



Annex IV

to the 2024 report “Fraud and error in the field of EU social security coordination”

Specific legal and policy issues dealing with cross-border social security fraud and error and some examples of case studies.



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AUSTRIA

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

Yes, a concept for combatting Social Security Fraud is existent.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

[Sehbehinderung vorgetäuscht: Mann erschlich sich in Tirol mehr als 100.000 Euro | Tiroler Tageszeitung – Aktuelle Nachrichten auf tt.com](#). A case of fraud by feigning a visual impairment.

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

The following cases of suspected or attempted fraud have occurred regarding accidents at work at the Austrian Workers' Compensation Board (AUVA):

Social court proceedings are currently still pending regarding an accident report, in which the description and the cause of the accident were incorrectly stated with the suspicion that a private accident was presented as an accident at work.

In another case it can be assumed that the stated time of the accident was before a - possible - start of work. An employment had only been registered after the accident already occurred.

An insured person gave different accounts of the accident to the insurance institution and to his employer. A private accident was presented as an accident at work. In the court proceedings, the insured person stood by the account given in the accident report to the insurance institution. The insured person was subsequently convicted of the offence of attempted serious fraud in a criminal proceeding.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

Framework Agreement on the application of Article 16 (1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

See Annex II.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Insured persons are provided with handouts and brochures and thus informed about their rights and obligations. To provide true information to the institution insured persons are pointed to different legal reporting obligations. Application forms and other forms state that all information provided by the insured person must be accurate and complete. Some forms include information about legal consequences (e.g. criminal prosecution). Further means include homepages, general information letters, personal letters and in specific information on request.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

See answer to question 5). In practice, it is often difficult to determine the competent MS. Regarding occupational accidents and diseases, incorrect assessments naturally only come to light in the context of a benefit determination procedure based on a report of an occupational accident or disease. However, in this context it is not a matter of incorrect reports made with the intention of fraud, but rather such reports are due to a lack of knowledge or are caused by the complexity of the facts. In general, in Austria the determination of the applicable law is generally the responsibility of the health insurance institutions.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

Statistics and empirical values; trend is stable as there is little to no change in the number of cases.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

- Task Force Social Security Fraud (This Task Force is part of the police department)
<https://bundeskriminalamt.at/310/start.aspx>
- Public Prosecution Service
<https://staatsanwaelte.at/was-wir-tun/aufgaben-sta-gericht-polizei/>
- Criminal Courts
- Cooperation partners under the Social Fraud Prevention Act (<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20009245>), e.g. the Austrian Health Insurance Fund, BUAK (Construction Workers' Annual Leave and Severance Pay Fund [Bauarbeiter-Urlaubs- und Abfertigungskasse]), https://www.buak.at/cms/BUAK/BUAK_0/home
- The Auditing Service Wage-Related Taxes and Contributions (PLB) set up at the Federal Ministry of Finance pursuant to the Federal Act on the Audit of Wage-Related Taxes and Contributions ([PLABG] <https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=20010524>), <https://www.bmf.gv.at/services/aemter-behoerden/plb.html>
Within the framework of the joint audit of payroll taxes and contributions (GPLB) a social insurance, wage tax and municipal tax audit is carried out

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

- Lack of personnel resources
- Investigative problems (e.g. investigation concerning the place of residence)
- Problems with proof of intent

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

- Difficulties in the recovery of unduly paid social security benefits from insured persons who died and lived abroad
- Difficulties in the recovery from insured persons with no or not enough financial means
- Difficulties in the recovery of unduly paid social security benefits abroad when it is not clear, who to took the benefits

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

- Exchange of information
- Exchange of data (e.g. death data)

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

Data exchange is only possible on a legal basis. Insofar as the relevant legal provisions provide for an exchange of data, this also takes place and the Austrian institution receive the necessary data from abroad in return, even though the exchange of information with other countries does not always work seamlessly. The exchange of information between national public institutions has a legal basis.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

Regulations can be found in Regulation (EC) No. 883/2004 and national law, e.g.:

- § 360 ASVG (General Social Security Act)

- § 459f ASVG (General Social Security Act)
- § 76 StPO (Code of Criminal Procedure)

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

There is a database of EESSI communication in cases of art. 12, 13 and 16 of the Regulation Nr. 883/2004, which can be used by the appropriate inspection bodies if there is a legal basis.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

There needs to be a legal basis if personal information is processed.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

- Promotion of networking between involved stakeholders in the home country and abroad
- Promotion of data exchange between social security institutions (e.g. death data, family status)
- Increasing information about the obligations of the insured persons, some of it in different languages

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Depending on the actual infringement, all sanctions are possible if determined by law.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Yes.

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Yes.

Fraud has to be proven in a criminal proceeding before court.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

In Austria, our competent institution would contact the foreign institution and ask them to withdraw the issued the PD A1. After withdrawal we would have due process of law which would either establish circumvention or require the new employer to pay the contributions. If the foreign institution does not withdraw the PD A1, we would initiate a dialogue procedure. If this procedure does not lead to a result, we would try to obtain a criminal court finding that the PD A1 was fraudulently obtained.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

As the requirements for posting are not met, we would refuse to issue a PD A1.

If no PD A1 is applied for, we would end the social insurance for the employees and inform the foreign institution.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

In such cases, several national institutions are involved. The institution that first identified such a situation informs the other institutions. The following institutions may be involved: interest groups, financial police, financial authorities, labor inspectorate, social security agencies, courts.

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

Insured persons living abroad are obliged to submit a life certificate once in a year. If the life certificate is not submitted the payments are stopped immediately. In case of overpayments a claim for the return is made at the Deutsche Post. This is based on a guarantee for refund.

Regarding the export of ongoing cash benefits in the area of accidents and occupational diseases, the competent institution periodically requests proof of life.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

Either a claim for the return is made at the Deutsche Post. If this is not successful there are attempts to get the money back from heirs or near relatives.

Regarding the export of ongoing cash benefits in the area of accidents and occupational diseases, in cases where cash benefits are to be transferred to a foreign account, a confirmation (form) from the financial institution must be submitted in which the financial institution undertakes to transfer back any overpayments made.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

BELGIUM

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

NISSE-RSVZ-INASTI: Yes

RVA-ONEM: Yes, collaborations (data-exchanges) are being held with dutch and french institutions, exchanges with Luxemburg are planned in the future.

SFPD: Yes, the fight against social fraud in general is outlined in the SFPD's internal multi-year strategic plan.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

NISSE-RSVZ-INASTI: No

RVA-ONEM: Werkloze vrouw 'vergeet' te melden dat ze al 5 jaar op vakantie is in Tenerife: 33.500 euro aan uitkeringen onterecht ontvangen | Unemployed woman 'forgets' to report she has been on holiday in Tenerife for 5 years: 33,500 euros in benefits wrongly received <https://www.hln.be/binnenland/werkloze-vrouw-vergeet-te-melden-dat-ze-al-5-jaar-op-vakantie-is-in-tenerife-33-500-euro-aan-uitkeringen-onterecht-ontvangen~a307d1e5/?referrer=https%3A%2F%2Fwww.google.com%2F>

SFPD: Krantenartikel 'Het laatste Nieuws' → correction: the case was discovered through BEX.

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

See 1.2.1.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

NISSE-RSVZ-INASTI: Other than the European Regulations Belgium has bilateral agreements on social security with 25 different countries, as well as a separate treaty on social

security for the Benelux. Belgium has bilateral agreements specifically on the fight against social fraud with 3 countries.

RVA-ONEM: Bilateral agreements with EU-countries on data-exchange.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

NISSE-RSVZ-INASTI: Other than the European Regulations Belgium has bilateral agreements on social security with 25 different countries, as well as a separate treaty on social security for the Benelux.

Belgium has bilateral agreements specifically on the fight against social fraud with 3 countries.

RVA-ONEM: Bilateral agreements with the Netherlands and France.

RSZ-ONSS:

- **Decision of the EEA Joint Committee No. 235/2019 of 27 September 2019 amending Annex VI (Social Security) of the EEA Agreement [2023/40]** – The Decision No. E6 of 19 October 2017 regarding the determination of the moment when a message is legally considered as received within the framework of the electronic exchange of information on social security (EESSI) must be incorporated into the EEA Agreement. – OJ 5/01/2023 (EUR-Lex - 22023D0040 – EN).
- **Decision of the EEA Joint Committee No. 236/2019 of 27 September 2019 amending Annex VI (Social Security) of the EEA Agreement [2023/41]** – The Recommendation No. A1 of 18 October 2017 regarding the issuance of the certificate referred to in Article 19(2) of Regulation (EC) No 987/2009 of the European Parliament and of the Council must be incorporated into the EEA Agreement. – OJ 5/01/2023 (EUR-Lex - 22023D0041 - EN).
- **Decision of the EEA Joint Committee No. 209/2020 of 11 December 2020 amending Annex VI (Social Security) of the EEA Agreement [2023/2011]** – The Recommendation H2 of 10 October 2018 regarding the inclusion of authentication elements in portable documents issued by the institution of a Member State certifying the situation of a person for the purposes of the application of Regulations (EC) No. 883/2004 and (EC) No. 987/2009 of the European Parliament and of the Council must be incorporated into the EEA Agreement. – OJ 28/09/2023 (EUR-Lex - JOL_2023_240_R_0033 – EN).
- **Decision of the EEA Joint Committee No. 210/2020 of 11 December 2020 amending Annex VI (Social Security) of the EEA Agreement [2023/2012]** – OJ 28/09/2023 (EUR-Lex - 22023D2012 – EN) (extension to nationals of EEA States of the provisions of Title III, Part Two of the EU-UK Withdrawal Agreement and of Title III, Part Two of the Separation Agreement).
- **Decision of the EEA Joint Committee No. 43/2021 of 5 February 2021 amending Annex VI (Social Security) of the EEA Agreement [2024/19]** (Integration of Decision E7 by the Administrative Commission for the Coordination of Social Security Systems - EESSI) – OJ 11/01/2024 (EUR-Lex - 22024D0019 - EN).

- **Decision of the EEA Joint Committee No. 97/2023 of 28 April 2023 amending Annex VI (Social Security) of the EEA Agreement [2023/2251]** (OJ L of 9.11.2023) - ELI: <http://data.europa.eu/eli/dec/2023/2251/oj> (Incorporates Decision H12 of 19 October 2021 on the date to be considered for exchange rates in the EEA legislative framework).
- **Decision No. H14 of 21 June 2023 regarding the publication of the orientation note on the COVID-19 pandemic, the note on the interpretation of the application of Title II of Regulation (EC) No. 883/2004 and Articles 67 and 70 of Regulation (EC) No. 987/2009 during the COVID-19 pandemic, the orientation note on telework for the period from 1 July 2022 to 30 June 2023, and the orientation note on telework applicable from 1 July 2023 (C/2024/594)** – (OJ 11/01/2024) – effective from 1/02/2020 – 1/07/2023 – (EUR-Lex - 32024D00594 - EN).
- **Decision of the EEA Joint Committee No. 181/2023 of 5 July 2023 amending Annex VI (Social Security) of the EEA Agreement [2024/801]** – OJ 21/03/2024 (EUR-Lex - 22024D0801 – EN) (Integration into the EEA Agreement of Decision No. H13 by the Administrative Commission for the Coordination of Social Security Systems of 30 March 2022 regarding the composition and operational modalities of the Social Security Accounts Commission of the CACSSS).
- **Decision of the EEA Joint Committee No. 319/2023 of 8 December 2023 amending Annex V (Free Movement of Workers), Annex VI (Social Security), and Protocol 31 (Concerning Cooperation in Specific Sectors Outside the Four Freedoms) of the EEA Agreement [2024/1409]** – OJ 13/06/2024 – (EUR-Lex - 22024D1409 – EN) (Incorporates Regulation (EU) 2019/1149 establishing the European Labour Authority).
- **Derogating Agreements – Article 16 of Regulation (EC) No. 883/2004 on the coordination of social security systems:**
 - **Framework Agreement on the application of Article 16(1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework** – Signed on 6/06/2023.
 - **Bilateral Social Security Agreement:** None.

SFPD: 1/ EESSI

2/ At SFPD level, agreements with certain bodies in other countries give us direct access to certain information (German and French foreign careers) which is useful for the correct calculation of the Belgian pension. This access complements the information transmitted via EESSI and provides additional security against the risk of errors.

3/ The date of death is important to stop existing rights of the socially insured person or to investigate new rights. Through the National Register, the FPD only has the dates of death of people residing in Belgium. Socially insured people residing abroad had to send a life certificate every year. This is a certificate, signed by a local authority, by which they declare they are still alive.

