

European Union coordination of social security systems with respect to the social insurance of farmers

Selected aspects

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Abstract

The coordination of social security systems is one of the key issues related to implementing freedom of movement and freedom to engage in work in the European Union, and one of the most complex and technical sections of international law applied in the Agricultural Social Insurance Fund (KRUS or Fund).

The purpose of this study is to present how provisions related to the coordination of social security systems are implemented in practice with respect to persons who can demonstrate periods of agricultural insurance, and also to popularise the knowledge on shaping social security rights and obligations when two or more European Union states are concerned.

The Agricultural Social Insurance Fund acts as a liaison body regarding benefits from the social insurance of farmers, cooperating with the relevant Polish authorities, Polish and foreign liaison bodies, and relevant authorities of the European Union, as well as the European Free Trade Association (EFTA).

Keywords: coordination, regulations, social security system.

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Introduction

On 1 May 2004, Poland became a full-fledged member of the European Union, which imposed on the country the obligation to comply with European Union law and set up stable institutions to guarantee respect for human rights in the particularly difficult area of social security. This obligation is inextricably linked to the efficient implementation of EU regulations through designated institutions of each member state.

In the social security area, Poland is viewed through the prism of activities undertaken by units designated by KRUS to act as relevant institutions. Benefits paid under social security are a special group of benefits, which, due to their nature, must be ensured on an ongoing basis. Combining national law with European Union legislation is a very challenging and responsible task.

The decisive majority of EU-related matters managed by the Department of Foreign Benefits in Ostrów Wielkopolski does not directly involve the procedure to determine the right to benefits and their payment, but is related to tight cooperation between European social insurance institutions, taking place outside the local dimension. One of the facets of good cooperation under the system established by the regulations is the exchange of information between relevant institutions and individuals. The exchange of data, carried out for the purposes of the executive regulation, between authorities and institutions of member states and between institutions of member states and persons subject to the basic regulation, is based on the principles of public service, efficiency, active assistance, rapid delivery and accessibility, including e-accessibility, in particular for the disabled and the elderly. The institutions provide or exchange without delay all the data necessary for establishing and determining the rights and obligations of persons to whom the basic regulation applies. Such data is transferred between member states either directly by the institutions themselves or indirectly via the liaison bodies¹.

The social security system for farmers in Poland has been evolving for many years, with farmers among the last groups in Poland to receive social security guarantees, initially in a very limited scope, which was subsequently extended and modified. Since 1 May 2004, Polish farmers have inseparably become part of the European Union, gaining rights common to all EU citizens. By being incorporated into the Polish legal system, European provisions now apply without exception to all social groups,

1. Regulation of the European Parliament and Council (EC) no 987/2009 of 16 September 2009 laying down the procedure for implementing Regulation (EC) no. 883/2004 on the coordination of social security systems.

including farmers as persons “conducting activities for their own benefit”. Accordingly, the role of KRUS as an institution serving farmers was considerably extended.

The currently applicable provisions adopted by the European Parliament and Council (EC) are as follows:

- Regulation No 883/2004 of 29 April 2004 on the coordination of social security systems (OJ L 166, 30 April 2004, p. 1, as amended), called the basic regulation;
- Regulation (EC) No 987/2009 of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284/1, 30 October 2009), called the executive regulation;
- Regulation No 1231/2010 of 24 November 2010 extending Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 to nationals of third countries who are not already covered by these regulations solely on the ground of their nationality, members of their families and to their survivors, provided that they are legally resident in the territory of a Member State and are in a situation that is not confined in all respects within a single Member State.

The interpretation of the provisions of these regulations and guidelines concerning their implementation can be found in the decisions and recommendations of the Administrative Commission for the Coordination of Social Security Systems. According to Article 91, item 3 of the Constitution of the Republic of Poland, the provisions on the coordination of social security systems rank higher than the provisions of Polish social security legislation, meaning that since 1 May 2004, the provisions of community regulations have priority over national provisions when the latter are in conflict with community law. The EU regulations define the rules that coordinate the functioning of national social security systems in each member state in the transnational dimension, and do not establish new uniform norms that would create a new, separate, community-level social security system, but merely a set of regulations meant to resolve conflicts between domestic law regulations in this respect. Even though national legislation is applied on the territory of each member state, its shape evolves by taking into account EU regulations.

General rules of coordinating social security systems with respect to agricultural old age and disability benefits for farmers

Coordinating social security systems is based on general rules that also apply to old age and disability benefits for farmers:

1. The equal treatment principle prohibits any discrimination, both with regard to access to social insurance in other member states and the use of benefits provided for in the legislation of these states. Under EU regulations, equal treatment is also given to facts or events occurring on the territory of other member states, as well as benefits and income acquired under the legislation of these states.

Example:

A person receiving a Polish survivor's benefit for farmers and continuing their education in a school or university within EU/EFTA territory fulfils the conditions required to receive this benefit. Attending these schools or universities is treated on par with attending a Polish school or university. Equal treatment of facts and events means that when a claim for a disability pension due to incapacity for work on an agricultural farm is processed, KRUS shall take into account the applicant's incapacity for work that arose while working on an agricultural farm during a period of insurance in another EU/EFTA member state as if such incapacity arose while being subject to Polish social insurance for farmers.

2. The principle of freedom of movement.
3. The principle of aggregation of periods allows insurance periods in other EU/EFTA member states to be taken into account when granting the right to benefits if the person insured does not have a sufficient period of insurance or residence in a single state. The principle of aggregation of periods is one of the key techniques used to protect rights while they are being acquired. Translated into the level of aggregation models used in individual countries, this concept gives rise to numerous fundamental interpretation doubts. The current legal environment imposes on auxiliary bodies of the European Commission, such as the Administrative Commission for the Coordination of Social Security Systems, the obligation to issue legal instruments concerning the interpretation of period aggregation. An example of such instrument is decision H6 of 16 December 2010 concerning the application

of certain principles regarding the aggregation of periods under Article 6 of Regulation (EC) no. 883/2004 on the coordination of social security systems.

4. The principle of retention of acquired rights guarantees the retention rights to social insurance benefits when changing the place of residence to another EU or EFTA country. The principle of retention of acquired rights in the area of social security, expressed in Article 7 of Regulation no. 883/2004, can be understood widely as the general prohibition of depriving individuals of acquired rights to social security benefits, including old age and disability pensions, for the sole reason that they exercised their right to free movement. This principle is exercised by waiving the residence rules technique and benefit transfer technique, which means that a due old age or disability pension may not be subject to any reduction, amendment, suspension or withdrawal solely on account of the fact that the beneficiary resides or lives in a Member State other than that in which the institution responsible for paying out the awarded old age or disability pension is situated.

In practice, this means that Polish old age and disability pensions, including old age and disability pensions for farmers, may be, following an individual request, transferred to the country in which a person currently resides. The entire procedure of paying benefits outside the territory of Poland occurs directly, that is without the agency of a foreign insurance institution of the member state in which the old age or disability pensioner resides. The provisions of Regulation no. 883/2004 do not mention the agency of foreign institutions in transferring Polish old age and disability pensions².

