

# GMS Flash Alert

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## European Union - Revision of Coordination Rules on Social Security

On 21 June 2018, the European Council<sup>1</sup> agreed on a general approach to coordinating social security systems through a revision of European Union (EU) Regulations 883/2004 and 987/2009. While the draft amending regulation addresses coordination rules for posted and multi-state workers and benefits for unemployment, families, economically inactive persons, and long-term care, this article focuses on the rules for posted and multi-state workers and unemployment benefits.

### WHY THIS MATTERS

Apart from modernizing existing rules and promoting mobility, the proposed revision of the EU Regulations also concerns combatting fraud and error. The proposed amendments are expected to be adopted and together with the electronic exchange of information (EESSI),<sup>2</sup> will require more compliance and higher quality social security information from employers in Europe. Therefore, it is important for employers and employees to keep apprised of developments both on the EU and national levels to prepare for the upcoming changes.

### Changes in Detail

On a general note, fraud will be defined in the regulation. The provisions about the retroactive withdrawal or rectifications of a document as well as the communication between the institutions in case of fraud and error will be included in Regulation 987/2009. It is expected that these provisions will include deadlines in order to effectively enforce the social security legislation in the competent country.

Article 19 of EU Regulation 987/2009 will include the right of social security institutions, labor inspections, and tax and immigration authorities to **exchange information nationally and on the EU level** in order to determine the correct applicable law.

## Applicable Legislation

- *Home-base for flight crew* will be changed from "nominated" to "assigned" by the operator.<sup>3</sup> "Assigned" implies the administrative procedure of the flight crew who is required to log their movements in order to establish that the correct home-base is assigned. This requirement stems from the regulation on technical requirements and administrative procedures in the field of civil aviation.<sup>4</sup>
- On applicable rules for *posted workers*, a period of prior affiliation will be at least three months, up from a current requirement of one month. The prior affiliation between consecutive postings will be two months. Further, the criteria for the determination of the *employer for posted worker* will be clarified, in particular concerning the definition of the place of business and registered office.
- The prohibition on the replacement of a posted person with another posted person will include the *self-employed*.
- On applicable rules for *multi-state workers*, there will be a clarification about the "substantial work" of a person receiving unemployment benefits in one country and working in another. When deciding which legislation is applicable, the substantial work is to be calculated on the basis of the salary and the unemployment benefit.

## Unemployment Benefits

The proposed changes in the unemployment chapter of the regulation include:

- The export of unemployment benefits for six months with a possibility of prolongation;
- Member states may require a person to work for at least one month on a territory before aggregating the previous working periods prior to claiming unemployment benefits;
- When a person has worked for at least three months in a member state, that state is responsible for paying out the unemployment benefits and not the country of residence as is the case today.

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## KPMG NOTE

The Council will initiate negotiations with the EU Parliament<sup>5</sup> about the revision of the legislation coordinating social security as soon as the Parliament has taken its position on the matter. With the elections for the EU Parliament occurring next year, it is expected that it will take a position on this initiative before then.

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## FOOTNOTES:

1 The EU Council defines the EU's overall political directions and priorities. Its members are the heads of state or government of the 28 EU member states, and its president is Donald Tusk.

2 See [Electronic Exchange of Social Security Information](#) (EESSI) on European Commission website. Please note that the U.K. continues as a part of the project and will implement EESSI as planned prior to Brexit.

3 Refer to article 11 (5) in the EU Regulation 883/2004.

4 EU Regulation 83/2014, amending Regulation 956/2012 laying down technical requirements and administrative procedures related to air operations pursuant to Regulation 216/2008 of the EU Parliament and of the Council, Annex II, Section 2.

5 The EU Parliament consists of 751 members elected in each EU member state. The EU Parliament and the EU Council constitute the highest legislative bodies in the EU.

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