Because this paper procedure carries a high risk of fraud and errors and to reduce the administrative burden for the socially insured person, bilateral agreements were concluded in recent years between the FPD and a foreign pension institution regulating a monthly and electronic exchange of data on the date of death of pension beneficiaries (BEX).

Through this agreement, the FPD seeks to combat errors with life certificates and limit unlawful payments to pensioners abroad.

When a new bilateral agreement is established under BEX, the first exchange of data detects files where the beneficiary is found to be already deceased. These files are considered fraudulent as there was a failure to comply with the life certificate procedure. In these fraud cases, a third party, using a forged life certificate, wrongly receives payments to the person concerned. BEX replaces this procedure so that fraudulent use of life certificates is no longer possible.

For the countries with which Belgium has concluded this agreement, the extent to which this type of fraud can be avoided depends on the matching rate. The matching rate is the ratio between the number of benefit recipients of the relevant country for which electronic data exchange is possible and the total number of benefit recipients with a domicile address in that country.

Currently (August 2024), the FPD has bilateral agreements with pension institutions in the following countries: Netherlands, France, Luxembourg, Germany, Italy, Switzerland and Spain.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

NISSE-RSVZ-INASTI: The Belgian citizen has the right to information and it is the task of the administration to provide that information. This principle was introduced by the law of 11 April 1994 on open government, which aims at greater transparency of the operation of the administrative government. The Belgian independent social insurance funds are also under this obligation to provide information to their self-employed affiliates. 'Coming to Belgium' and 'Leaving Belgium' website.

RVA-ONEM: Information documents provided on the NEO-site:

<https://www.rva.be/bladzijde/hoe-belgische-gewerkte-periodes-laten-attesteren-voor-de-werkloosheid-in-het-buitenland-document-u1>

<https://www.rva.be/burgers/volledige-werkloosheid/wat-zijn-uw-verplichtingen-als-vergoede-werkloze/kunt-u-uw-uitkering-behouden-wanneer-u-in-het-buitenland-werk-zoekt>

“The foreign employment service will inform the NEO of any event that occurs during the export period and that may affect your right to benefits (e.g. commencement of work or illness abroad, refusal to work, etc.). It is also possible that the foreign employment service will report monthly to the NEO on the way in which you are fulfilling your obligations as a job seeker abroad.”

SFPD:

- The person concerned receives a letter when they retire with the pension decision. This letter informs the person concerned of their rights and obligations (e.g. reporting their move abroad, exercising a professional activity, etc.).

- A lot of information can be found on our website, including what a person must do if they move abroad: <https://www.sfpd.fgov.be/nl/buitenland>
- When sending a life certificate, the obligations of the pensioner are listed again as a reminder (changes of address, in social and fiscal status, etc.)
- In the form for requesting an account number abroad, the obligations of the pensioner are listed again as a reminder (changes of address, in social and fiscal status, ...)

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

NISSE-RSVZ-INASTI: The Belgian citizen has the right to information (see question 1.5.).

'Coming to Belgium' and 'Leaving Belgium' website.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

NISSE-RSVZ-INASTI: Resources are evaluated by the competent governmental branches and its social partners. The evolution has been increasing for several years.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

NISSE-RSVZ-INASTI: Intense and multi-faceted. CSSF is constantly changing so it is of utmost importance that our inspection services are getting constant training on the latest fraud phenomena.

Some parts of are training that are transversal could be shared with other MS.

RVA-ONEM: Aspects of cross-border unemployment benefits are integrated in the curriculum that is given to new social inspectors.

RSZ-ONSS: The Inspectorate of the National Social Security Office (DG IV) is organised on a territorial basis and on an issue-specific basis.

It is made up of 10 territorial decentralisations, the provinces. Each provincial directorate has a unit dedicated to monitoring the determination of the social security legislation applicable to cross-border workers (Regulation (EC) No 883/2004 on the coordination of social security systems and bilateral social security agreements). These units are made up of 4 to 5 social security inspectors. They carry out on-site inspections once a month with their colleagues from

the Social Law Inspectorate, on the basis of a risk analysis produced monthly by the data mining department, and they conduct in-depth investigations under the authority of the labour auditors.

In terms of specialised departments, one is dedicated to the issue of international social dumping and network fraud. This directorate centralises requests for dialogue with the competent social security institutions of other European Union countries, Switzerland, the European Economic Area and other countries with which Belgium has a bilateral social security agreement. The request for dialogue comes into play when the inspectors find that the conditions relating to posting or activity in several countries are not being complied on the Belgian territory. The aim is to communicate the conclusive findings to the competent institution that issued the PD A1 or the certificate of applicable legislation. The latter can then review its decision to maintain its legislation and determine, in the light of the information provided, whether the State of activity is the competent State.

This department is also responsible for the basic and continuing training of specialised agents. Basic training consists of two modules:

- Determining applicable social security legislation (Regulation (EC) No 883/2004 on the coordination of social security systems and bi-lateral social security agreements)
- Determining the legislation applicable to labour law (Directive 96/71/EC, declaration prior to posting, LIMOSA, and social information required in Belgium).

In 2023, the 'Dumping and Fraud Networks' thematic directorate worked with the Social Research and Information Service (SIRS) to set up general training courses for social inspectors from the inspection services of the Contrôle des Lois Sociales (labour inspectorate), the Regions, the Public Social Security Institutes and the tax services, with a view to fostering collaboration between them. The aim of the training was to introduce the inspectors to the skills and investigative methods of the other services involved in order to facilitate jointly organised inspections. SIRS is the institution that organises cross-departmental cooperation between the services involved in the fight against social fraud in Belgium.

In 2023, continuing training focused on an analysis of the case law of the Court of Justice of the European Union on issues of fraud in the application of the regulations coordinating social security systems (regulations (EC) no. 883/2004 and no. 987/2009). The aim was to make the inspectors aware of the need to respect the application of the coordination rules, and in particular the value of PD A1 and the other rules of secondary law, by putting them in perspective with the major principles of primary European law: the 4 fundamental freedoms of movement, the area of democracy and citizenship and finally the general principle of EU law "fraud corrupts everything".

No training in the field of fraud relating to the coordination of social security systems took place in collaboration with institutions in other EU Member States in 2023.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

NISSE-RSVZ-INASTI: The National Institute for Social Insurance for the Self-Employed (NISSE) manages the social security of the self-employed.

The RSVZ has its own social insurance fund, the National Assistance Fund, which, like the other funds, is responsible for the application of social legislation.

NISSE's Fair Competition department fights against social fraud to ensure fair competition for the self-employed.

NISSE | Social Security Self-employed Entrepreneurs

NSSO : Office National de Sécurité Sociale (ONSS)

Place Victor Horta 11
1060 Bruxelles

Monday to Friday, 9am to 12pm or by appointment.

<https://www.onss.be/inspection>

+32 (0) 2 509 59 59

Monday to Friday, 8.30am to 5pm.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

NISSE-RSVZ-INASTI:

- Cooperation with other MS
- Investigative problems (obtaining proof)
- Fictitious seats
- Successive formation of companies
- Working effectively while keeping high standards with regards to: appropriate sanctioning, maintaining GDPR compliance, health and safety standards, etc.

RVA-ONEM:

- information exchange and getting answers from other public bodies.
- the lack of a european unique identifier
- complexity in social security landscapes
- complexity in regulation
- capacity to combat international fraud on a grand scale

RSZ-ONSS: - fictitious seats in the international transport sector,

- the successive formation of companies without maintaining substantial activity in the State of establishment with a view to hiring workers in States where social security contributions are low in order to post them immediately to Belgium (construction),

- false PD A1,
- translation of documents, interpreting during hearings of workers or employers,
- difficult access to social data (identification, working hours) and wages of posted workers from the foreign companies employing them

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

NISSE-RSVZ-INASTI:

- The person has no assets or resources (that are known)
- The company moves its assets and files for bankruptcy
- Person or company disappears abroad

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

NISSE-RSVZ-INASTI: Yes. Cooperation through ELA, the Benelux treaty, the use of IMI etc

RVA-ONEM: Data exchange with the Netherlands in 2024. Re-initiation of cooperation for data-exchange with France.

RSZ-ONSS: Yes

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

NISSE-RSVZ-INASTI: Yes. Concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, formal and informal meetings.

RVA-ONEM: Data-exchange with the Netherlands. Concrete plans for data-exchange with the Netherlands.

RSZ-ONSS: Currently, the primary concern of the NSSO Inspectorate is the operation of the dialogue procedure in the event of fraud or doubts about the legality of a posting. This dialogue procedure was set up by Decision A1 of the Administrative Commission for the Coordination of Social Security Systems. European case law has made it an obligatory point of passage in the event of fraud being detected by the State of activity. The contact point of the "Social Dumping - Fraud Network" thematic directorate must note the lack of fluidity in the examination of requests for revision of the applicable legislation that it sends to the competent institutions of the other Member States. The difficulties encountered range from a lack of response, processing times that far exceed those provided for in Decision A1, and summary notification of decisions. These decisions are not communicated in a legally effective form. For example, they are only communicated by e-mail in a laconic manner or with insufficient motivation. Decisions to withdraw the PD A1 or to change the applicable legislation are not communicated

to the employer concerned and deprive him of the possibility of appealing against the decision before the administrative or judicial bodies of the State which had initially issued the PD A1.

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

NISSE-RSVZ-INASTI: Almost all exchange of information is allowed when it is ad hoc and GDPR compliant. Systematic exchange of information when the necessary protocols are in order.

RVA-ONEM: The legal basis for international data-exchange on Fraud is foreseen by the legislator in article 57 of the Social Penal Code.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

NISSE-RSVZ-INASTI: Regulation 883/2004 regulates the administrative cooperation between the authorities and competent institutions of the Member States, and the Regulation 987/2009 lays down the procedure for the implementation of Regulation 883/2004. They were amended by Decision H5 concerning cooperation on combating fraud and error. These legal instruments regulate the rights to social security in relation to the Member States of the European Economic Area and Switzerland.

Belgium has bilateral agreements on social security with 25 different countries, as well as a separate treaty on social security for the Benelux.

Belgium has bilateral agreements specifically on the fight against social fraud with 3 countries.

RVA-ONEM: The legal framework for the cooperation is to be found in cooperation agreements. For example there is a cooperation agreement between the Belgian social security NEO, NIHDI, THE CBSS, and the Dutch institution UWV.

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

NISSE-RSVZ-INASTI:

- The national register for the self-employed.
- The national register for the employees.
- The national register for companies.
- These databases are fed with official data by public authorities.

- Other databases contain declarations of private persons and companies (eg. Declaration of presence or activities on Belgian territory by foreign entities)

RSZ-ONSS: YES

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

NISSE-RSVZ-INASTI: Art. 76 883/04 ensures willing and meaningful cooperation as long as the information exchanged is GDPR compliant.

RVA-ONEM: The lack of a European unique identifier puts a serious restraint on the possibility to exchange information. There is also a limitation on using passenger data, as it is only consultable to combat serious crime, and not social security fraud.

ONSS-RSZ: Exchanges of information with the inspection services of other Member States are governed by Article 57 of the Social Penal Code:

Art. 57. The exchange of information and other forms of collaboration with the labour inspectorates of other Member States of the International Labour Organisation and of non-signatory States of Convention No. 81 concerning Labour Inspection in Industry and Commerce.

Social Inspectors may exchange with the Labour Inspectorates of other Member States of the International Labour Organisation, where Convention No. 81 concerning Labour Inspection in Industry and Commerce, approved by the Law of 29 March 1957, is in force, any information that may be useful for the exercise of the supervision for which each of them is responsible.

Information received from Labour Inspectorates of other Member States of the International Labour Organisation shall be used under the same conditions as similar information collected directly by Social Inspectors.

Information intended for the labour inspectorates of these Member States shall be collected by the social inspectors under the same conditions as similar information intended for the exercise of the supervision for which they themselves are responsible.

The administrations to which the social inspectors belong may also, in pursuance of an agreement concluded with the competent authorities of a Member State of the International Labour Organisation, authorise the presence on national territory of officials of the labour inspectorate of that Member State with a view to gathering any information which may be useful for the exercise of the supervision for which the latter are responsible.

Information gathered abroad by a social inspector under an agreement concluded with a Member State of the International Labour Organisation may be used under the same conditions as information gathered in the country by social inspectors.