Likewise, the provisions do not define how the benefit should be transferred: to a bank account, to the address of residence via a postal operator, or otherwise. The domestic legal instruments of each member state apply in this respect.

The Agricultural Social Insurance Fund transfers benefits for farmers directly to the bank accounts of their beneficiaries in European Union states and other states with which Poland has entered into bilateral social security agreements.

With respect to old age and disability pension benefits for farmers, procedures undertaken as part of coordination by the Department of Foreign Benefits of the local branch of the KRUS in Ostrów Wielkopolski are characterised specifically by:

- determining the right to and paying out old age and disability benefits, taking into account insurance periods completed in EU/EFTA member states;
- confirming Polish insurance periods for the needs of foreign institutions by gathering relevant documents from administrative institutions nationwide and issuing the SED P5000 document (insurance/residence periods);

2. I. Kryśpiak, *Koordinacja emerytur i rent w prawie Unii Europejskiej oraz umowach międzynarodowych Polski – różnice oraz wzajemne oddziaływanie*, Warszawa 2017, p. 206.

- obtaining, on request of foreign institutions, the amount of old age and pension benefits paid by other KRUS units;
- advising foreign relevant bodies about each change of the beneficiary's circumstances, that is place of residence, amount of benefit or death;
- recovering unduly collected benefits by using domestic legislation and EU coordination provisions, and also granting assistance to suitable institutions of EU/EFTA member states in recovering such benefits;
- gathering documents for claims for old age and disability benefits, as well as funeral benefits for old age and disability pensioners and members of their families in matters subject to EU coordination;
- issuing first-time decisions (including provisional and final decisions) and replacement decisions according to the principles of EU coordination;
- determining the rights and issuing decisions in matters related to funeral benefits and in matters related to uncollected old age and disability benefits;
- issuing decisions in cases of overlapping benefits³;
- submitting claims for benefits subject to EU coordination to relevant foreign institutions and coordinating international proceedings in EESSI (electronic exchange of social security information and documents) by acting as the contact institution;
- notifying the claimants and relevant institutions about the manner of handling the claims according to the rules specified in EU coordination provisions and in agreement with ZUS;
- determining the need and scope of evidential proceedings as regards physician certification by entrusting the performance of medical check-ups to the relevant offices or local branches of KRUS and foreign institutions;
- preparing lists of expenses actually incurred due to certification proceedings using the SED H020 (formerly E125PL) document and drafting a detailed medical opinion form and basic medical certification by all KRUS organisational units for the needs of relevant foreign institutions;
- performing tasks on behalf of the National Health Fund;
- providing information about benefits from social insurance for farmers that result from the principles of coordinating social insurance systems of EU/EFTA member states;

3. An overlapping of benefits occurs when rights to two agricultural benefits or benefits granted by both KRUS and ZUS arise. Both these institutions determine the right to old age and disability benefits separately, while KRUS decides whether the beneficiary has the right to be paid overlapping awarded benefits.

- drafting reports on old age pension claims examined and resolved for the purpose of implementing decision no. 208 of the Administrative Commission of 11 March 2008;
- drafting lists related to old age and disability pensions (number of PD P1 and SED P7000 forms);
- providing a preliminary confirmation of being subject to German insurance using data from the European Internet Information Procedure of the German Old-Age and Disability Insurance (EOA) to KRUS units;
- checking the right to the supplement awarded under Article 58 of Regulation (EC) no. 883/2004 of 29 April 2004 following indexation of old age and disability benefits in Poland and Germany;
- staging inspections to assess the living and residential conditions of beneficiaries residing in the Federal Republic of Germany.

The IT system that enables the above tasks to be carried out securely and efficiently is the Electronic Exchange of Social Security Information (EESSI). The obligation to establish the EESSI IT system in the European Union was laid down in Regulation no. 883/2004. Setting up this system and joining the electronic exchange of data is a legal obligation of European Union member states. At KRUS, the electronic data exchange system in the area of benefits and relevant legislation has been fully operational since 1 June 2020. In all matters related to social security, the exchange of information between institutions of each country occurs mainly through the EESSI⁴. The system is used to send documents to relevant recipients in other member states. There is no paper correspondence using “E” type forms with foreign social security institutions if the institutions participate in electronic exchange of information. The purpose of the EESSI is to shorten and simplify administrative procedures, ensure faster examination of claims and payment of benefits due to the beneficiaries, and more effective checking and verification of personal data and rights to benefits.

For the purpose of practical implementation of the EESSI, standard electronic documents (SED) were designed to replace the “E” paper forms previously used for old age and disability benefits. The information found in the SED does not need to be further documented, and any institution issuing the SED can rely on submitted evidence in accordance with the legislation it uses. Under Article 78(3) of Regulation no. 883/2004, an electronic document sent or issued by a member state authority or institution may not be rejected by an authority or institution of another member state

4. Implementing EESSI in Poland is a legal obligation imposed and specified by provisions of EU social security regulations based on Article 37, item 5 of the Social Insurance of Farmers Act of 20 December 1990, Dz. U. 2024 item 90 (Ustawa z 20 grudnia 1990 roku o ubezpieczeniu społecznym rolników, Dz. U. 2023 poz. 208).

(under the provisions of this regulation and Regulation no. 987/2009) on the grounds that it was received by electronic means (if the receiving institution has declared that it can receive electronic documents). Reproduction and recording of such documents is presumed to be a correct and accurate reproduction of the original document or representation of the information it relates to, unless there is proof to the contrary. It should be noted that an electronic document is considered valid if the computer system on which the document is recorded contains the safeguards necessary in order to prevent any alteration, disclosure or unauthorised access to the recording. The system should allow reproduction of the recorded information in an immediately readable form at any time. When an electronic document is transferred from one social security institution to another, appropriate security measures are taken in accordance with the community provisions on the protection of natural persons with regard to the processing and the free movement of personal data⁵.

To perform the functions of relevant institutions (place of residence and place of stay institutions) regarding old age pensions for farmers, disability pensions for farmers due to incapacity for work, survivors' benefits, and funeral benefits for old age or disability pensioners and members of their families, to which the provisions of EU regulations apply, the President of KRUS has designated, in cooperation with the institutions of the states listed above, two KRUS local branches:

- 1) The KRUS local branch in Ostrów Wielkopolski – Department of Foreign Benefits, with respect to persons with solely Polish insurance periods but residing in Germany, or persons having Polish and foreign insurance periods, the most recent of which were completed in Germany;
- 2) The KRUS regional office in Kraków – Department of Foreign Benefits with its seat in Nowy Sącz, with respect to persons with solely Polish insurance periods but residing in other EU/EFTA countries and in countries with which Poland has entered into bilateral agreements, or persons with Polish and foreign insurance periods, the most recent of which were completed in the above countries.

