

11-22: Social Security Co-ordination - European Union (Withdrawal Agreement)

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Introduction

1. This Memo provides guidance on the Withdrawal Agreement and how it applies to Social Security coordination (SSC). This memo should be read in conjunction with [cross government guidance](#).

Persons covered

2. This memo shall apply to the following persons¹ and guidance in [Chapter 7](#) of DMG in relation to SSC applies. References to EU citizens shall also include nationals of Iceland, Liechtenstein, Norway and Switzerland²;

- EU citizens who are subject to the legislation of the UK at the end of the transition period (11pm on 31/12/2020), as well as their family members and survivors
- UK nationals who are subject to the legislation of a Member State at the end of the transition period, as well as their family members and survivors
- EU citizens who reside in the UK and are subject to the legislation of a Member State at the end of the transition period, as well as their family members and survivors
- UK nationals who reside in a Member State and are subject to the legislation of the UK at the end of the transition period, as well as their family members and survivors.

1 WA, Art 30(1) (a)-(d); 2 WA, Art 33

Example 1

A Greek national who moves with their family to live and work in the UK at any point before the end of

the transition period. They will be subject to the legislation of the UK, based on the EU Coordination Regulations. They will therefore be in scope of Article 30(1)(a).

Example 2

A French national claimant, living in France with their French National spouse who works in the UK 5 days a week, employment which commenced before the end of the transition period. Although the claimant is not in a cross-border situation themselves, they are the family member of someone who is, and are therefore covered by Art 30(1)(a) to the extent that they derive rights and obligations in their capacity as a family member.

Example 3

A UK national who, after working all their life in the UK, has taken early retirement in Latvia in 2020, and is economically inactive and habitually resident there. They will therefore be subject to the legislation of Latvia at the end of the transition period and so will be in scope under Article 30(1)(b).

Example 4

A UK national who habitually resides with their family in the UK, and commutes to work in France during the week, where they are employed by a French company. Their employment commenced before the end of the Transition Period. They are subject to the legislation of France, based on the EU Coordination Regulations. They will therefore be in scope under Article 30(1)(b).

Example 5

A Bulgarian national who, at the end of the transition period, habitually resides in the UK with their family at the weekend, and commutes to work in Luxembourg during the week and pays their contributions there. They would be subject to the legislation of Luxembourg. They will therefore be in scope of Article 30(1)(c).

Example 6

A UK national habitually resident with their family in Belgium at the end of the transition period, who works in the UK during the week, returning to Belgium every weekend, and pays UK National Insurance contributions is subject to UK legislation. They will therefore be in scope of Article 30(1)(d).

3. Persons who do not fall within paragraph 2 but are:

- EU citizens who pursue an activity as an employed or self-employed person in the UK at the end of the transition period, and who, based on Title II of Reg (EC) 883/2004, are subject to the legislation of a Member State, as well as their family members and survivors; or
- UK nationals who pursue an activity as an employed or self-employed person in one or more

Member States at the end of the transition period, and who, based on Title II of Reg (EC) 883/2004, are subject to the legislation of the United Kingdom, as well as their family members and survivors¹;

are covered by the Withdrawal Agreement.

1 WA, Art 30(1)(e)

Example 1

A UK national who works for a UK employer and is posted to work temporarily for six months in Sweden and is legally working there at the end of the transition period. As they are a posted worker (under Art 12 of Reg (EC) 883/2004), the UK national would remain subject to the UK's legislation. They will therefore be in scope of Art 30(1)(e)(ii)

4. Stateless persons and refugees, residing in a Member State or in the United Kingdom, who are in one of the situations described in at paragraphs 2 and 3, as well as their family members and survivors¹ are covered.

1 WA, Art 30(1)(f)

5. Third country nationals, as well as members of their families and survivors, who are in one of the situations described in paragraphs 2 and 3, provided that they fulfil the conditions of EU regulations¹, are covered (See paras 10-12 below, and [DMG 071756-071758](#)).