In execution of such an agreement, the administrations to which the social inspectors belong may resort to other forms of reciprocal assistance and collaboration with the labour inspectorates of the other Member States of the International Labour Organisation referred to in paragraph 1.

The provisions of paragraphs 1 to 6 also apply to agreements on the exchange of information concluded between the competent Belgian authorities and the competent authorities of States which are not signatories to Convention No. 81 concerning Labour Inspection in Industry and Commerce, approved by the Law of 29 March 1957.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

NISSE-RSVZ-INASTI: With the use of machine learning we are able to more accurately detect possible cases of fraud and social dumping.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

NISSE-RSVZ-INASTI: All 3 are possible depending on the type of infringement.

RVA-ONEM: Administrative or criminal.

ONSS-RSZ:

The infringements are sanctioned through a criminal law method – the social criminal code :

Art. 181 – immediate non-declaration of employment (DIMONA)

Art. 182 – non-declaration of posting (LIMOSA)

Art. 218 – non-payment of contributions to the National Social Security Office

Art. 234 – failure to declare benefits and remuneration to the National Social Security Office (DMFA)

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

NISSE-RSVZ-INASTI: Yes, different sanction levels are possible.

RVA-ONEM: Yes, both on the criminal and the administrative level there are minimum and maximum limits where in between a sanction can be determined.

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

NISSE-RSVZ-INASTI: Yes.

RVA-ONEM: Yes those provisions are foreseen in chapter 10 of the Social Penal Code (art. 230 – Art. 236)

ONSS-RSZ: Art. 218 of the social criminal code : non-payment of contributions to the National Social Security Office

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

NISSE-RSVZ-INASTI: Yes.

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

NISSE-RSVZ-INASTI: The NSSO is competent in this matter since it pertains to employees.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

- **NISSE-RSVZ-INASTI:** From a social security standpoint, we will investigate whether the self-employed workers meet the criteria for working in Belgium while remaining under the legislation of the other MS. We will also investigate the possibility of bogus self-employment. Depending on the investigation, we will possibly try to subject these workers to Belgian legislation under the correct status. The described case falls under the category of human trafficking and exploitation which will become a judicial matter.

- **NISSE-RSVZ-INASTI:** This depends on the facts, the outcome of the investigation and the assessment of the court.

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

NISSE-RSVZ-INASTI: The Federal Pension Service is competent in this matter. (Questions 3- 6).

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

NISSE-RSVZ-INASTI: The Federal Pension Service is competent in this matter. (Questions 3 – 6)

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

NISSE-RSVZ-INASTI: Working method of the NISSE (for cases where there is only a pension as a self-employed person in Belgium):

If a person dies in Belgium during the investigation of his pension rights and a data exchange with another EU member state has been initiated, then that other EU member state is notified of the death.

If the investigation of pension rights has been completed and the person enjoys a pension, then in principle the other EU country is not notified of the death.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

NISSE-RSVZ-INASTI:

The Federal Pension Service is competent in this matter. (Questions 3 – 6)

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

NISSE-RSVZ-INASTI:

- Information exchange between member states.
- Information exchange between the NISSE and the National Employment Office.

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

NISSE-RSVZ-INASTI: Family benefits are handled by the regional institutions.

RVA-ONEM: Treaties on the ad hoc exchange of information with neighbouring states. (Luxembourg, France, and the Netherlands). No structural checks, so this has to be detected on the basis of a U1-form or through whistleblowing.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

NISSE-RSVZ-INASTI: NISSE is not competent for healthcare. (Questions 9 – 11)

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

NISSE-RSVZ-INASTI: NISSE is not competent for healthcare. (Questions 9 – 11)

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

NISSE-RSVZ-INASTI: NISSE is not competent for healthcare. (Questions 9 – 11)

BULGARIA

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

At the institutional level, the Strategy for the Development of the National Social Security Institute 2018-2024 sets a strategic goal related to the improvement of control in the management of the financial resources of the state social security and implementation of the activities in the National Social Security Institute and the activity - Strengthening and development of monitoring mechanisms and control for the prevention and on-time detection of irregularities and fraud with insurance payments.

There are actions has been set for holding meetings and preparing draft agreements for electronic data exchange of mutual interest with MSs where there is no such agreement. The implementation of these activities helps to reduce the risk of errors and fraud with countries where there is no such exchange.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

Provisions regarding the implementation of cross-border social security legislation are included in Social Security Code, Pensions and insurance service Ordinance, Ordinance on granting and payment of unemployment benefits, Ordinance on cash benefits and assistance from the state social insurance.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

Agreement on administrative cooperation between the competent institutions of the Republic of Bulgaria and the Federal Republic of Germany

(several projects of agreements are in progress, but not signed yet – Spain, Belgium, Austria)

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Information is published on the websites of the institutions.

The obligation to provide complete and correct information is established by the law as well as the obligation to provide with any change in the current information that leads to suspension, termination or modification of the benefit/pension, as well as the address in case of change. The information is to be provided in a 1-month period as from the date of occurrence of the circumstance or from the person becomes aware of it.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

Information materials on the NSSI website

media campaigns, where explanations on the rights and obligations of persons exercising the right to free movement, are made

Counselling days in Bulgaria and in other MSs.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

The staff resources related to cross-border fraud in the EU are decreasing comparing to the increasing number of eligible persons who work/live in the EU.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

With regard to the investigation and sanctioning social security fraud, benefits in cash, the competent institution is National Social Security Institute (noi@nssi.bg). For those living abroad, this is handled by the "European Regulations and International Agreements" Directorate, Headquarter of the National Social Security Institute. For those living in Bulgaria - NSSI regional offices.

Mrs. Maria Kasarova – Director of the "European Regulations and International Agreements" Directorate, e-mail Maria.Kasarova@nssi.bg, phone ++359 926 1600

Mrs. Boryana Boeva – Bulgarian NCP, e-mail Boryana.Boeva@nssi.bg

With regard to social security contributions fraud, the competent institution is the National Revenue Agency, e-mail infocenter@nra.bg

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

Spain, France – unemployment sector

Germany– pensions sector

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

- Agreement on death data exchange /Germany/;

- exchanging legal and administrative information;

- exchanging personnel;
- conducting counselling days.

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

The obligation to provide with and to obtain information follows from the applicable national legislation as well as from the written agreements/contracts between the institutions

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

- Social Insurance Code
- Pensions and insurance service Ordinance
- National Revenue Agency Law
- Civil Registration Law
- Ministry of Internal Affairs Law
- Instruction for interaction and current exchange of information between the National Revenue Agency and the National Social Security Institute
- Agreement to ensure ongoing exchange of information between the Ministry of Regional Development and Public Works and the NSSI
- Agreement on provision of information by the Ministry of Internal Affairs to the National Social Security Institute
- Contracts for the payment of pensions with payment service providers licensed by the Bulgarian National Bank and their branches operating on the territory of the country

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

Developing a unified mechanism for the recovery of unduly paid benefits and pensions from foreign banks.

Unified individual social security number for persons within the EU in order to replace the social security/identification numbers used in different MSs, might be a decision and minimize the risk of fraud and error follows from incorrect identification.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Administrative law method –sanctions are established at the Social Insurance Code and Ordinances on its applying.

When the act could be defined as a crime, then Criminal law methods are applied along with the administrative sanctions.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

The legislation distinction is based on the fact whether the unduly paid benefit/pension is received in a good faith or and in a bad faith.

In the case of bad faith, the debt is collected with interest, calculated from the date of receipt of the undue payment.

In case of good faith, the debt is collected without interest within the period for voluntary refund (14 days from the reception of the administrative act by the person). The general rule is that payments received in good faith are not subject to reimbursement by the person and cases where the received in a good faith benefit/pension is a subject of reimbursement by the person are strictly defined by the law

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Yes, there are sanctions for unduly paid benefits and pensions in the Social Security Code and Ordinances. In case the act qualifies as a crime according to the Criminal code, the person is subject to criminal liability regardless of administrative liability.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- What approach does your country take to these practices?
- Do the 'self-employed' subcontractors have any means of redress?

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

- Population National Database (includes death data for BG citizens and other MSs citizens with permanent residence in Bulgaria);
- information from the competent institution of the respective MS,
- information from the Embassy/Consulate in that MS.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

- the overpaid pension is to be recovered by the inheritors of the deceased.
- applying the recovery procedure between institutions if there are conditions for its apply

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

The competent institutions inform each other about their pension decisions, so an information about the pension from another MS is in disposal before the death. If not, then contacting the institution at the place of residence is a possibility to obtain an information.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

Detection is possible when the institution of country B informs the institution of country A which pay the benefit, or the person him/herself provide this information to institution of country A. The persons are obliged by the law to provide with any circumstances with relevance to the entitlement to benefit or to its amount. This information could be obtained even later when country B reports insurance periods under its legislation.

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

DENMARK

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

Denmark has a decentralized structure in relation to both the payment and the control of social benefits. In Denmark, there is no national government management of control efforts, as this task is handled by private actors (the unemployment insurance funds), Udbetaling Danmark (UDK) and the municipalities.

As an exception, STAR's Airport Authority carries out checks on social security benefits at the Danish airports.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

[Berlingske.dk](https://www.berlingske.dk), 16 February 2022: *Hundreds are caught in social fraud at the airport: "It's unacceptable"* <https://www.berlingske.dk/samfund/hundredvis-fanges-i-socialt-bedrageri-i-lufthavnen-det-er-uacceptabelt>

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

N/A

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

Denmark has no legislation that specifically deals with fraud and errors according to the regulations. All cases of fraud and error are managed and sanctioned in accordance with the provisions of national law for each service. The national legislation for each individual benefit in the Danish social security system within the framework of the regulation is presented in Annex I.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

Denmark has entered into the following bilateral agreements on combating fraud and error.

- Denmark is actively represented on the H5NCP Platform.
- Denmark is represented in several working groups, such as the Nordic Working Group on Benefit Fraud and the Working Group on European Benefit Fraud.
- The Nordic Convention on Social Security entered into force on 1 May 2014. The agreement contains, among other things, a reference to Regulation (EC) No. 883/04 and 987/09 on enhanced cooperation on electronic information exchange.
- Agreement between the Social Insurance Institution of Finland (Kela), Finland's Center for Pensions (ETK), the Social Insurance Administration of Iceland (Tryggingastofnun), the Norwegian Labor and Welfare Administration (NAV), the Swedish Pensions Agency and Udbetaling Danmark (DK) (UDK) regarding cooperation and exchange of information via secure e-mail on social security and payment of benefits (23 February 2016). Bilateral agreements on the exchange of data on deaths have been concluded and implemented with Germany, Switzerland and Poland.
- A memorandum of understanding (MOU) between Denmark and the government of the United Kingdom and Northern Ireland regarding cooperation and mutual assistance in the administration of social security schemes was signed on 13 October 2014. In connection with Brexit, the UK has terminated the agreement. An update of the agreement is being worked on.
- Bilateral agreements on the exchange of data on deaths are being implemented with France, Spain and the Netherlands. The agreements are expected to be fully operational in 2024.

Reference is also made to Annex II, section 1.6 and 2.6.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Citizens who receive benefits covered by the regulation from Denmark are informed with the application that, according to the law, they are obliged to disclose all significant circumstances that may affect the person's right to receive the benefit, for example information about marital status, residence outside country of main residence and income in other countries.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

N/A

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

N/A

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

STAR's Airport Authority carries out checks on social fraud. The employees are trained internally in STAR at the 'Lufthavnsakademiet'. Here, the employees are trained in, among other things, which registers must be used in connection with the control, including the income register and 'Landssupporten'. They are also trained in what to look for in the registers and what information in the income register and 'Landssupporten' may indicate that a citizen has received benefits unjustified. Finally, the employees are trained in what kind of documentation must be secured (passport, ticket, boarding pass) so that the unemployment insurance funds and the municipalities can carry out further case processing.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

The cases are investigated and sanctioned as a general rule by the administrations/competent institutions paying social security benefits. If criminal matters are suspected, the cases are reported to the police. Most municipalities have established control groups in the administration, which are organizationally and professionally adapted to local conditions. The municipalities cooperate in the control area with 'Den Fælles Dataenhed' in Udbetaling Danmark, which carries out register coordination and, on the basis of this, identifies possible control cases for the municipalities.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

There are, among other things, the following problems/challenges:

- Data protection rules may affect the ability to exchange some types of information

- There may be challenges in obtaining information in cases relating to benefits that are not covered by an EU regulation
- Within the Schengen-cooperation, it is not possible/difficult to obtain entry and exit information on citizens (Among other things, due to lack of stamps in passport)
- Electronic passport stamps

Due to the increasing use of electronic passport stamps, the Airport Authority is dependent on that the citizens willingly want to show the authorities their ticket or boarding pass, in order to secure documentation for their entry- and exit date of Denmark, because the Airport authority is not able to read off the digital passport stamps.

