provider extends the effective duration of a posting to 18 months shall submit to the competent authority a motivated notification.

## Measures to control the application of the law(section 11)



- On posting of workers, any European company posting workers to Cyprus is obliged to submit to the Department of Labour, which is the competent authority for posting, before beginning of the provision of services (there is no specific timeframe) via email, fax or by post office, a written statement in Greek or in English with the following information:  
(a) Written statement on:



## Measures to control the application of the law(section 11)



- (i) Name of the undertaking, its head office address and its legal status
- (ii) Name of the legal representative and the representative in the Republic of Cyprus if such a representative exists
- (iii) Address where posted workers will provide services and name, address and legal status of the undertakings receiving the services
- (iv) Date of starting posting and the possible duration
- (v) Nature of economic activity

(b) List of Posted Workers (full name, passport no, occupation)



- c. Name of the liaison person with the competent authorities in the Republic of Cyprus (regulation 6(2))
- d. Name of the contact person acting as representative in case which is necessary for collective bargaining during the posting in the Republic of Cyprus (regulation 6(3)).



- It is noted that in case of any change in the above information, the undertakings are obliged to submit an additional statement, as the case may be, within 15 days of the change.

# Subcontracting liability



In subcontracting chains where the direct subcontractor is the employer of the posted worker:

- The contractor and the direct subcontractor are jointly and severally liable to the posted worker with respect to and according to section 7:
- Any outstanding net remuneration corresponding to the minimum rates of pay and/or
- Contributions due to common funds or institutions of social partners .

IN CASES OF



- Fraud and abuse
  - in the activities mentioned in the Annex (activities of the construction sector )

The liability shall be limited to workers rights acquired under the contractual relationship

The liability of the contractor is subject to the due diligence obligations which arise under the Cyprus law.

## Control/monitoring Mechanisms and Inspections (PART III)



- Inspectors either *ex proprio motu* (voluntarily and without prompting or request) or after a complaint inspect and investigate the application of the above law.
- three member committee in cases of finding of infringement of the law, impose administrative sanctions.
- judicial proceeding (any posted worker (or through his/her trade unions), the competent authority has the right to institute proceedings )

# Administrative and Criminal Sanctions



- Where the competent authority or according to the previous paragraph through the inspectors find out infringement of the provisions of the said law, three member committee ( Ministry of Labour Welfare and Social Insurance) according to section 30(2) may impose administrative fine of up to €10.000 euro. In case of repetition it may impose administrative fine of up to €20.000 euro.
- Moreover according to section 34, any person infringes or fails to comply with the provisions of the said law is guilty of an offense and in case where is convicted is liable to imprisonment not exceeding two year or to a fine not exceeding €50.000 or both of these sanctions.

## Cross border mutual assistance and administrative cooperation.



- Through the Internal Market Information System (IMI System)
- Cross border enforcement of financial administrative penalties and /or fines  
according to the same procedure which is provided in the directive and which was transposed to the national legal system.