1 Withdrawal agreement, Art 30(1)(g); Reg (EC) No 859/2003; Reg (EEC) 1408/1971

Example 1

A Kenyan national who resides with their family in the UK at the end of the transition period. They travel to work in Belgium 3 days a week where they are employed by a Belgian company. They would be subject to the legislation of Belgium. The person therefore would be in scope of Art 30(1)(g).

Example 2

An Indian national who was habitually resident in France with their family at the end of the transition period, travelling to work in the UK during the week for a UK company, and returning to France at weekends, would be subject to the UK legislation. The person would also be in scope of Art 30(1)(g).

6. The persons referred to in paragraphs 2 to 5 shall be covered for as long as they continue without interruption to be in one of the situations set out in that paragraph involving both a Member State and the UK at the same time¹. This includes where they move between these situations. Additionally,

absences of 30 days or less will not constitute an interruption. Where a claimant is absent for a period of 31 days or longer, the circumstances will be considered on a case-by-case basis.

1 WA, Art 30(2)

Example

A Polish national, working in the UK at the end of the transition period moves back to Poland and starts a twelve-month contract working there or moves to another MS and none of the limbs in Article 30(1) apply, this would constitute an interruption and that person would no longer be within scope, subject to Art 30(3) and Title II of Part 2 the WA

Note: Also see references below to Article 32

7. The provisions of Title III of Part 2 of the Withdrawal Agreement and therefore this memo shall also apply to persons who do not, or who no longer, fall within para 2-5¹ but who fall within the personal scope of Article 10 of the Withdrawal Agreement², as well as their family members and survivors³. For guidance on the personal scope please refer to paras 21-45 of [DMG memo 30/20](#).

1WA, Art 30(1)(a)-(e); 2 WA, Art 10; 3 WA, Art 30(3)

Example

The Polish national in the example in para 6 above had, in fact, applied for, and been granted, Settled Status. They are covered by Art 30(3), as Art 10 applies to them, as long as they do not exceed the permitted absence period.

8. The persons referred to in paragraph 7 shall be covered for as long as they continue to have a right to reside in the host State under Article 13 of the Withdrawal Agreement, or a right to work in their State of work under Article 24 or 25 of the Withdrawal Agreement¹.

1 WA, Art 30(4)

9. Where this memo refers to family members and survivors, those persons shall be covered only to the extent that if they derive rights and obligations in that capacity under Reg (EC) No 883/2004¹.

1 WA, Art 30(5)

Social Security co-ordination rules

10. The rules and objectives set out in European legislation¹ shall apply to the persons covered by this memo² (please see para 12 below for specifics related to TCNs).

Example

The Greek national in example 4 of para 2 obtains settled status in the UK. She is in receipt of both a DLA (Care) and DLA (Mobility) award. She subsequently moves back to Greece with her family after the end of the transition period. Although she is no longer in scope of Article 30(1)(a), she remains in scope via Article 30(3) and Article 30(4). She is not working in Greece nor receiving any pension, and neither are her family members. This means that, although Greece is now her state of applicable legislation, Article 7 protects her DLA (Care) award. She is therefore entitled to keep her DLA (Care) award until such time as she exceeds her permitted absence period (5 years continuous absence from the UK), the UK is no longer competent for the DLA (Care) award [see [DMG Memo 16/20](#)], or she no longer meets the entitlement criteria. She is not entitled to keep her DLA (Mobility) award as this is only payable in the UK.

If the Greek national in the example above only has pre-settled status, she will only be able to export her DLA (Care) award for 6 months (or 12 months if the absence is for an important reason), unless she is able to apply for settled status during that period.

11. For the purposes of this memo, the definitions in European legislation shall apply¹.

1 WA, Art 31(2); Reg (EC) 883, Art 1

NB: The definition of a family member for Title III of Part 2 of the WA is different to the definition of a family member in Titles I and II of Part 2 of the WA.