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

- Repayment claims must sometimes be written off due to the beneficiary's inability to pay.
- Difference in periods of limitation nationally and in other Member States

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

The unit "International Fraud & Error Information" in Udbetaling Danmark may, in connection with specific individual cases regarding the control of benefits, request competent authorities within the EU for information.

There is good cooperation with competent authorities in the EU in relation to the exchange of information (in individual cases). Restrictions on delivery may in some cases be attributed to technical issues.

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

Udbetaling Danmark has data exchange agreements with the following institutions/countries within the EU:

- Joint Nordic agreement between Norway, Iceland, Finland, Sweden and Denmark (Kela – Kansaneläkelaitos/The Social Insurance Institution of Finland, ETK – Eläketurvakeskus/The Finnish Centre for Pensions, Tryggingastofnun/The Social Insurance Administration of Iceland, NAV, Arbeids- og velferdsetaten/The Norwegian Labour and Welfare Administration (NAV), Pensionsmyndigheten/The Swedish Pension Agency
- Germany (Deutsche Post AG Renten Service)
- Polen (Zakład Ubezpieczeń Społecznych (ZUS))

- Switzerland (Zentrale Ausgleichsstelle (ZAS))

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

It is permitted to pass on information to another administrative authority if the applicant has given consent, or if it can be assumed that the information will be of significant importance for the authority's tasks or for a decision the authority must make.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

The general regulations are found in forvaltningsloven (the Public Administration Act) <https://www.retsinformation.dk/eli/lta/2014/433> and databeskyttelsesloven (the Data Protection Act) <https://www.retsinformation.dk/eli/lta/2018/502>.

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

N/A

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

Delivery of information has been refused in a few individual cases with reference to GDPR rules.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

An EESSI SED-form designed specifically for the use of information in connection with individual cases of control of benefits could possibly facilitate the exchange of information.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Violations are generally sanctioned administratively by the paying authorities and social security funds. Criminal consequences of fraud are imposed by the courts.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Claims for repayment and any benefit consequences as a result of breaking the rules are decided by the paying authorities and unemployment insurance funds according to the legislation for the individual benefits. More serious offenses in the nature of fraud under the Penal Code are investigated by the police and judged by the courts.

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Apart from unemployment insurance, Labour Market Insurance and Supplementary pension scheme (Arbejdsmarkedets Tillægspension – ATP), social security benefits in Denmark are financed through general tax payments. Membership of the unemployment insurance is voluntary, and non-payment of contributions to the insurance only results in termination of membership and the consequent lack of right to receive unemployment benefits in the event of unemployment. The legislation for the individual areas covered by the regulation contains administrative provisions on repayment and any other consequences of unjustified receipt of the benefit against better judgment. Criminal consequences are imposed by the courts. Reference is made to the presentation of the legislation in the individual areas in Annex I.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

Yes. When drafting new legislation, the possibility must be taken into account for subsequent control and prevention of fraud and errors. The intention is for the legislation to be designed so that it allows for effective IT use for control purposes, e.g. by providing an opportunity to check whether case information is correct using of relevant public registers. At the same time, a decision must be made as to whether the proposed legislation opens up new opportunities for fraud and, if applicable, how the control can be organized in order to reduce these risks.

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

In cases where the Danish Competent Institution regarding Legislation Applicable suspects attempts on fraud/speculative changes in eg. contracts, they decline the application for change of legislation. If the other country agrees with us there is no doubt. If the other country disagrees we start a dialogue about the case(s).

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

In Denmark, pay terms as well as other working conditions are established through collective agreements or individual employment contracts. Accordingly, disputes regarding wages between an employer and a worker is a private matter and it is not possible for the Danish authorities to intervene in such disputes.

If the subcontractor is considered as 'bogus' self-employed (i.e. where an employer deliberately misclassifies a worker as self-employed), he or she can seek assistance from a trade union or a private lawyer in order to take legal action to recover the wages claimed.

If the subcontractor is considered as 'genuine' self-employed, he or she does not have workers' rights under Danish employment law. Instead, the contract sets out the rights and responsibilities of the subcontractor. The legal action for non-payment will therefore depend upon what the subcontractor and the contractor have agreed in the contract, including the pay terms.

In terms of requirements for accommodation, the Danish Act on Posting of Workers states that if a posted worker carries out agricultural or domestic work while working away from home, the worker is covered by the Act on certain working condition in agriculture etc. The Act ensures, among other things, that where accommodation is part of the remuneration, the employer shall ensure good and modern living conditions.

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

To prevent fraud and error related to unreported death of pensioners living abroad, life certificates are sent out once a year by Udbetaling Danmark. Moreover Udbetaling Danmark has concluded a number of agreements with other EU Member States to allow for regular exchange of data on death of pensioners living abroad.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

Contact is made with the estate of the deceased where a claim is made for excessively paid pension

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

Life certificates are sent annually to citizens who reside in countries with which no exchange agreements have been made. If the citizen does not return a completed life certificate the pension is stopped. The authorities of country of residence are not notified.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

When initiating payments of a Danish state pension other benefits are checked and evaluated. The outcome can affect the size of the payment.

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

There are no systematic checks on a benefit recipient working in another EU. However, the recipient of unemployment benefits in Denmark must be available for the labor market and actively looking for a job and register this in a digital register that the unemployment insurance funds regularly check. In addition, the benefit recipient must regularly appear for an interview at the unemployment insurance fund.

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

This aspect is taken care of as part of the ongoing case processing, when verifying citizens' eligibility for the allowance, checking against other registers and databases, and including through affirmative information from other EEA countries, as well as ongoing monitoring of the employment requirement.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

General Information about the right to healthcare benefits under the terms of the Regulation (EC) No. 883/2004 is available on the websites of both The Danish Patient Safety Authority, which is the Danish liaison body under Regulation (EC) No. 883/2004, and the five regional authorities in Denmark. Patient offices have been established in all five regions in Denmark. The regional patient advisors and the Danish Patient Safety Authority provide ongoing guidance on the right to medical care when travelling and moving within the EU, EEA, Switzerland and the UK.

When the EHIC is issued by the competent Danish institution, Udbetaling Danmark, the insured person is also informed to notify Udbetaling Danmark about changes that may affect their insurance status for instance if they move abroad, take up employment in another Member State or start receiving social benefits or pension from another Member State.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

When the Danish Patient Safety Authority receives a claim from another Member State regarding necessary healthcare provided to a person, who has presented a Danish issued EHIC, we check registration in the Danish Civil Registration System in order to validate whether the person in question is Danish insured and thus can be entitled to receive healthcare benefits in another Member State at the expense of Denmark. If the person is not registered in the Danish register or we become aware of irregularities, we contact the competent Danish institution, Udbetaling Danmark, or the country of treatment and ask for the documentation obtained that the person was entitled to healthcare benefits at the expense of Denmark at the time of the treatment e.g. a copy of the EHIC or a Provisional Replacement Certificate (PRC) /SED S045).

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

There is continuous ongoing work to improve information provided to healthcare providers about the coverage on the EHIC during temporary stays in Denmark i.e. the scope of “necessary healthcare” under the Regulation and the distinction between unplanned necessary treatment and planned treatment.

In case, the healthcare provider questions the validity of a presented EHIC, they may request a Provisional Replacement Certificate (PRC) for validation on the entitlement to healthcare coverage on the time of the treatment. If the person cannot present valid proof of the entitlement to healthcare benefits under the Regulation i.e. a valid EHIC or a PRC, the healthcare provider may ask for payment upfront for the requested treatment.

ESTONIA

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

No

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

We do not have any of that

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

No

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

No

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

When we issue a person S1 or DA1 form, we inform persons that they must inform us if something changes in their rights and situations.

When person receives EHIC there is a note that he or she must not use it when his, her insurance has expired.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

We have done general public informing – for example newspaper articles, buglets, social media advertisements regarding crossborder situations and we have made specific presentations to interested public and etc.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

No, we are not doing it.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

N/A for Estonian Health Insurance Fund

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

N/A for Estonian Health Insurance Fund

- 4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?**

N/A for Estonian Health Insurance Fund

- 4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?**

N/A for Estonian Health Insurance Fund

- 4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?**

N/A for Estonian Health Insurance Fund

- 4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?**

N/A for Estonian Health Insurance Fund

- 4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?**

N/A for Estonian Health Insurance Fund

- 4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?**

N/A for Estonian Health Insurance Fund

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

Estonian Health Insurance Fund will pay the costs to other MS and will ask the person to pay back the costs of healthcare abroad.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

We inform people that they do not have a right to use EHIC when they do not have valid insurance anymore. They get this information while ordering a EHIC or PRC.

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

Healthcare providers can contact Estonian Health Insurance Fund if they have doubts regarding validity of EHIC. Estonian Health Insurance Fund is able to contact other competent institution to check the validity of the EHIC and insurance of a person.

FINLAND

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

There are some cross-border activities in "Strategy and action plan for tackling the grey economy and economic crime" link: [Action Plan 2020-2023 - Harmaa talous & talousrikollisuus \(vero.fi\)](#)

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

Latvian temporary work agency sent Ukrainian workers to work in Finland but turned out that workers were reported self-employed (via invoicing company). Labour inspectors stated that the workers were not self-employed but they were in fact employees of the Latvian temporary work agency. Temporary work agency had not insured the employees. The company led them, gave them work instructions and assigned work tasks, supervised their work performance and was responsible for the quality of their work. Also wages paid were too low.

[Link \(in Finnish\) Avin tarkastus osoittaa: Tampereen jättityömaan alihankkija laiminlöi lakia – ukrainalaiset eivät olleet kevytyrittäjiä vaan vuokratyössä | Kotimaa | Yle](#)

Kela received information from Finnish Central Criminal Police about extensive abuse of social security that took place in 2022-2023. The main suspect in the case has subleased at least 25 apartments of Kela's customers for a cash payment. The people registered in the apartments have received benefits from Kela for their housing expenses while other people have actually lived in the apartments. All the suspects in the case are of foreign origin. The total damage caused by suspected criminal activity is over 100 000 euros.

[Keskusrikospoliisi tutkii törkeää petossarjaa Kelan asumistuen väärinkäyttöön liittyen – Poliisi](#)

[Major fraud scheme uncovered in misuse of Finnish social benefits \(helsinki.fi\)](#)

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

When the Finnish Centre for Pensions issues an A1 certificate, it sends a cover letter to the employer and employee with the certificate. The cover letter contains instructions on how the A1 certificate affects social security and where contributions have to be paid. The cover letter also provides instructions on how to report changes related to work abroad. The Finnish Centre for Pensions also sends this cover letter to those foreign employers who must insure the employee in accordance with Finnish legislation.

Kela actively provides up-to-date information about rights to benefits on Kela's websites and social media but does not aim it specifically concerning cross-border social security nor for certain individuals or their families. However, when a person contacts Kela on their rights to social security, we map out the life situation for that person and their family members and that way discover the entitlement to certain benefits. A customer is always required to provide true information to the institutions and point that out in our benefit forms and decisions they get from us.

There are so called International Houses (service points) in many cities in Finland which provide support and information for internationals with living, working, studying and connecting with local employers. International House Helsinki, Tampere, Turku, Lahti, Kuopio, Oulu...etc.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

Kela aims to prevent social benefits fraud before they occur, as it would benefit both our customers and Kela.

Through proper communication, Kela can influence the customer to pay attention to the careful and appropriate filling out of the benefit application. We must ensure that the customer has sufficient information not only about fulfilling the reporting obligation, but also about the importance of giving false information. We try to highlight the customer's own obligation to notify us of changes. We notify the customers on our websites, applications and benefit decisions.

The clerks (benefit application handlers) must make sure that there is sufficient information available to make a benefit decision with the correct content. This is important for both Kela's and the customer's legal protection.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

Finnish Centre for pension is responsible for supervising employers operating in Finland that they meet their obligation to insure their employees (pension insurance). However, Finnish Centre for Pension does not give sanctions for violations.

Finnish Workers' Compensation Center (TVK) is responsible for supervising employers operating in Finland that they meet their obligation to insure their employees against accidents at work and occupational diseases. Finnish Workers' Compensation Center (TVK) collaborates with the State Treasury, which gives sanctions for violations.