The role of the relevant institution is confirming insurance periods and determining, and potentially paying out, old age or disability pensions under a provisional decision when the applicant has the right to an old age or disability pension based solely on Polish insurance periods, followed by paying out old age or disability pensions as stated in the final decision. In addition to the relevant institution, a particular role in the process of examining a claim for old age/disability pensions is played by the

5. Regulation of the European Parliament and the Council (EC) No 987/2009 of 16 September 2009, OJ EU L 2009.284.1.

contact institution⁶. The latter institution examines the claim for benefits according to the applicable legislation. As a contact institution, it is also in charge of international proceedings, the purpose of which is to determine the right to old age/disability pension by all relevant interested institutions of the member states in which the applicant was insured. The contact institution sends information and documents on behalf of the claimant to foreign institutions, facilitating the required exchange of information on completed periods of insurance between states listed in the claim for the old age/disability pension. The KRUS local branch in Ostrów Wielkopolski, as the relevant and also the contact institution, uses standard SED electronic documents to forward the claims to the three main German institutions:

- 1) Deutsche Rentenversicherung Berlin-Brandenburg in Berlin,
- 2) Deutsche Rentenversicherung Bund in Berlin,
- 3) Knappschaft Bahn See in Bochum.

Proceedings concerning old age and disability benefits for farmers who are protected by EU provisions

In order for the provisions of EU regulations to be applied in cases involving old age or disability pensions, the trans-border aspect must occur. Proceedings to grant pecuniary benefits under social insurance, including social insurance for farmers (which is subject to the principles of EU coordination of social security systems) are initiated following a claim of the interested individual.

Pursuant to Article 45 of Regulation no. 987/2009, a claim for an old age/disability pension should be submitted to the institution of the place of residence⁷ on principles specified in internal legislation applied by the institution. The claimant does not always have insurance periods in the state in which they reside, and hence the claim can also be submitted to an institution of the member state to which they were most recently subject. The claim is submitted on the principles specified by the legislation of that state and using the form applicable in that state. The claimant must provide in particular all available and essential information and documents related to periods of: insurance (institutions, register numbers), employment (employers), self-employment (nature of

6. Under Article 47(A)(1) of Executive Regulation no. 987/2009, op. cit., this is the institution to which the claim for benefits is submitted. The institution of the place of residence is not the contact institution if the person concerned was never subject to the legislation applied by the institution.

7. Under Article 1(j) of the basic regulation, the term "residence" means a place where a person habitually resides.

work and the location in which it was performed) and residence (addresses) that could be completed according to the legislation of another country, as well as any other available and relevant information and documents related to the length of these periods⁸. An insured person who resides in Poland and has agricultural insurance periods completed in Poland as well as insurance periods in one or more member states can submit a claim for an old age/disability pension to the Polish institution according to their place of residence or the location of the agricultural farm, that is the regional office (or local branch) of KRUS, using the applicable form (KRUS SR-20, KRUS SR-12). Together with the above form, the claimant should enclose the E-207 EU form (information on periods of insurance completed by the insured person in Poland and abroad). A claimant who lives abroad and does not have insurance periods completed in the state of residence but did complete insurance periods in one or more member states, including recent agricultural insurance periods in Poland, or exclusively agricultural insurance periods in Poland, may submit a claim for an old age/disability pension to the institution of their place of residence or directly to any organisational unit of KRUS. Such a claim shall be immediately forwarded to the designated unit of the Fund that acts as the relevant institution, according to its territorial competence.

In addition, a complete claim for an old age/disability pension for farmers should confirm all listed insurance periods, employment periods, and – in the case of a claim for a disability pension due to incapacity for work – information submitted by the claimant regarding the size of the agricultural farm or the income achieved⁹, as well as documents confirming that the claimant ceased to conduct agricultural activities (lease agreements, notarial deeds)¹⁰. Since 15 June 2022, thanks to amended provisions, farmers may receive old-age pensions without having to cease conducting agricultural activities.

By directly interfacing with the claimant, a KRUS employee in the Fund's unit information point can obtain all required data and documents, which greatly facilitates handling the claim in international proceedings. The employee receiving and supplementing the claim pays attention to ensuring that all required documents are enclosed with the claim. Thanks to regulations found in Title V, Article 76(7) (transitional provisions), the KRUS employee may not reject documents merely on the grounds that they are written in the official language of another member state,

8. Article 46 of Executive Regulation no. 987/2009.

9. Under Article 28, item 1 of the Social Insurance of Farmers Act of 20 December 1990, Dz. U. 2024 item 90, payment of a disability pension under farmer insurance is partially suspended following the rules listed in items 2–8 of the same article if the pensioner conducts agricultural activities; the suspension relates to the complementary part of the benefit.

10. The conditions on which persons eligible to receive disability pensions must cease conducting agricultural activities are regulated in Article 28, item 4 of the Social Insurance of Farmers Act cited above.

which is recognised as an official language of Community institutions¹¹. The KRUS employee shall accept any such document without exception. Should the claimant produce a statement of applicable legislation (document E101 or A1) for all listed insurance periods completed abroad in which Polish legislation is specified as applicable, the claim should be examined in the local unit because the claimant does not have periods of insurance abroad. If any of the periods are not confirmed by document E101 or A1, such a claim should be sent to the relevant unit together with copies of document E101 or A1 held by the claimant. The KRS employee accepting the claim should notify the claimant that the latter is obliged to list all employment periods and insurance periods completed both in Poland and on community territory. If the person applying for an old age or disability benefit has an insurance period shorter than one year in a particular member state, the institution of that member state is not required to provide benefits in respect of periods completed under the legislation it applies that are taken into account when the risk materialises, if:

- the duration of the said periods is less than one year, and
- when taking solely these periods into account, no right to benefits is acquired under that legislation¹². On the other hand, a period shorter than one year shall be taken into account by institutions of other member states when calculating the amount of old age or disability benefits they determine. The purpose of this provision is to alleviate inequalities and eliminate administrative costs related to paying trivial benefits.

When calculating the amount of old age and disability pensions, the relevant institution of the member state shall take into account periods shorter than one year completed in another member state so that the period is taken into account when calculating the theoretical amount of benefit but not when determining proportions (the proportionality factor is not affected). According to this provision, if the person concerned spent less than one year in each member state, old age and disability pensions are awarded under the legislation of the most recent member state in which the conditions to acquire the right to such benefit have been fulfilled, as if all insurance periods had been completed in that member state.

Should the applicant demonstrate a period of working abroad for more than one year, KRUS shall transmit a claim for a foreign benefit to an institution of another member state, and each state shall examine the claim for its own periods in accordance with the legislation it applies. A farmer may acquire the right to collect multiple old age and disability pensions simultaneously. The process of examining the right to an

11. Regulation no. 883/2004 of the European Parliament.

12. Article 57 of Basic Regulation no. 883/2004.

old age or disability pension involves all member states (multiple institutions) in which the claimant demonstrated a period of employment or residence. Submitting a claim to grant an old age or disability pension in the institution of a single member state shall result in the need to simultaneously determine old age or disability pensions in all the member states in which the claimant had insurance periods (except if the claimant files a claim to defer determining the right to an old age pension)¹³.