12. For third country nationals who fulfil the conditions of Reg (EC) 859/2003, as well as their family members or survivors within the scope of this memo, the references to Reg (EC) 883/2004 and Reg (EC) 987/2009 shall be understood as references to Reg (EEC) 1408/1971 and Reg (EEC) 574/1972 respectively¹. References to specific provisions of Reg (EC) 883/2004 and Reg (EC) 987/2009 shall be understood as references to the corresponding provisions of Reg (EEC) 1408/1971 and Reg (EEC) 574/1972. Regs (EC) 883/04 and 987/2009 do not, themselves, apply to those who fall within scope of (EC) 859/2003 ([DMG 071756- 071758](#)).

1 WA, Art 31(3)

Special situations covered

13. The following paragraphs shall apply as far as they relate to persons not or no longer covered by the preceding paragraphs¹.

1 Withdrawal agreement, Art 32(1)

14. The following persons can aggregate periods of insurance, employment, self-employment, or residence, including rights and obligations deriving from such periods in accordance with Reg (EC) No

883/2004¹:

- EU citizens, as well as stateless persons and refugees residing in a Member State and nationals of third countries who fulfil the conditions of Regulation (EC) No 859/2003, who have been subject to the legislation of the United Kingdom before the end of the transition period, as well as their family members and survivors.
- UK nationals, as well as stateless persons and refugees residing in the UK and third country nationals who fulfil the conditions of Regulation (EC) No 859/2003, who have been subject to the legislation of a Member State before the end of the transition period, as well as their family members and survivors.

1 WA, Art 32(1)(a)

15. For the purposes of the aggregation of periods, periods completed both before and after the end of the transition period shall be taken into account in accordance with Reg (EC) No 883/2004¹.

1 WA, Art 32(1)(d)

Example 1

A UK national, working in the UK before the end of the transition period but who had previously worked in France for 4 years (2004-2008), moved to Finland in 2025 to retire under the future system. When they claim their state pension in Finland, France will be able to aggregate the years worked in the UK to meet the minimum period in France to pay a French state pension. The UK will pay their UK State Pension at the same rate that they pay in the UK (it will be uprated).

Example 2

A Peruvian national had worked in Germany 1990 – 1997, the UK 1997 – 2010 and Spain 2010 - 2017. At the end of the transition period, they are working in the United States of America. In 2024 they return to Germany and work for a further 4 years before retiring in Germany. Regulation 859/2003 is considered to apply. They can use the periods worked in the UK and the EU before and after the end of the transition period to aggregate towards the minimum periods in each of the countries and their UK state pension will be paid in line with that paid in the UK (uprated).

16. The provisions of EU regulations¹ as regards sickness benefits shall apply to persons receiving benefits under paragraph 14 of this memo².

1 Reg (EC) 883/04; 2 Withdrawal agreement Art 32(2)

Example

A French national worked their whole life in the UK. They retired and returned to live in France in 2019. The only pension they receive is from the UK. The receipt of their UK pension makes the UK their competent state for cash sickness benefits under Regulation 883/04 and thus the French national also receives Attendance Allowance in France.

Dual Nationals

17. Special care needs to be taken when the claimant is a Dual National (DN). It is requested that all cases involving DNs are escalated to DMA Leeds.

Annotations

Please annotate the number of this memo (11/22) against DMG Chapter 7 all parts in header: [071740](#), [071753](#), [071754](#), [071761](#), [071779](#)

Contacts

If you have any queries about this memo, please write to Decision Making and Appeals (DMA) Leeds, 3E19, Quarry House, Leeds. Existing arrangements for such referrals should be followed, as set out in [Memo DMG 04/19](#) - Obtaining legal advice and guidance on the Law.

DMA Leeds:

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The content of the examples in this document (including use of imagery) is for illustrative purposes only