Each authority and agency are responsible for its own cases of suspected abuse (Kela, unemployment funds, pension institutions etc.). Kela defines in administrative procedure the amount of overpayment of benefits which is as such also the damage caused by possible criminal activity. After this, Kela's experts specialized in abuses assess whether there is reason to suspect a crime.

After Kela has reported the case to the police, the matter proceeds in normal criminal process. The police will find out in the preliminary investigation whether there is reason to suspect a crime. The prosecutor files charges if there are probable reasons to support guilt. Ultimately, the court determines if the defendant is guilty of a crime.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

Biggest problem in AWOD sector is, that the employers are not aware of their responsibilities in Finnish system.

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

AWOD and outstanding contributions: if the employer does not have business in Finland anymore, it is difficult to collect the contributions.

In Kela unduly paid social security benefits: main problem is that debtors are not reached abroad and that institutions don't reply in recovery requests made in RINA.

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

NO

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

Finnish Centre for Pension has the right to request information from different authorities (tax authority, OSH-authority and so on). To give information on authority's own initiative to another authority is quite restricted.

Grey Economy Information Unit (part of Finnish Tax Administration) produces compliance reports (information on tax liabilities, compulsory social security payments, economic figures for example) on organizations and people connected to organizations to certain authorities mentioned in the legislation (legal right to have access to data) These organizations include Tax Administration, Customs, The Finnish Centre For Pensions, The Unemployment Insurance Fund, Alcohol Sales and Service License Authorities, The Finnish Police, The Finnish Border Guard, Transport Licensing Authority, Finnish Patent and Registration Office, Occupational Health- and Safety Authority to name a few.

The answer above concerning the pension sector applies also for the AWOD sector.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases

fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

A robot registers all A1 certificates issued by other Member States if a person has a Finnish personal identity code. A robot checks whether there are overlapping periods with Finnish pension insurance and A1 and creates tasks for case handlers when errors or overlapping periods occur.

The Finnish Centre for Pensions also assists if other Finnish authorities (such as OHS authority) have questions concerning foreign workers, their A1 certificates, or the lack of certificates. We check the validity of A1 from EEESI, from national registers or if needed, we ask from another member state have they granted A1 in question. In this way we can identify false A1 Certificates.

When issuing A1-Certificates, Finnish Centre for Pensions checks several national registers; for example the register of residence-based social security and Population Information System. Finnish Centre for Pensions also checks whether the employer/self-employed person has taken pension insurance in Finland.

Finnish Workers' Compensation Center (TVK) uses national registers to supervise that employers meet their duty to take out insurance and also when compensating.

National Incomes Register was introduced in 2019 and it has reduced the number of possible abuses because information about customers' income (in Finland) is made available in almost real time.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

In Finland, actual sanctions for abuse of benefits only follow on the basis of criminal law. Overpaid benefits are of course recovered based on administrative regulations, but recovery is not considered a sanction. A punitive sanction therefore only comes into question if the act that led to the overpayment of the benefit is considered intentional and a crime under the Criminal Code. Kela's civil compensation claim related to benefit abuse can also be processed

in connection with criminal proceedings. Processing Kela's compensation claim in a civil process is very rare.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

The sections of the Finnish Criminal Code concerning fraud and forgery, as well as their minor and aggravated forms, are applicable to abuse of benefits. The law enables the selection of a sanction within the limits of the penalty scale for each type of act, between a fine, conditional imprisonment and absolute imprisonment based on the seriousness of the act, the conduct of the perpetrator, the jurisprudence on the measurement of punishments, the perpetrator's previous criminality and other circumstances. The most common sanctions for abuse of benefits are a fine and a suspended prison sentence.

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

There are no definitions for fraud and error especially for the field of social security coordination in the national legislation but in the Employees Pensions Act, which regulates the statutory earnings-related pension system, fraud and error are taken into account in the provisions (Employees Pensions Act, section 189 Evasion and misuse of the obligation to arrange pension provision and Section 137 Correction of a clerical or calculation error). Sanctions are provided by criminal law.

Kela: In Finland, abuse of social benefits is subject to punitive sanctions only based on the Criminal Code. The act that led to the overpayment of benefits will result in a sanction if the act meets the constituent elements of a crime. Benefit abuse is considered fraud in Finland and there is no separate provision on benefit fraud in the Finnish Criminal Code.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

The Finnish Centre for Pensions does not have jurisdiction or tools to intervene in such activities.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

The Finnish Centre for Pensions does not have jurisdiction or tools to intervene in such activities

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

Automatic exchange of data exists between Finland and certain other Member States (Sweden, Germany + Norway), which allows Finnish pension providers to be notified when a pensioner living in one of these countries has passed away. Pensioners living in other Member States are asked to return a yearly life certificate and if they fail to do so in time, their pension can be suspended. The same will happen if their bank account is no longer in use and the pension provider is unable to obtain information on a new account from the pensioner.

Kela exchanges also data automatically with Sweden, Germany and Norway about the death of pensioners living in these countries. Kela checks the national pension every second year. If the pensioner does not return the life certificate in time, the national pension is suspended.

AWOD: by asking a proof of life from the person receiving benefit.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

If the person's pension has been paid into a Finnish bank account, the bank will return the overpaid sum to the pension provider at their request. If the pension has been paid into a bank account outside Finland, there is no uniform policy on returning the overpayment, but this can be negotiated between the bank and pension provider. If the bank is unable to return the overpayment in full, the sum can be recovered from the estate of the deceased person.

Note : In practice, Kela does not have any procedure with foreign banks. This would mean that the text above (pension sector) would also apply to Kela except the phrase about the negotiation between the Bank and pension provider.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

Pension decisions from other Member States are registered in a database by the Finnish Centre for Pensions (since 2023 a large part of the decisions are registered automatically based on the information obtained from other countries' P6000 SEDs) and information on them any pensions from other EU countries a person may receive is thus visible to Finnish pension providers. When a person living in Finland, who has a foreign pension registered, dies, the Finnish Centre for Pensions gets an automatic alert and will then inform the pension provider in the other Member State of the death.

Automatic exchange of data also exists between Finland and certain other Member States (Sweden, Germany + Norway). If a person that receives a pension from one of these countries dies, the authorities in the country in question will receive the information automatically.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

Kela receives information about a person's move abroad from the Finnish Digital and Population Data Services Agency. If Kela is informed about the move or otherwise detects, that a person who receives SNCB benefits, actually resides abroad, the benefit is suspended.

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

Kela doesn't have measures in place to detect or prevent, if the person who receives UB, chooses to keep the working abroad and not report about it. And in real time, there are no measures to detect or prevent, if a person who works in Finland applies for UB from another country. Some of these cases we find out afterwards, if some information about working periods is exchanged via EESSI.

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

If the person's family situation changes due to moving abroad, we get the address change information from DVV (Finnish Digital and Population Data Service Agency).

The situation when a person / family receives child benefit from two EU countries and Finland pays the full rate, has currently been checked once a year by Kela's International Centre so that a request for an exchange of information (SED form via EESSI) has been sent to another EU country paying child benefit, asking about possible changes in the family's e.g. child benefit, work, residence, amount of benefit, spouse's family member status or other matter affecting the benefit. Once the reply has been received from another country, the child benefit is being checked and updated. If there are no changes, a client doesn't get any written decision and we mark it only technically to our system that the situation has been checked, so that the case will be monitored again in a year's time. If Finland pays the differential amount of child benefit, we check those cases every few years, not annually.

The National Incomes Register system introduced in 2019 has reduced the number of observations of possible abuses, because information on customers' income is made available to Kela in real time. We can observe if the person's job has ended and he/she may start receiving unemployment benefit. If the person is insured in Finland only because of their work (and not residence based), we supervise the amount of income each month, and if it is too low or it ends, we contact that person to ask about their situation and abolish the benefits which are based only to employment. Also we might get the information about the change of address (via Digital and Population Data Service Agency) if the person/family members moves/move abroad. Otherwise we don't have any other ways to supervise the family situation but we trust and require that the person will tell us if any situation in the family has changed (working, living etc.). Via EESSI we get the changes of family situation from other countries that the benefits are coordinated with, as well as we give the information to those countries involved.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

Kela gives information and decisions concerning EHIC to clients who change their address abroad for a certain time or permanently. First these clients are asked about the motivation of moving abroad and if clients fail to answer or inform Kela about a permanent move outside of Finland, work at another EU-country etc what affects client's right for using EHIC, a decision is given concerning EHIC. On the decision it is clearly stated, that client has no right to use EHIC as a certain date or during a certain period of time.

Client's may also themselves inform Kela about moving abroad or if they start working locally in the EU-area. This is encouraged in Kela's publicity as Kela tries to increase the knowledge about the client's rights and obligations concerning the cross border health care and social security while moving between EU-countries which includes the right of using EHIC

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

Under the cross-border health care act, in Finland patients can be invoiced for their treatment costs. If the expense is minimal, it is possible to waive the claim. However, in Finland we rarely encounter such cases in practice. The lengthy processing times for international health care invoicing often leads to delays of several years in invoicing customers, making many claims effectively meaningless.

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

Kela gives information to public health care providers about to whom they can give treatment and that they have the responsibility to check that the client has a valid EHIC with them. There have been cases where the institution that has granted the EHIC has denied card's validity during the time of the treatment even if the physical card has been shown and it has been valid during the time of the treatment. It is also possible that client shows EHIC after the treatment has been given. Then there is a great possibility that the EHIC was not valid at the time of the treatment but that it has been granted later.

FRANCE

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

Cnam-CNSE: No centralized management of international fraud, so no specific policy.

Acoss: The fight against fraud related to international mobility (posting/multi-activity) is a key issue for public policies and therefore for the Urssaf. Indeed, it is driven by interministerial anti-fraud plans for public finances (PNLTI under the Ministry of Labour, anti-fraud plan established by the Ministry of Public Accounts), the Convention for Objectives and Management, the multi-year roadmap of Urssaf contracted with the State, and the national control guidelines that define the action strategies of the national Urssaf towards regional Urssafs. The International Mobility service ensures proper application of regulations related to cross-border mobility. The digital tool Ilass, which allows for the request and issuance of A1 certificates, includes over 50 checks and monitoring mechanisms for high-risk companies. A tool for controlling the Applicable Social Security Legislation collects all international mobility notifications sent to France by their counterparts, facilitating checks and investigations by inspectors and their partners.

Cnaf: Regarding the Family Branch, France has implemented a plan to combat fraud as part of its internal control plan (accounting, IT, administrative risks, dysfunctions, etc.). Some objectives of this plan are even contracted with the ministry responsible for Social Security. As for the fight against cross-border fraud, there are currently three main actions: fraud committed by self-employed individuals, documentary fraud, and fraud involving bank details. These do not only concern the EU but are general fraud issues. Specifically, in the EU, the SEPA area particularly facilitates bank details fraud. Work is underway, notably with Luxembourg, to study the feasibility and implementation of coordinated actions. Some results have been achieved in combating fraud committed by self-employed individuals, documentary fraud, and fraud related to residency.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

Cnam-CNSE: Numerous cases of fraud are reported at the national level, but the reports are not followed up.

Acoss: Some cases are still pending before the courts and therefore cannot be discussed.

Cnaf: Some frauds detected locally or nationally have been publicized. The most significant cases involve bank details and are still under investigation. Additionally, frauds committed under European Regulations by self-employed workers have been added, with the aim of improperly receiving benefits for themselves or for their fictitious or non-fictitious spouse.

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

Cnam-CNSE: None, which means that it is impossible to prosecute fraud against the Regulations or the Directive.

Cnaf: Beyond existing legislation, the Social Security Financing Law (LFSS) for 2023 stipulates that benefits subject to residency requirements must be paid exclusively into a bank operating within the SEPA area. Article 99 of the LFSS for 2023 introduced Article L. 114-10-2-1, which came into effect on July 1, 2023: *"Art. L. 114-10-2-1. - When paid into a bank or financial account, allowances and benefits subject to residency conditions in France and provided by the organizations mentioned in Article L. 114-10-1-1 must exclusively be paid into accounts domiciled in France or within the Single Euro Payments Area (SEPA) of the European Union, and identified by a national or international bank account number."*

Acoss: The International Mobility Service ensures compliance with cross-border legislation in connection with the Foreign Firms Service. Internally, a specific organization for controls and coordination between controls, international mobility management, and management of foreign companies has been implemented. Collective letters are also circulated within the network. National training sessions, ranging from cultural awareness to management and control, are available.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

Cnam-CNSE: None of the agreements signed provide for fraud prevention, at best a control component.