A person with insurance periods completed on the territory of several EU member states and claiming old age pension may, under Article 50 of the basic regulation, opt to defer the examination of their claim for determining the right to an old age pension in any member state. Deferment of determining the right applies only to an old age pension and does not extend to survivors' benefits or disability pensions due to incapacity for work. In order to enable the claimant to exercise that right, the institutions concerned shall, upon the request of the claimant, notify them of all the information available to the institutions so that the claimant can assess the consequences of concurrent or successive awards of benefits that they could claim¹⁴. Therefore, the institutions to which the claim is submitted are invariably obliged to provide all available information to the claimant in order for them to assess such information on their own and make the decision whether to defer determining the right to an old age pension. If the claimant requests deferment of the right to a Polish old age pension for farmers, they should be instructed that they need to submit a new claim in the future and that the right to an old age pension will be determined based on the date of submitting the new claim. If the claimant deferred the determination of the right to an old age pension in another state and the insurance periods in that state are redundant for determining the right to a Polish old age pension for farmers (for example when they lower the amount of benefit in case of proportional application), they shall not be taken into account when determining the amount of benefit.

In recent years it has been noticed that persons residing in Germany and claiming an old age pension in a German relevant institution often simultaneously request deferment of determining the right to a Polish old age pension, because the amount of the Polish benefit they could obtain would have a negative impact on their right to German social benefits. Requests for deferment of determining the right to old age pension are submitted most frequently if the claimant has insurance periods completed in several EU member states but does not meet the conditions for awarding an old age pension in at least one of them because of the required retirement age.

13. Article 45(5) of Executive Regulation no. 987/2009.

14. Article 46(2) of Executive Regulation no. 987/2009.

Example:

Jan is a farmer who resides in Poland and has the following insurance periods: 21 years and 2 months in Poland, 10 months in France, 3 years in Germany and 5 years in Norway. He is over 65 years old on the date of submitting the claim. Jan does not meet the conditions required for awarding an old age pension under Norwegian legislation, since the age required in that state is 67 years. For this reason, Jan requests deferment of examining his right to an old age pension in Norway. To determine the old age pension, KRUS shall take into account the insurance periods in Poland, Germany and France, and forward to the French and German insurance institutions a request to determine the right to old age pension under French and German law. The French institution shall inform KRUS that Jan does not meet the pension conditions under French law, as the institution does not pay out benefits for period shorter than one year. KRUS shall therefore add the 10 months spent in France to the Polish old age pension pursuant to Article 57 of the basic regulation. When Jan reaches the age of 67, his right to an old age pension in Norway will be determined and the pensions in Poland, France and Germany will need to be recalculated. The institution paying out the benefit recalculates it automatically after obtaining information that the beneficiary fulfils the conditions for awarding the benefit under the legislation of another member state. No recalculation shall occur if periods completed under the legislation of another member state had already been taken into account when awarding the benefit and after awarding the original benefit, and if no new periods were acquired. However, if there are additional conditions (other than completing periods of insurance), such as reaching the age required for awarding the pension or a change in the number of children that must be taken into account, it is necessary to automatically recalculate the pension amount.

The date of submitting a claim for an old age or disability pension is a particularly important deadline according to the provisions of Article 45(5) of the executive regulation, as it is binding for all institutions determining the right to benefit. Therefore, such a date, when stated by a foreign institution, is binding for KRUS when examining a claim for benefits. The institution to which a claim for benefits is submitted under Article 47(4) of Regulation no. 987/2009 is obliged to initiate the proceedings to award claims in all states in which the person concerned was insured. The above does not apply solely to the situation defined in Article 45(6) of Regulation no. 987/2009, if the claimant does not notify of the fact that they have been employed or have resided in other member states.

With respect to the claim for the Polish old age or disability pension, the persons concerned are, under Polish provisions, entitled to withdraw the claim, however not later than by the date on which a decision issued in the matter becomes final. When a claim examined in more than one state is withdrawn, the claimant must explicitly state which member state institution the withdrawal applies to. If the claimant withdraws their claim for benefits provided for under the legislation of a particular member state, such a withdrawal will not be considered a concurrent withdrawal of claims for benefits under the legislation of other member states¹⁵.

Determining the right to a Polish old age or disability pension for farmers and calculating its amount using community provisions

When Poland became part of the European Community, EU regulations offered the opportunity to determine the right to and recalculate benefits taking into account period completed abroad. If the claimant cannot demonstrate the required period of insurance under national legislation, KRUS (pursuant to Article 51 of the basic regulation) will determine the right to benefits based on aggregated periods of insurance/residence in Poland and abroad. Taking into account periods of insurance or residence completed in other member states consists not only of adding their lengths together, but also of considering the fact of being subject to the legislation of another member state at a particular time as if the person concerned was at that time subject to the legislation of the relevant state. The relevant institution is obliged, insofar as relevant for the above issues, to treat periods of insurance, employment, self-employment or residence abroad as if these periods had been completed under the legislation it applies. Such periods may not be verified by the relevant institution but shall be taken into account even when national legislation applied by that institution does not provide that such periods are legally valid when determining the right to benefits in accordance with the legislation applied by the institution.

Taking into account insurance or residence periods is of significant importance particularly in cases when acquiring the right is dependent on having a specific length of employment. When the periods are aggregated, periods of insurance and residence in other member states are taken into consideration provided that they do not overlap with each other. Periods of insurance must be treated identically in

15. Article 46(3) of Executive Regulation no. 987/2009.

each member state. The Polish relevant institution must therefore accept all contributory and non-contributory periods listed by another member state. When it is not possible to accurately state the time frame in which certain periods of insurance or residence have been completed in accordance with the legislation of a particular member state, it is deemed that these periods lie outside the periods of insurance or residence completed in accordance with the legislation of another member state. These periods shall be taken into account if advantageous for the person concerned, and only insofar as they can reasonably be taken into consideration, in accordance with Article 12 of the executive regulation. If a period of residence in a member state is treated as a contributory period, the Polish social insurance institution should likewise treat this period as contributory.

Information about insurance periods can be found in the SED P5000 document (previously the E205 form), which reflects the legislation of the relevant member state as regards the definition of insurance periods. The type and scope of periods accounted for are verified by each member state according to their legislation. Aggregating insurance periods is not important for determining the amount of benefits in accordance with the legislation of a particular state.

Taking periods into account to determine the acquisition, retention or realisation (duration) of benefits, and to calculate the amount of the benefits to which the beneficiary is entitled in a particular state, are two different things.

The national legislation of member states varies in regulating the units of time in which insurance periods are given, for example Poland does so in days, Germany in months, and Ireland in weeks. Under Article 6 of the basic regulation, Article 13 of the executive regulation is cited for the purposes of coordination when aggregating periods¹⁶. The conversion occurs strictly according to the guidelines found in that article: the period to be used as the basis for conversion is the period communicated by the institution of the member state under whose legislation it was completed. Where the periods are expressed in days, the conversion from days to other units, and vice versa, as well as between different schemes based on days, is calculated according to the following table.