Acoss: Urssaf has formalized bilateral Social Security agreements or protocols with foreign Social Security authorities to develop cooperation between agencies by promoting the exchange of information in the fight against international mobility fraud and organizing joint control actions. The Member States (MS) with which France has signed agreements are as follows:

- Belgium
- Luxembourg
- Portugal
- Spain

- Italy
- Poland

Cnaf: France has not concluded any new agreements regarding the Family Branch following the survey of pre-existing agreements. To remind, there are currently five active agreements concluded by France: Netherlands, Czech Republic, Portugal, Belgium, Luxembourg. Only the last two include family benefits within their scope

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Cnam-CNSE: No information, contact is only made if fraud is detected.

Acoss: Through its mission of determining applicable legislation and issuing affiliation certificates (EU and bilateral agreements), Urssaf shares information with applicants (businesses, self-employed individuals, or individuals). However, information related to rights is most often shared with the relevant benefit-providing agencies.

Cnaf: The Caf websites, as well as the benefit application forms, remind beneficiaries of their reporting obligations and the penalties incurred in case of failure to report or inaccurate declarations. Additionally, information and awareness campaigns are regularly conducted through various media. The Cleiss (Centre for European and International Social Security Relations) website also reminds individuals of their rights and obligations related to cross-border issues.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

Cnam-CNSE: No preventive measures.

Acoss: Urssaf organizes webinars and participates in events such as the "S'expatrier" fair. The Urssaf.fr website also provides access to information regarding international mobility management. The International Mobility Service offers various communication channels, such as email and a telephone platform.

Cnaf: See previous answer.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

Cnam-CNSE: Four people are responsible for managing all errors, faults, and frauds at an international level, without the guidance of a single department dedicated to this issue.

Acoss: In 2023, 1,500 collection inspectors are authorized to detect and penalize all types of violations, including 350 specialized in combating undeclared work. Resources dedicated to the fight against fraud, particularly regarding posting and multi-activity, are increasing due to the interest of public authorities in this matter. Thus, the new Convention for Objectives and Management (2023/2027), contracted with the State, grants Urssaf additional control staff dedicated to combating undeclared work.

Cnaf: The functional allocation of resources tracks the resources allocated to the inspection team. These resources have increased since the creation of the national fraud prevention service (SNLFE), with 36 additional inspectors added to the 700 already in place. This year, 6 additional inspectors have been recruited in the overseas regions (DOM-TOM). Cross-border fraud is just one aspect of the cases managed by these professionals, so it is difficult to assess the exact resources allocated to combating cross-border fraud.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

Acoss: Upon their recruitment, collection inspectors undergo a 12-month alternating training program. As part of this initial training, they receive a specific module on international mobility control. Further development actions are also offered to inspectors in post, including internal Urssaf training or training in collaboration with the National School of Social Security. National job instructions also support inspectors by disseminating regulatory or case law updates, formalizing a control strategy, and fostering cooperation between Social Security organizations.

Additionally, there is a highly operational network of 22 Regional LCTI (Laboratoire de Contrôle et de Traçabilité Internationale) Referents (one in each Urssaf), who relay national instructions and assist inspectors with the handling of international mobility cases.

Cnaf: All CAF control officers benefit from training leading to a diploma that addresses fraud prevention. It is within this framework that cross-border fraud is addressed. It should be noted that cross-border fraud is just one aspect of the broader fight against fraud. Nevertheless, regular updates are provided in case of changes to control tools and legislation. The national anti-fraud service writes specific operating procedures when new frauds are detected. These procedures clarify how to combat emerging frauds in particular. CAF would see only advantages in sharing training materials. However, a caveat must be raised regarding the differences in domestic legislation. Thus, the materials from one country would likely not be directly usable by another State, not to mention the language barrier.

Training as files are processed. No existing training plan, department considered to be of little importance

Acoss: Yes, without difficulty. This is already the case under the aegis of the AET and within the framework of bilateral cooperation.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

Cnam-CNSE: Outside Healthcare Competence (CNSE)

Acoss: In cases of social security contribution fraud, the recovery inspectors of the Urssaf are accredited and sworn in to identify and penalize hidden work violations. In this context, they must establish the offense by demonstrating the materiality of the facts and the intent of the offender.

They can initiate two types of procedures:

- **A civil procedure** (recovery of evaded social security contributions over a five-year period), accompanied by financial penalties (e.g., additional adjustment surcharges of 25% or 40%, cancellation of contribution exemptions).
- **A criminal procedure**, which involves sending a report of hidden work violations to the prosecutor's office.

It is worth noting that inspectors have judicial police powers within the scope of their duties (e.g., the right to enter all professional premises, the right to access documents, the power to issue citations, and conduct interviews, etc.).

Cnaf: Investigations related to fraud are carried out by control officers from each CAF (Family Allowance Fund) as well as by the specialized national controllers of the SNLFE. This service consists not only of CAF agents but also of former police officers or gendarmes. Their investigations focus on high-stakes fraud, often committed by organized groups or employing emerging methods, such as fraud utilizing innovative mechanisms through the internet.

In cases of serious and sensitive matters, the police and gendarmerie may intervene. These public interventions are conducted either at the request of the judiciary or at the initiative of organizations or the SNLFE.

Fraud is penalized at two levels:

- The legislation allows organizations to impose financial penalties in cases of fraud. These penalties are adjusted based on a scale that considers the seriousness of the offense, the involvement of organized groups, and the financial situation of the fraudsters.
- The most severe cases are referred to the judiciary, which imposes sanctions accordingly.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

Cnam-CNSE:

- French regulations are poorly adapted to combat international fraud.

- Tools are unsuitable for addressing the complexities of international fraud.
- Insufficient human resources to tackle the problem effectively.
- A lack of a coordinated international fraud management policy.

Acoss:

The central issue for Urssaf concerning secondment/multi-activity lies in determining the applicable social security legislation for mobile workers and, ultimately, the validity of secondment certificates. Inspectors must verify the conditions of secondment and multi-activity. To do this, cooperation with the issuing authorities of A1 certificates is essential to obtain information and/or revoke A1 certificates through dialogue and conciliation procedures.

However, the effectiveness of this cooperation varies depending on the Member State, which hampers control efforts.

Additionally, the legal texts are silent on how to regularize workers' social security situations (e.g., benefits, pension rights) when A1 certificates are revoked by the competent authorities. This lack of clarity hinders dialogue between Member States and leads to the absence of follow-up management after controls.

Examples of identified fraud include:

- Absence of A1 certificates for seconded workers.
- Production of falsified A1 certificates.
- Workers not registered in the sending country or the host country.
- "Shell companies": Companies with no economic, structural, or professional substance in a Member State, existing solely to second employees to French territory.
- Placement agencies: Pure administrative structures created in France to provide seconded workers for construction sites or agricultural operations.
- Permanent provision of seconded employees in France: Companies—most often temporary work agencies (ETTs)—are created through complex legal arrangements solely to supply French companies with seconded employees on French soil. These arrangements often involve multiple countries.
- The systematic use of multi-activity in recent years, where conditions are more challenging to verify.

Cnaf:

- Identity theft.
- Fraudulent use of bank account details.
- Undeclared residences abroad.
- Income earned abroad that is not declared in France.
- Banking secrecy between Member States.

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

Cnam-CNSE : outside healthcare competence (CNSE)

Acoss : Urssaf non concernée

Cnaf : - la localisation des débiteurs

- l'absence de ressources saisissables
- la différence de législation
- l'absence d'identification de contacts institutionnels réguliers
- l'absence d'applicabilité transfrontalières en matière de droit de communication bancaire

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

Cnam-CNSE: Cooperation exists between INAMI and AVIQ (Belgium) and CNSE and ARS (France) regarding Belgian establishments providing care for people with disabilities.

Acoss: There are conventions or agreements between social security organizations—refer to point A4.

Urssaf has formalized a new cooperation strategy based on initiating exchanges with social security authorities as early as possible in the control procedure. The aim is to gather all necessary information for investigations at the earliest stage and to facilitate positive responses to requests for the withdrawal of secondment certificates.

As an example, cooperation with Portugal is highly developed: Regular exchanges via videoconference on control cases, The creation of a shared Teams space, In-person meetings...

Cnaf: While such cooperation does not exist in a strict sense, occasional collaborations occur for specific cases. Discussions and initiatives are underway to improve this situation, particularly with Luxembourg.

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

Cnam-CNSE: Joint inspections are conducted by AVIQ (Belgium) and ARS (France) for Belgian placement establishments catering to people with disabilities.

Acoff: Refer to points A4 and B5. Joint inspections are also organized by the AET between two Member States. Below is the 2024 program for France:

- FR/ES (France/Spain): 25/04/2024 - Perpignan: Construction site – installation of photovoltaic panels.
- FR/PT (France/Portugal): 22–23/05/2024 - Rouen: A food industry company extensively using Portuguese service provider companies.
- FR/IT (France/Italy, Corsica/Sardinia): 11–12/06/2024 - Sardinia: Construction and hospitality/catering sectors.
- FR/CY (France/Cyprus): 25–27/06/2024 - Toulon: Naval repair site.
- FR/PT (France/Portugal): 26–28/06/2024 - Bordeaux: Inland waterway transport (similar inspection in Portugal).

Additionally, Europol conducts annual European Joint Action Days (JAD). For instance, new JAD operations targeting human trafficking linked to labor exploitation were held from 20–27 April 2024. These actions were aligned with preparations for the 2024 Paris Olympics. The OCLTI coordinates these action days, with Urssaf participating.

Cnaf: Occasional studies are conducted on specific cases. There is no dedicated data exchange system; instead, the focus is on information sharing and consultation.

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

Cnam-CNSE: Easy, secure data exchange with respect for data protection.

Acoff: An interministerial mechanism to combat public finance fraud coordinates partnerships at the national/local level (Micaf/Codaf). It aims to promote the exchange of information and carry out coordinated or joint actions when targets require increased partner involvement and/or involve multiple offenses.

A right to communication, included in the Social Security Code (Article L114-19), allows for information exchange between social protection organizations and partners responsible for combating fraud or illegal work. Additionally, this same code provides a right to communication with third parties (e.g., banks, telecom or energy operators).

Moreover, the Labor Code permits the exchange of useful information for monitoring among partners, including the transmission of reports for further action.

Specific partnership agreements can also strengthen these information exchanges, for example, agreements with tax services.

Cnaf: While systematic exchanges do not exist, the Family Branch responds to requests from foreign institutions. Additionally, local cross-border authorities may work with their cross-border counterparts.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

Cnam-CNSE: Specific INAMI/CNSE agreement for the exchange of data on fraud in employment establishments.

Across: See point 2.7.

Cnaf: Cooperation between institutions is governed either by EU regulations or bilateral agreements. The Cnaf does not have judicial precedents involving multiple countries.

Regarding exchanges between social security institutions, requests can be made through the EESSI tool, in accordance with European legislation.

Additionally, agreements exist between local French family allowance offices and foreign organizations to provide limited and secure access to French databases for consultation. This facilitates and speeds up case processing, extending beyond merely combating fraud. Unfortunately, the reverse—foreign organizations granting access to their databases for consultation—is less common. However, Luxembourg's "Caisse de l'avenir des enfants" has granted us access.

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

Cnam-CNSE: A database is available, but since there is no international fraud management system, there is no exchange of information.

Across: Urssaf has developed a database called CLASS (Control of Applicable Social Security Legislation). This data collection system for secondment and multi-activity, accessible to collection inspectors since October 1, 2022, allows consultation of data from:

- Sirdar (A1 certificates up to 2021 - historical data),
- EESSI (Electronic Exchange of Social Security Information),
- SIPSI (pre-declaration of secondment - data from the labor administration).

Through agreements, partners (e.g., labor inspectors, gendarmerie, police, France Travail, etc.) can access this database for consultation. Further developments include:

- Datamining capabilities within CLASS to optimize the detection of fraudulent international mobility situations.
- Statistical tools for the management and monitoring of international mobility.

Cnaf: France has a common national social protection registry (RNCPS). This is fed by each social protection organization (family, health, contributions, unemployment, retirement). For each individual, the registry indicates the affiliated organizations, the types of benefits received, and their amounts for some benefits.

In addition, the CNAV manages the National Identification Management System (SNGI) on behalf of the National Institute of Statistics. This system contains each individual's full identity (name, first name, date and place of birth, French social security number). For individuals born abroad, it also includes the names and first names of their parents.

Neither the RNCPS nor the SNGI is connected to European institutions.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

Cnam-CNSE: Any restrictions can be lifted through specific agreements.

Acoss: Through the right to communication between partners or cooperation among social security organizations, Urssaf can obtain information, particularly in the context of monitoring secondment or multi-activity situations.

However, large-scale data matching for purposes such as fraud detection, hidden employment (datamining), or file exchanges is constrained by GDPR regulations.

Cnaf: The framework for exchanges between institutions is established by the European General Data Protection Regulation (GDPR), which prioritizes privacy protection.

There is also a significant legal restriction: the only legal bases allowing information exchanges are the European coordination regulations, which apply solely to family benefits. These regulations do not cover social benefits such as minimum income, disability allowances, housing assistance, or support allowances for purchasing power. As a result, it is not possible to verify, for instance, whether a recipient in France is also receiving a similar solidarity benefit in another country. Likewise, it is not possible to request critical information like foreign income, addresses, or household composition for these cases. This poses particular challenges in border regions (e.g., along the Franco-Spanish border).

There are only two exceptions: Luxembourg and Belgium, due to ad hoc bilateral agreements that allow information exchange and cross-checking of databases to detect duplicates and anomalies.

Establishing a European legal framework for such exchanges is crucial, as the most significant issues related to cross-border fraud—particularly regarding residency and income—pertain to social benefits outside the scope of coordination, such as solidarity income.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

Cnam-CNSE: French legislation does not currently allow for effective combating of international fraud. Legislative changes are needed to make such efforts effective.

Acoss: A measure enabling large-scale data matching to effectively target fraudulent situations through datamining would be highly beneficial. This would require loosening GDPR

regulations, but the adjustment would be limited to combating public finance fraud, such as hidden employment.

Cnaf: Several proposals could be formulated. First, it would be desirable to establish a unique European identifier for each individual (a European social security number) or, if other technical modalities are preferred, to ensure that these achieve the same benefits and functionalities.

It would be necessary to have a European legal framework (modeled, for example, on the framework agreement for telework) allowing countries that wish to do so to cross-check data and use files, as is already possible bilaterally for France with Luxembourg and Belgium, all while respecting the GDPR.

A legal framework would also be required to exchange information on social benefits outside coordination, such as minimum income, disability allowances, housing assistance, etc. (see the response to the previous question).

Furthermore, it would be highly effective to have access to the bank account records of other European countries to verify the existence of accounts abroad, as well as to establish a right of communication between banking and administrative institutions and social security organizations.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Cnam-CNSE: Infringements are not punished; at best, the damage is avoided.

Acoss: Inspectors are authorized to identify and issue citations for undeclared work violations. When combating undeclared work, inspectors initiate two types of procedures:

- **A civil procedure**, involving the recovery of evaded social security contributions for up to five years, accompanied by financial penalties (e.g., additional recovery surcharges of 25% or 40% in aggravated cases, and the cancellation of contribution exemptions).
- **A criminal procedure**, formalized by submitting an undeclared work report to public prosecutors. Offenders are subject to:
 - Up to **3 years' imprisonment** and a **€45,000 fine** (Article L8224-1 of the Labor Code).
 - Up to **5 years' imprisonment** and a **€75,000 fine** (Article L8224-2 of the Labor Code), with enhanced sanctions for particular situations of vulnerability.

Cnaf: Family Allowance Funds (Caf) can impose sanctions for fraud through warnings in less serious cases, financial penalties considering the case and the family situation of the offender, and by filing complaints in judicial courts. Less severe cases are handled administratively, while cases with significant financial stakes are prosecuted criminally. Punishments handed down by courts range from simple fines to suspended sentences and, much less frequently, actual imprisonment.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Cnam-CNSE: There is no specific legal framework for addressing international fraud.

Acos: See point 3.1.

Cnaf: See the previous question. However, regarding the administrative process, there is a national scale of sanctions applicable to Caf offices. This ensures a certain level of uniformity in sanctions across the entire territory.

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Cnam-CNSE: Outside the scope of healthcare competence (CNSE).

Acos: Late payment surcharges and penalties for failure to pay contributions within the deadlines set by the Social Security Code are provided. These are administrative sanctions. Such situations may lead to legal disputes, including judicial action. However, they are not systematically considered as undeclared work.

Cnaf: The Social Security Code and the Penal Code contain provisions specifically penalizing fraud of all kinds committed to the detriment of social security organizations. The French system has established a stricter approach than general law when fraud is committed to the detriment of a social security organization.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

Cnam-CNSE: Absolutely not.

Acos: The impact on the risk of fraud is most often assessed.

Cnaf: The legislative process generally requires its authors to conduct an impact analysis. If the proposal specifically concerns combating fraud, a financial estimate is made regarding the effectiveness of the measure. If it is a general measure, the authors are asked to explain how the risks of fraud and errors will be mitigated.

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

Acoss: This type of arrangement is known to the Urssaf, especially those located near the border of another EU Member State. For clarification, the purpose of combating undeclared work is to:

- Ensure the financing of the social protection system.
- Protect the social rights of employees.
- Guarantee fair competition between companies.

As a result, whether the undeclared work violation falls under domestic law or international mobility, and whether the company is foreign or French, the Urssaf would initiate an inspection. Specifically, the inspection in the presented case would aim to:

- Verify the authenticity of the A1 certificates presented.
- Verify the conditions of worker posting under Article 12 of Regulation EC 883/2004 (link between the employee and the employer, affiliation of posted workers to the social security system of the sending country, substantial activity of the posting company, expected duration of the posting up to 24 months, and ensuring that one posted employee is not replaced by another).
- Verify the remuneration conditions of posted workers in France (ensuring compliance with the French minimum wage).
- Rely on the social security authorities of the concerned Member States (Article 76 of Regulation EC 883/2004 – cooperation between Member States) to gather information on the employees' social security affiliation, the actual activities of the company, the company's declaration status, the authenticity of the A1 certificates, etc.
- Possibly initiate a dialogue and conciliation phase to withdraw the A1 certificates.

It is important to note that if the posted workers in France are paid and declared to their foreign social security institutions based on the French minimum wage, due to significant reductions in contributions in France at the SMIC (minimum wage) level, the social charges would be higher in their home country than in France. Therefore, it is crucial for inspectors to know the basis on which posted workers are declared to the social security institutions of their home country.

Cnaf: This issue concerns Caf only very rarely. The impact is limited to knowing the actual country of affiliation and residence to determine which country is actually responsible for the family benefits. When a fictitious transfer of residence is detected, the situation is re-examined, which can lead to the suspension of benefit payments

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

Cnam-CNSE: Outside the scope of healthcare competence (CNSE).

Acoss: Same.

Cnaf: The Caf examines the reality of the situation in order to draw the appropriate conclusions regarding benefits. This is true both from the "country of origin" side and the "posting country" side.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

Cnam-CNSE: Outside the scope of healthcare competence (CNSE).

Acoss: As with the previous case, an inspection would be carried out with the same procedures. It is worth noting that some violations do not fall under the jurisdiction of the Urssaf (e.g., inadequate living conditions, non-payment of services provided by self-employed workers, etc.). Legal recourse is available in French law for non-payment of invoices issued by self-employed workers to their contracting parties.

Cnaf: See the response to the previous question. Legal recourse can therefore only concern the allocation of family benefits (PF).

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

Cnam-CNSE: Outside the scope of healthcare competence (CNSE).

Acoss: Urssaf not concerned.

Cnaf: The verification of the existence of a beneficiary living abroad is primarily carried out by the Pension Fund (Caisse vieillesse). It is important to note that nearly all family benefits (PF) are paid on the condition of residing in France. The information exchange procedures between

countries, where the competent state is France but the family resides abroad, could certainly be improved.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

Cnam-CNSE: Outside the scope of healthcare competence (CNSE).

Acoss: Urssaf not concerned.

Cnaf: The Caf are not concerned.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

Cnam-CNSE: Outside the scope of healthcare competence (CNSE).

Acoss: Urssaf not concerned.

Cnaf: Same.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

Cnam-CNSE: Outside the scope of healthcare competence (CNSE).

Acoss: Urssaf not concerned.

Cnaf: Same.

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

Cnam-CNSE: outside healthcare competence (CNSE)

Acoss: Urssaf not concerned

Cnaf: Regarding the issue of residence fraud, the Caf (Family Allowances Fund) has a policy for controlling residence, notably through quarterly income declarations and other conditions for granting benefits. Frauds amounting to approximately 100 million euros have been detected in this context. The issue mentioned is not limited to unemployment benefits. In the event that France is the country B, the person will not spontaneously declare the benefits

in their country of origin, so unless there is a denunciation or an exceptional situation, France will not be informed of the situation. The exchanges between European institutions should be further developed in this area. This issue is combined with the fraudulent receipt of unemployment benefits by a person who has not declared a return to work, regardless of the country. Regarding the issue of "cross-border workers," they may reside in France and work in a neighboring country without declaring it to France. This allows them to fraudulently receive all benefits subject to means testing. Furthermore, the Family Branch has set up a network of 7 "pivot" Caf to manage cross-border relations concerning fraud. The exchanges between these Caf and EU partners are either done directly via email or by using EESSI (Electronic Exchange of Social Security Information) through the RINA portal (Reference Implementation for a National Application). These Caf have been assigned a portfolio of countries, not necessarily neighboring ones. The exchanges are centralized, and a quick response is provided. The country distribution is as follows:

- CAF DU NORD: Belgium, Netherlands, United Kingdom, Ireland, Iceland
- CAF DE LA MOSELLE: Luxembourg, Poland, Estonia, Lithuania, Latvia
- CAF DU BAS-RHIN: Germany, Austria, Norway, Denmark, Sweden
- CAF DU HAUT-RHIN: German-speaking Switzerland, Finland, Hungary, Croatia
- CAF DE HAUTE SAVOIE: French-speaking Switzerland, Czech Republic, Slovakia, Liechtenstein
- CAF DES ALPES MARITIMES: Monaco, Italy, Slovenia, Greece, Cyprus, Malta
- CAF DES PYRENEES ATLANTIQUES: Spain, Portugal, Bulgaria, Romania

Specifically regarding Luxembourg, the CAE (Caisse pour l'Avenir des Enfants) has requested the possibility of implementing an automated bulk exchange to verify identities via the beneficiary number. The idea is to inject French NIRs based on the French beneficiary number and verify the names and dates of birth. On its side, the SNLFE has requested access to the Mysecu portal, a Luxembourg portal allowing access to information about local social security beneficiaries.

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

Cnam-CNSE: A posteriori control by the CNSE, then report to the CAF

Acoss: Urssaf not concerned

Cnaf: The situations of beneficiaries are controlled every year through various methods: national electronic exchanges, file checks, and home visits. In the absence of information from abroad, it is very difficult to address these situations.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

Cnam-CNSE : cross-referencing between S2 refusals and care billed by the EHIC

Acoss : Urssaf non concernée

Cnaf : Les Caf ne sont pas concernées.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

Cnam-CNSE: If the EHIC is invalid, refusal of payment to the state of treatment

Acoss: Urssaf not concerned

Cnaf: The Caf are not concerned.

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

Cnam-CNSE: Prior control before registration of the policyholder

Acoss: Urssaf not concerned

Cnaf: The Caf are not concerned.

Subsequent checks after the competent state has refused payment. Detection works, but there is no way of recovering sums wrongly paid.

GERMANY

Important note from the Family Benefits Office of the Federal Employment Agency on answering the questions

The answers formulated for the questions take into account the measures and activities of a German federal authority with the payment of family benefits - in this case child benefit. In Germany, child benefit is a tax benefit - not a social policy benefit. However, it is considered here as a socio-political benefit.

In answering many questions, reference is made to measures and activities in the federal state of North Rhine-Westphalia as an example. Compared to many other federal states, North Rhine-Westphalia has so far been very strongly characterised by perceptions and suspected cases in connection with social fraud.

1. General Questions

Federal Employment Agency (BA): Preliminary note: The following answers refer to both jurisdictions, namely Sozialgesetzbuch II and Sozialgesetzbuch III (Code of Social Law – Book II – and Code of Social Law – Book III).

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

Family Benefits Office:

Example of the federal state of North Rhine-Westphalia

In 2022 and 2023, the first suspected cases of cross-border social fraud were identified in the border region of Aachen and the Netherlands, which also led to joint investigative activities between the Netherlands and Germany. This involved employment with Dutch employers and living close to the border in collective accommodation in Germany. There was a suspicion of double receipt of social benefits. However, this suspicion was not confirmed.