16. Article 13 of Regulation no. 987/2007.

Table 1. Rules for conversion of periods

Scheme based on	1 day corresponds to	1 week corresponds to	1 month corresponds to	1 quarter corresponds to	Maximum number of days in one calendar year
5 days	9 hours	5 days	22 days	66 days	264 days
6 days	8 hours	6 days	26 days	78 days	312 days
7 days	6 hours	7 days	30 days	90 days	360 days

Source: Own version based on the table found in Article 13(1)(b)¹⁷.

According to the table, one year corresponds to four quarters, 12 months and 52 weeks.

Example:

The Czech Social Security Institution forwarded a SED P5000 document where the total duration of the insurance period was given as 577 days. Czech institutions state insurance periods in a scheme based on a week of seven days. According to the table, this equals 360 days per calendar year. The conversion is: 577 days = 360 days (1 year) + 217 days (7 months and 7 days).

The SED P5000 document is a form of a statement made by relevant institutions of all community member states to confirm the periods of insurance/residence completed by the person concerned on the territory of that state. In states in which separate schemes exist or separate institutions have been designated to manage old age and disability insurance, more than one P5000 document may be issued per insured person.

An example is the Polish scheme, under which insurance periods completed under the agricultural scheme are confirmed by KRUS and periods under the general scheme are confirmed by ZUS. The SED P5000 document is usually forwarded along with the claim for old age or disability benefit but can also be issued to a foreign institution for information purposes. The document may also confirm that a person did not complete any insurance periods in a particular member state.

In addition, it should be mentioned that persons residing in other EU/EFTA member states and claiming an agricultural disability pension due to incapacity for work do not need to report personally for check-ups in Poland in order to have their

17. Ibidem, Article 13(1)(b).

incapacity to work on an agricultural farm determined, even if they do not meet the disability pension conditions laid down in the legislation of their state of residence. Assessment of incapacity for work by an expert physician or a medical committee of the Fund is made on the basis of:

- a medical opinion issued by a foreign institution of the member state in which the claimant is residing;
- medical documentation submitted by the claimant.

Medical certificates and opinions issued by a foreign institution or foreign physicians are not binding when determining the right to Polish benefits due to incapacity for work¹⁸.

Old age/disability pension amount

Calculating the amount of the old age/disability pension covered by community regulations varies depending on whether the person concerned fulfils the national legislation conditions and whether the principle of aggregation of periods needs to be applied.

1. The amount of an old age/disability pension for a person who has periods of insurance/residence abroad and fulfils the conditions for awarding an old age/disability pension solely on the basis of national law (without the need to aggregate periods of insurance/residence completed in other member states) is calculated on the basis of Article 52 of the basic regulation in three stages:

Stage 1

- the total amount of benefits to which the person concerned is entitled is calculated based on insurance or residence periods completed in accordance with the legislation applied by the institution, without taking into consideration periods completed abroad (*i n d e p e n d e n t b e n e f i t*);

Stage 2

Regardless of the above, the institution also determines the amount of the old age/disability pension taking into consideration periods of insurance or residence completed in other member states according to the *p r o r a t a t e m p o r i s* principle. To this end, the relevant institution:

- calculates the full amount of the benefit to which the person concerned would be entitled if all insurance or residence periods taken into consideration (completed in member states) had been completed in accordance with the legislation applied by that institution (*t h e s o - c a l l e d t h e o r e t i c a l a m o u n t*);

18. Biuro Rent Zagranicznych ZUS, *Emerytury i renty przyznawane i wypłacane przez ZUS z zastosowaniem przepisów prawnych Unii Europejskiej*, Warszawa 2007, p. 28.

- it then calculates the partial amount of the benefit, taking into consideration the ratio between the duration of insurance or residence periods in a particular member state (completed in accordance with the legislation applied by that institution) and the total duration of insurance and residence periods completed by the person concerned in all member states (actual amount).

Stage 3

The person concerned is entitled to receive from the relevant institution of each member state the higher of the amounts determined as stated above. The relevant institution then compares the amounts of benefits received. If the pro rata benefit is less advantageous, the person concerned receives the independent benefit.

2. The amount of the old age/disability pension for a person who has periods of insurance/residence abroad but does not fulfil the conditions to be awarded an old age/disability pension solely on the basis of national law (it is necessary to aggregate periods of insurance/residence completed in other member states).

The relevant institution calculates:

- the theoretical amount, and then the actual amount.

Example:

Ryszard submitted a claim for an old age pension for farmers and has reached retirement age. His insurance history is as follows:

- 7 years and 8 months of coverage under social insurance for farmers (92 months),
- 31 years of work and insurance in Germany (372 months).

The claimant is not entitled to an old age pension according to Polish provisions, as he does not have a 25-year period of coverage under social insurance for farmers. When the provisions of Regulation 883/2004 are applied, the claimant does fulfil the 25 years condition. To determine the correct amount of the benefit, KRUS shall first establish the theoretical amount of the benefit, that is the amount to which the farmer would be entitled if all insurance periods, 464 months in total (92 in Poland and 372 abroad) had been completed in Poland. KRUS shall then establish the actual amount, or the amount of the old age pension (contributory and supplementary part) by multiplying the theoretical amount by the pro rata factor resulting from the ratio between the duration of Polish insurance periods to the total duration of insurance periods completed in both Poland and Germany:

Actual amount of

$$\frac{92 \text{ months (Polish periods)}}{92 \text{ months (Polish periods)} + 372 \text{ months (German periods)}} = 0.20 \text{ pro rata factor}$$

Table 2. Calculating the actual amount of the pro rata benefit

Contributory part	444.68
Supplementary part	921.89
Total	1,366.57 – theoretical amount
Sum $\times$ pro rata factor 92/464	$1,366.57 \times 0.20 = 273.31$
Suspension amount	0
Limitation amount	0
Total	273.31 – actual amount

Source: Own study.

Old age and disability pensions for farmers are subject to deductions from the amounts payable under the provisions of the Act of 17 December 1998 on pensions from the Social Insurance Fund. The order of deductions and the limits within which old age and disability pensions are not subject to deductions are specified in Articles 139–141 of that Act. In the case of agricultural benefits granted after taking into consideration periods of insurance abroad, amounts not subject to deductions and enforcement are determined in proportion to the benefit paid out under Article 141, item 2 of the pension act.

Example:

Janina receives an old age pension in the amount of 1,024.93 gross per month. Since 1 March 2022, the amount not subject to enforcement of due debts, with the exception of alimony, is PLN 980.19. After applying the pro rata factor of 0.75, in the case of Janina the amount not subject to enforcement is 980.19×0.75 , equal to PLN 735.14. Deductions due to garnishment by the head of the tax office are calculated as follows: $\text{PLN } 1,024.93 \times 9\%$ (health insurance contribution) = PLN 92.00. $(1,024.93 - 92.00) - 735.14 = \text{PLN } 197.79$ (amount of deduction)

Old age and disability pensions paid out by KRUS are subject to suspension or reduction under provisions of the Old Age and Disability Pensions from the Social Insurance Fund Act of 17 December 1998. The suspension applies only to the supplementary part of the pension, while obtaining income from activities performed abroad and subject to compulsory social insurance by persons collecting a disability pension due to incapacity for work or a survivor's benefit from KRUS may cause the following to occur:

- the amount of the benefit due is reduced if the amount of income obtained abroad is more than 70% of the average monthly salary in effect in Poland, but no more than 130% of that salary;
- the right to (the supplementary part of) the benefit is suspended if the amount of income obtained abroad is more than 130% of the average monthly salary in effect in Poland.

If a KRUS disability pensioner obtains income abroad in a state with which Poland has entered into an international treaty dealing with social security, the income is treated as equal to the amount actually obtained when the pension is settled. When determining the equivalent in PLN of income obtained in EU/EFTA member states, the rate of currency conversion published by the European Central Bank is used (when the income is settled monthly, the rate used is the rate on the last day of the month in which the income was obtained, while when the income is settled annually, the rate used is the rate on the last day of the calendar year or on the last month of the settled period if such a period ended before the last day of the calendar year)¹⁹.

When income obtained in states that are not EU/EFTA members is settled monthly, the rates used are the average rates of foreign currencies in PLN announced by the President of the National Bank of Poland that are in force on the last day of the month of the settled calendar year. The annual income of the beneficiary should be used for the settlement, which should occur using the annual or monthly method, whichever is more advantageous. Persons in the treaty state who perform activities otherwise than under an employment agreement, which is listed in Article 104 of the Old Age and Disability Pensions from Social Insurance Fund as subject to compulsory social insurance under Polish legislation must confirm the amount of income by submitting a statement on the amount of social security contribution assessment basis, which is or would (if they were subject to compulsory insurance) be used by them to pay the contribution under the legislation of that state.

The relevant institution, under Article 52(1) of the basic regulation, applies to the amount thus calculated, within the limits provided for by Articles 53 to 55, all rules relating to reduction, suspension or withdrawal under the legislation it applies.

The cited provisions deal with protecting beneficiaries against an excessive reduction of benefits caused by legislations of two or more member states providing for suspending the right to an old age or disability pension due to income obtained.

19. The rules for determining the rates of conversion are specified in Article 90 of Executive Regulation no. 987/2009 and in decision H12 of 19 October 2021 concerning the date to be taken into consideration for determining the rates of conversion referred to in Article 90 of Regulation (EC) no. 987/2009 of the European Parliament and of the Council.

The rules for reducing benefits²⁰ under Article 55 of Basic Regulation no. 883/2004 differ depending on whether the benefit is:

- 1) a benefit determined exclusively on the basis of national periods of insurance,
- 2) a proportional (pro-rata) benefit

and whether income obtained in another EU/EFTA state causes the benefit to be reduced in one or more member states.

Example 1:

Jan is collecting a KRUS survivor's benefit, which is an independent benefit (under national legislation). In addition, he receives a German survivor's benefit, the amount of which has been determined on a pro-rata basis. Finally, he also receives a survivor's benefit from France, which is an independent benefit (under French legislation). Jan obtains income that causes the supplementary part of the Polish survivor's benefit and the entire German benefit to be reduced. The income has no effect on the benefit collected from France. In such circumstances, to reduce the Polish survivor's benefit the amount of income is divided by two, since two benefits are affected (the survivor's benefits from Poland and Germany).

Example 2:

Joanna is collecting a disability pension for farmers due to incapacity to work on an agricultural farm. The amount of the pension has been determined pro rata temporis. For part of the year, Joanna worked in Poland, and then in Germany and other member states. In Joanna's case, it does not matter whether the income she obtains also causes the reduction of suspension of a foreign old age or disability pension in addition to the KRUS benefit. The amount of benefits obtained by Joanna in Poland, Germany and other member states, as well the amounts equal to 70% or 130% of the average monthly salary amount specified in Article 104 of the Old Age and Disability Pensions from Social Insurance Fund Act and the maximum amounts of deduction in Article 104, item 8 of that act, are taken into account in proportion resulting from the ratio of Polish periods of insurance to the sum of Polish and foreign periods (pro rata factor).

20. The practical aspects of the ability to suspend and reduce benefits have been detailed by I. Kryśpiak, *Ko-ordynacja emerytur i rent w prawie Unii Europejskiej oraz umowach międzynarodowych Polski – różnice oraz wzajemne oddziaływanie*, Warszawa, Instytut Wydawniczy EUROPRAWO, 2017, pp. 323–331.

Example 3:

Eleonora is collecting a family benefit (under Polish legislation) and receives an old age pension from Germany (under German legislation) and continues to be employed in the Netherlands. In this case, the complementary part of Eleonora's survivor's benefit will be reduced solely up to the amount of income obtained from other member states, in accordance with national legislation. Such income does not reduce or suspend the German benefit.

Example 4:

Stefan, aged 60, collects an independent disability pension from KRUS and a German disability pension under German legislation. Since Stefan obtains income in Poland, in his case Regulation 883/2004 does not apply to rules of suspending benefits, which means that only the rules resulting from the Polish pensions act are applied.

Verification of decisions under Article 48 of Regulation no. 987/2009

Article 48 of Regulation no. 987/2009 introduced additional rights for persons claiming old age or disability pensions subject to community coordination. Such persons have the right to a review of the decisions by the relevant institutions of member states when the decisions interact with each other, producing negative results for the claimant. The contact institution, after receiving information from the remaining institutions of relevant member states about all the decisions made by them in that case, forwards a summary of these decisions to the claimant and other relevant institutions participating in the proceedings. The PD-P1 form is used for the claimant, while the SED P7000 form is used for the institution. After receiving the form, the claimant may demand that the institution review the decision within the time limits laid down in the legislation applied by the institutions. The time limit to appeal the decision commences to run on the date on which the person concerned receives a summary of all the decisions. The right to have the decision reviewed does not amount to the person concerned bringing a court appeal from a decision issued by the relevant institution of the member state (forwarded to the person concerned directly after issue). With respect to Polish legislation, under Article 133 of the Old Age and

Disability Pension from Social Insurance Fund Act of 17 December 1998, a “review of the decision concerning the old age or disability pension” should be understood to mean another determination of the right to, or amount of, the old age or disability pension. Thus, in the case of a further determination of the right to, or amount of, benefits, the awarded or increased benefits are paid out beginning with the month in which the right to such benefits or their increase arose, but not earlier than from the month in which a claim for review was submitted, for a period of three years directly preceding the month in which a claim for review was submitted if the refusal to award a benefit, or the awarding of lower benefits, resulted from a mistake of the disability pension body or appeal body. The fact that, as in previous years, no claims for review under Article 48 of Regulation (EC) no. 987/2009 were recorded in the KRUS local branch in Ostrów Wielkopolski in 2023 proves the lack of objections to decisions issued by the Polish and German bodies, confirming thereby the high quality of co-operation between social security institutions and the correctness of decisions issued with regard to old age and disability benefits covered by community coordination.

*Supplements to old age and disability pensions
granted under community provisions – implementing
Article 58 of Regulation no. 883/2004*

A person residing in Poland and collecting a proportional old age or disability benefit for farmers, which is lower than the amount of the lowest old age pension for employees established in Polish provisions, will receive a supplement from KRUS under Article 58 of Regulation no. 883/2004, provided that the sum of the Polish old age or disability pension and collected foreign benefits is lower than the amount of the lowest old age pension. The provisions of Article 58 are applied exclusively when the domestic legislation of the state on the territory of which the person concerned is residing guarantees that old age or disability pensions will be equal to the lowest (minimum) amount. The supplement granted under Article 58 is not the same as an increase to the minimum provided for in national law, as this increase refers to an independent benefit or theoretical amount of the benefit that serves as a basis for determining a proportional benefit. The right to the supplement is connected with the proportional benefit, and it does not apply to disability pensions where the supplementary part is suspended due to conducting agricultural activities (Article 28 of the Social Insurance of Farmers Act of 20 December 1990). The amount of the supplement is equal to the difference between the amount of the lowest Polish old age or disability pension and the amount resulting from the sum of the Polish old age or disability pension and foreign old age or disability pensions awarded in all member

states and treaty states. Benefits for own periods of insurance may not be aggregated with benefits for periods of insurance of a deceased family member, for example a disability pension due to incapacity to work cannot be combined with a survivor's benefit. In the case of survivors' benefits, the supplement is determined for each entitled person, up to the portion of the survivor's benefit attributed to them. If the amount of the benefit paid out by the state of residence or by a foreign institution changes (for example due to indexation or review), a supplement awarded under Article 58 of the regulation changes, and the supplement amounts are subject to settlement (with back pay or deduction) starting from the date on which the benefit amount changed.

Example:

Tomasz resides in Poland, and since February 2021 he has been collecting an agricultural disability pension due to incapacity for work. The pension is pro rata temporis and the contributory part is equal to PLN 63.54 per month. In March 2021, Tomasz leased his agricultural farm under Article 28 of the Social Insurance of Farmers Act. Since March 2021, following indexation, he is entitled to collect the full benefit, i.e. PLN 65.10 of the contributory part and PLN 95.12 of the supplementary part, giving a total of PLN 160.22. Tomasz does not receive benefits from a foreign institution. For this reason, he is entitled to a supplement equal to PLN 1,090.66. The amount of the supplement is the difference between the amount of the minimum benefit (PLN 1,250.88) and the amount of the disability pension collected (PLN 160.22).

The German institution awarded Tomasz with the right to a disability pension in Germany, worth EUR 400 in June 2021. To aggregate the Polish agricultural disability pension and the German disability pension due to Tomasz, the German benefit, EUR 400, must first be converted to Polish currency according to the rules set out by the Administrative Commission for the Coordination of Social Security Systems in decision H12. Under Article 3 of the decision, when determining (again) the amount of the benefit for persons who in their state of residence collect proportional benefits in an amount lower than the minimum benefit established by the legislation of that state, the institution shall take into account one amount, using the rate of conversion published on the first day of the month immediately preceding the month when the provision is to be applied.

In the discussed example, the amount of the collected benefit will be changed since June. According to the above guidelines, we assume that the euro conversion rate established by the European Central Bank on 1 May 2021, that is PLN 4.5518. EUR 400 is thus equal to: $4.5518 \times 400 = \text{PLN } 1,820.72$

German disability pension (PLN 1,820.72) + the Polish disability pension (PLN 160.22) = PLN 1,830.94 > PLN 1,250.88.

Since the calculations suggest that the sum of benefits received by Tomasz is higher than the amount of the minimum benefit in Poland, no right to a supplement exists, and the agricultural disability pension due to incapacity for work on an agricultural farm will be paid in the amount of PLN 160.22 per month.

Under the provisions of Article 72 of Regulation (EC) no. 987/2009, the KRUS local branch in Ostrów Wielkopolski may request the relevant foreign institution to return overpaid old age and disability benefits. Recovering overpaid old age and disability benefits may occur by deducting their amounts:

- from the adjustment of benefits due to the beneficiary,
- if there is no adjustment, from benefits paid out on an ongoing basis.

It should also be stressed that the deduction shall occur on the conditions and within limits defined by the legal provisions binding the institution to which the request to return an overpaid benefit was made (Article 72(1)).

Life and residence certification

Under Article 101, item 2 of the Old Age and Disability Pensions from Social Insurance Fund Act of 17 December 1998 (Journal of Laws 2023, item 1251, as amended), the right to benefits ceases, among others, upon the death of the entitled person. Under Article 128 of the aforesaid act, an old age or disability pensioner is obliged, on request of the relevant body, to confirm with their own signature the right to continued collection of benefits specified in the act. The continued existence of the right to collect old age and disability benefits is proven by a personally filled-in, signed and officially confirmed “Life and residence certification” form. Accordingly, each year the KRUS local branch in Ostrów Wielkopolski, acting as the relevant institution, is obliged to provide beneficiaries of the Fund residing outside the borders of Poland with the bilingual “Life and residence certification” forms. The continued existence of the right to collect old age and disability benefits is proven by a personally filled-in, signed and officially confirmed “Life and residence certification” form.

Table 3. Total numbers of “Life and residence certification” forms sent in 2007–2023

Year	Number of life and residence certificates sent to beneficiaries residing solely in Germany	Increase (compared to the previous year)
2007	819	No data for 2006
2008	1,743	924
2009	1,771	28
2010	2,088	317
2011	2,285	197
2012	2,477	192
2013	2,600	123
2014	2,700	100
2015	3,060	360
2016	3,280	220
2017	3,470	190
2018	3,500	30
2019	3,580	80
2020	3,735	170
2021	3,850	115
2022	3,870	20
2023	3,970	100

Source: Own study based on materials from the Department of Foreign Benefits of the KRUS local branch in Ostrów Wielkopolski.

The highest increase in the number of life certification forms sent to Germany took place in 2008. The number of forms sent by the KRUS local branch in Ostrów Wielkopolski points to an upward tendency: the number of people residing in Germany whose Polish old age or disability pension is paid by KRUS is growing each year. Over 16 years, the increase was almost fivefold.

Funeral benefit

The obligation of KRUS to use the provisions of Regulation (EC) no. 883/2004 and 987/2009 on coordination of social security systems also applies to the funeral benefit²¹. While these provisions do not use the term “funeral benefit”, they define it

21. These rules are laid out in chapter 3, Death Grants, Article 42–43 of Basic Regulation no. 883/2004, and in chapter III, Article 42 of Executive Regulation no. 987/2009.

as any one-time death-related benefit²² that is due under the legislation applied by the relevant institution. The definition itself suggests that a one-off benefit is implied, an example of which is the funeral benefit in Polish legislation²³. Discretion to determine the conditions upon which the right to the benefit is acquired in the case of death has been granted to national legislation²⁴. The regulations do also not specify exactly which documents should be enclosed with claims for payment of the funeral benefit. Accordingly, KRUS shall examine the right to a funeral benefit based on provisions of the Social Insurance of Farmers Act and award the benefit to a person who actually covered the costs of the funeral following the death of the insured (among others), including a person subject only to accident insurance, sickness insurance and maternity insurance, or an old age pensioner or disability pensioner. The right to the funeral benefit expires if the award claim was not submitted within 12 months from the date of death of the person to which the benefit applies.

Example:

Ewaryst had been collecting a survivor's benefit. He moved to Germany, where he died. The son and daughter of the deceased submitted claims for the funeral benefit and enclosed invoices issued in their own names to confirm the relevant funeral costs incurred by each of them. The claimants requested to have the benefit due to them transferred to their personal bank accounts in Germany. In such case, the KRUS local branch in Ostrów Wielkopolski shall determine the right of both claimants to the funeral benefit and grant the benefit in proportion to the costs sustained by each applicant. Thus determined, the amounts are paid out to the designated bank accounts in Germany.

22. Under Article 1(y) of the basic regulation, a "death grant" means any one-off payment in the event of death.

23. K. Ślęzak, *Koordinacja systemów zabezpieczenia społecznego*, Komentarz lex, Warszawa 2012, p. 443.

24. Ibidem, p. 444.

Statistics

A summary of the number of processed and issued first-time and replacement decisions is found in the following table.

Table 4. Summary of the number of processed and issued first-time and replacement decisions

Year	Examining first-time old age and disability pension claims, determining the right to a benefit, and issuing decisions	Examining incoming correspondence and issuing replacement decisions	Total: examining incoming correspondence and issuing first-time and replacement decisions
2017	994	9,700	10,694
2018	1,200	12,000	13,200
2019	1,300	12,000	13,300
2020	1,255	10,700	11,955
2021	1,300	11,100	12,400
2022	1,340	11,000	12,340
2023	1,390	12,000	13,390

Source: Own study based on data from the Department of Foreign Benefits of the KRUS local branch in Ostrów Wielkopolski.

The data shown above suggests that the number of examined incoming correspondence, claims for old age and disability benefits and issued decisions shows an upward tendency.

This points to a growing number of people who have agricultural social insurance periods and move within the community, undertaking professional activities in other EU/EFTA states, and eventually claiming the right to benefits covered by European social security regulations.

Table 5. Old age and disability benefits transferred by KRUS to each EU/EFTA country and the United Kingdom in 2008–2023²⁵

Year	Number of benefits transferred to Germany	Number of benefits transferred to EU/EFTA states (without states covered by bilateral agreements)	Number of benefits not transferred to Germany (in %)	Amount of benefits transferred to Germany	Amount of benefits transferred to EU/EFTA states (without states covered by bilateral agreements)
2008	1,529	44	2.87	2,709,158	2,798,177
2009	1,808	55	3.04	2,854,606	3,006,417
2010	1,963	38	1.93	3,138,177	3,287,705
2011	2,112	67	3.17	3,502,456	3,876,320
2012	2,236	81	3.62	3,948,416	4,416,647
2013	2,404	100	4.16	4,404,315	5,043,233
2014	2,551	117	4.58	4,743,097	5,478,096
2015	2,726	129	4.73	5,193,563	6,005,756
2016	2,882	144	4.99	4,358,561	6,343,553
2017	2,984	166	5.56	5,721,559	6,750,121
2018	3,064	173	5.64	5,891,187	7,125,960
2019	3,170	198	6.24	6,282,084	7,768,520
2020	3,235	241	7.44	6,643,841.56	8,241,987.28
2021	3,285	269	8.18	6,768,420.09	8,644,044.13
2022	3,324	283	8.51	7,416,756.09	9,562,149.22
2023	3,337	303	9.08	9,438,180.65	12,126,039.95

Source: Own study based on data from KRUS quarterly statistical information for the years 2008–2023, <https://krus.gov.pl/krus/krus-w-liczbach/kwartalna-informacja-statystyczna>, access 5.05.2022 and 22.01.2024.

The data shown above clearly suggests that the transferred benefits are dominated by benefits paid out to Germany. The number of payments to other states, compared to the number of benefits transferred to Germany, ranges from 1.93% in 2010 to 9.08% in the second quarter of 2023.

25. Data for the fourth quarter for each year, except for 2023 (second quarter).

Table 6. Summarised numbers of provisional and final decisions issued in 2017–2023

Decisions	Year					
	2023	2022	2021	2020	2019	2018
Provisional	174	122	85	97	90	100
Final	1,217	981	845	818	871	933

Source: Own study based on statistical data from the Department of Foreign Benefits of the KRUS local branch in Ostrów Wielkopolski.

The data shown above suggests that in 2017–2023, only a small percentage of claimants received old age and disability benefits awarded by the KRUS local branch in Ostrów Wielkopolski solely on the basis of national law provisions, without the need to wait for confirmation of foreign insurance periods by the institution of another member state. The decisive majority of claimants acquired rights to benefits only after such confirmation was received by KRUS.

Table 7. Summarised numbers of issued final pro rata temporis and domestic decisions in 2019–2021

Year	Decisions		Total number of issued decisions awarding a benefit
	pro rata temporis	national	
2023	506	711	1217
2022	490	491	981
2021	444	401	845
2020	444	382	826
2019	475	365	840

Source: Own study based on statistical data of the Department of Foreign Benefits of the KRUS local branch in Ostrów Wielkopolski.

The above data confirms that from 2019 to 2023, the number of people who acquired the right to benefits under community regulations increased systematically. In 2023, the increase was 45 percent when compared to 2019.

The number of beneficiaries who acquired the right to benefits solely under national provisions rose from 365 (in 2019) to 711 (in 2023), showing an increase of about 51%. On the other hand, the number of people who acquired the right to benefits only after taking the principle of aggregation of periods into account rose from 475 (in 2019) to 506 (in 2023). Using the aggregation of periods technique allowed for the right to benefits to be acquired by about 56% of beneficiaries in 2019, and about 42% in 2023.

Summary

Despite difficulties related to the need to apply national law while taking into consideration European regulations regarding old age and disability benefits, KRUS guarantees effective protection of rights of persons moving within the EU, efficiently carrying out the tasks related to Poland's membership in the European Union.

It should be stressed that the topic of social insurance of farmers, especially those that move within and undertake professional activities on the territory of European Union or EFTA states, is very extensive. Using EU provisions while coordinating social security systems regulates a large number of essential issues concerning freedom of movement in the community, enjoyment of benefits, retention of acquired rights and rights being acquired, and many others. All of this prevents a Polish old age or disability pension for farmers that is collected by an entitled person residing in a member state other than Poland from being reduced or suspended due to that person living outside the borders of Poland. The beneficiary does not bear any negative consequences of their movement within the community, a fact that offers them a feeling of security.

This article shows how community ideas are implemented and presents the specific character and realisation of tasks entrusted to the Department of Foreign Benefits based on applicable national law and EU regulations.

However, this objective has not been fully achieved, because questions related to social security coordination, with respect to persons who have periods of social insurance for farmers, are very extensive. The article contains the most important topics and examples that can be helpful when determining the right to benefits under agricultural old age and disability insurance for persons who take advantage of the European right to free movement.

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