There is an action plan (EURIEC project (www.euriec.eu)) to combat cross-border organised crime.

Deutsche Rentenversicherung (Pension):

A1 database: The pension insurance data centre (DSRV) maintains a so-called 'A1 database'. It stores the data of all secondment certificates (A1 forms) to which German legislation does not apply. The company audit service and the Financial Control of Undeclared Work (FSK) check employers' compliance with social security reporting obligations and can access the database for this purpose.

Life certificates for pension recipients: Pension recipients resident abroad are requested once a year to submit a life certificate to check whether the payment requirements are still met. If this life certificate is not submitted, the pension payment is interrupted.

Automatic death data synchronisation: The Pension Service of Deutsche Post AG regularly carries out automatic comparisons of death data with various EU member states and treaty states on behalf of the German Pension Insurance.

Federal Employment Agency (BA): No – there're no strategies or similar activities to fight against CS(S)F.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

Family Benefits Office: Men with German citizenship recognise the paternity of children whose mothers from third countries have no right of residence in Germany. By recognising paternity, the children receive German citizenship. The German citizenship of the children gives the mothers a residence permit in accordance with § 28 Para. 1 No. 3 of the Residence Act (Aufenthaltsgesetz).

With the residence permit, the mothers of the children can apply for child benefit and receive child benefit for these recognised children (in accordance with § 62 Para. 2 No. 2 of the Income Tax Act (Einkommensteuergesetz). In addition, other social benefits, e.g. advance maintenance payments under the Maintenance Advance Act (Unterhaltsvorschussgesetz), benefits under the Second Book of the Social Code (Zweites Sozialgesetzbuch) can also be received.

There are often other children living in the mother's household, for whom there is also an entitlement to child benefit due to the mother's residence status.

In some cases, there is no social bond between the father and the recognised children. Information on custody and maintenance is questionable.

There is a suspicion that the recognition of paternity is offered abusively, like a 'commodity', in order to obtain a residence permit in accordance with §28 Para. 1 No. 3 of the Residence Act (Aufenthaltsgesetz).

Links:

<https://www.tagesschau.de/investigativ/rbb/missbrauch-vaterschaftsanerkennung-100.html>

<https://www.rbb-online.de/kontraste/archiv/kontraste-vom-22-02-2024/falsche-vaeter-hebeln-einwanderungsrecht-aus.html>

<https://www.ardmediathek.de/video/Y3JpZDovL3JiYlI82YzRmY2ZjZS0xMmYzLTRhZDgtYWUzYi0wMWJlZTJiY2UyZDdfcHVibGljYXRpb24/>

<https://www.bild.de/regional/dortmund/ruhrgebiet-aktuell/amt-zahlt-fuer-24-angebliche-kinder-mr-cash-money-bescheisst-uns-jedes-jahr-um-1-87292704.bild.html>

Federal Employment Agency (BA):

During the last years there've been no major cases in the definition of CS(S)F concerning benefits. In case of contributions the customs authority is responsible.

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

Example of the federal state of North Rhine-Westphalia

There are contractual agreements between the Netherlands and Germany to combat undeclared work.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

Example of the federal state of North Rhine-Westphalia

There are contractual agreements between the Netherlands and Germany to combat undeclared work.

Federal Employment Agency (BA): The Bundesagentur für Arbeit has no agreements with other member states or their institutions to combat and prevent CS(S)F. There're several agreements between the customs authority and/ or the german ministry of treasury with other member states and/ or their institutions.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Applicants are informed via the information sheet "Child benefit in cross-border cases". The information sheet can be found on the Internet at www.arbeitsagentur.de. By signing the application for child benefit, applicants confirm that they have taken note of the information sheet. Once a year, recipients of child benefit receive a questionnaire to check whether the information provided is still correct. It is also used to check whether the conditions for receiving child benefit were met in the previous year. Furthermore, the insured persons confirm with their signature that the information they have provided is true. The notices and letters from the family benefits offices also contain important information on the rights and obligations of applicants.

German Pension Insurance (Pension):

Providing information and advice is a statutory mandate. In order to fulfil this mandate in cross-border cases as well, Deutsche Rentenversicherung takes various measures to impart knowledge about both national law and the regulations on the coordination of social security systems. One example is the 'International Counselling Days'. This is a special counselling

service for customers with German and/or foreign insurance periods on issues relating to statutory pension insurance. Customers usually receive individual counselling from employees of Deutsche Rentenversicherung and the respective foreign insurance provider together in one place. The DRV website also offers a wide range of information in the form of online presentations, brochures, articles and FAQs:

- Link main page of the DRV:

https://www.deutsche-rentenversicherung.de/DRV/DE/Home/home_node.html

- Link- Brochures for information:

[https://www.deutsche-rentenversicherung.de/DRV/DE/Ueber-uns-und-
Presse/Mediathek/Broschueren/broschueren_node.html](https://www.deutsche-rentenversicherung.de/DRV/DE/Ueber-uns-und-Presse/Mediathek/Broschueren/broschueren_node.html)

- Link-A1 certificate:

[https://www.deutsche-
rentenversicherung.de/SharedDocs/FAQ/a1_bescheinigung/a1_bescheinigung_faq_liste.ht
ml](https://www.deutsche-rentenversicherung.de/SharedDocs/FAQ/a1_bescheinigung/a1_bescheinigung_faq_liste.html)

Federal Employment Agency (BA):

Persons applying and/ or receiving benefits will be informed about their rights and obligations. This information isn't special to cross-border social security. The information is general for most of the applicants.

Health Insurance: The GKV-Spitzenverband, DVKA organises training courses for health insurance institutions on how to avoid errors when applying Regulation (EC) No. 883/2004 and Regulation (EC) No. 987/2009. The website of the GKV-Spitzenverband, DVKA provides information for insured persons (tourists, pensioners, cross-border commuters, students and trainees, marginally employed persons), employers and gainfully employed persons as well as service providers. Free leaflets are available on the Internet in the most important languages for claiming benefits in Germany. There are also information sheets for tourists for the respective countries they are travelling to and for pensioners (information on health insurance and pension schemes). Health insurance companies can find more detailed information on prescriptions in a separate section. Documents in various languages are also available here. Documents in various languages are also available here, which can be used to provide proof of regular counselling to ensure the quality of home care when receiving care allowance abroad (§ 37 Para. 3 SGB XI).

Insured persons continue to be informed by means of press releases, member magazines, travel mailings, personal consultations, on the Internet, by displaying relevant flyers, notices in companies and by providing information when the EHIC or PRC is sent individually. As a rule, only the company's own policyholders are informed.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

The following information is available: Information sheet 'Child benefit in cross-border cases' available at www.arbeitsagentur.de

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

Example of the federal state of North Rhine-Westphalia: Due to initial suspicious cases, there is currently no large-scale systematic review - it is currently more a case of individual cases. As a result, the extensive provision of resources (budget, inspectors, IT resources) is not yet indicated. However, the authorities involved are becoming increasingly aware of the need to pay more attention to social fraud. It remains to be seen whether further developments and successful investigations will necessitate the expansion of the necessary resources.

Family Benefits Office of the Federal Employment Agency: As the number of suspected cases has risen, the number of investigators within the family benefits of There are currently around 50 specialists available nationwide to investigate and prosecute suspected cases of social fraud.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

German Pension Insurance (Pension): The company audit service of Deutsche Rentenversicherung audits employers in Germany with regard to social insurance. This includes auditing cross-border issues in the form of A1 certificates.

The investigators were trained in a practice-oriented manner and on the basis of existing documents with crime samples. The training is always carried out 'on the job'. Curricula and tools are not available.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

Family Benefits Office of the Federal Employment Agency: The Family Benefits Office has created an organisational framework in order to be able to deal specifically with the topic of 'Combating the systematic unlawful receipt of benefits in the Family Benefits Office'. A special team deals with the issue of combating abuse in the Family Benefits Office.

Another key concern is to set up preventive measures aimed at recognising and thus preventing the unlawful withdrawal of benefits at an early stage, even during application

processing. These measures include constantly sensitising the employees of the Family Benefits Office.

Other public authorities are:

- Customs (www.zoll.de)
- Financial control of illegal employment (https://www.zoll.de/DE/Kontakt/Meldung_FKS/kontakt_node.html)
- Residents' registration office, public order office in affected municipalities (Einwohnermeldeamt)
- Job centres (field services)
- Tax investigation
- Ministry of Homeland, Municipal Affairs, Building and Digitisation of the State of North Rhine-Westphalia (<https://www.mhkbd.nrw/>)
- State Office of Criminal Investigation of North Rhine-Westphalia (<https://lka.polizei.nrw/>)
- Ruhr Security Co-operation (https://polizei.nrw/sites/default/files/2020-11/Flyer_SiKo%20Ruhr.pdf)

German Pension Insurance (Pension): The Financial Control of Undeclared Work (FSK) is a working unit of the German customs authorities that checks compliance with social security regulations in accordance with Section 2 (1) sentence 1 of the Act to Combat Undeclared Work and Illegal Employment (Schwarzarbeitsbekämpfungsgesetz - SchwarzArbG) (https://www.gesetze-im-internet.de/schwarzarbg_2004/__2.html).

https://www.zoll.de/DE/Fachthemen/Arbeit/Bekaempfung-der-Schwarzarbeit-und-illegalen-Beschaeftigung/bekaempfung-der-schwarzarbeit-und-illegalen-beschaeftigung_node.html Federal Employment Agency (BA):

In cases of fraud by non-legal working the main responsibility is first at the customs authority: Generalzolldirektion, Josef-Lammerting-Allee 24-34, 50933 Köln, Germany. Website: www.zoll.de

In other cases of fraud the responsible authorities (for example: the local Agentur für Arbeit) forwards the case to the local responsible public prosecutors office. Relative to the individual case, the prosecutor involves other authorities (for example: local Police Department, local Hauptzollamt).

In cases of misdemeanour the local Agentur für Arbeit or Jobcenter investigates and sanctions the violation of obligations.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

- Poverty migration from Europe to Germany with perceptible migration movement or high fluctuation in immigration / emigration of EU citizens within Germany and Europe (especially south-east Europe)
- Lack of local political willingness to intervene in problems related to social fraud
- Lack of powers of the control services
- Federal and often insufficient powers of different authorities
- Legal limits (data protection)
- (Personnel) resources of the authorities involved for focussed and continuous use in social fraud
- Data exchange

Federal Employment Agency (BA): Data Protection Regulations, personal resources, collusion between employers and employee, no cross-border data comparison, no obligation of foreign employers to provide information.

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

- Relocation of child benefit beneficiaries with criminal proceedings to unknown destinations - for this reason, reclaims can no longer be recovered
- Legal hurdles with complex legal bases for the recovery of reclaims - especially in the context of the EU (e.g. service abroad).
- Lack of solvency on the part of the person liable for reimbursement because they also have no attachable assets

Federal Employment Agency (BA): People go into hiding so there's no possibility to enforce unduly paid benefits or outstanding contributions. A further reason is insolvency of people and companies. Often, garnishment is not possible because the income of the person concerned is below the statutory garnishment exemption limit.

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

Family Benefits Office: Example of the federal state of North Rhine-Westphalia

There are contractual agreements between the Netherlands and Germany to combat undeclared work.

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

Not currently.

Federal Employment Agency (BA): No special mechanisms. In cases of obviously peculiarities the (official) documents will be verified by contacting the issuer. In doubt to the allegations of a person or by having a hunch an other social security authority will be contacted by EESSI to verify the data.

Technical data exchange is restricted to data security regulations.

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

Family Benefits Office: Example of the federal state of North Rhine-Westphalia:

- Joint investigation teams
- Ministerial 'strategy exchange' at state level with federal, state and local authorities
- Ruhr security cooperation (Sicherheitskooperation Ruhr) as initiator for the organisation of state-wide meetings on key issues in social fraud
- 'Round tables' (meetings) of the authorities involved in the municipalities

Family Benefits Office of the Federal Employment Agency

- Meetings of the liaison offices of the EU, EEA member states and Switzerland
- There are some legal obligations to provide information

Deutsche Rentenversicherung (Pension):

- The FSK has access to the "A1 database" (see point 1 General Questions).

Federal Employment Agency (BA): The principle applies that any exchange of data is initially prohibited unless it is permitted by law. Every permissible data exchange must therefore be regulated by laws and/or regulations. For example: In case of non-legal work and receiving unemployment benefits, data exchange and matching is regulated in Sozialgesetzbuch III and Sozialgesetzbuch IV (Code of Social Law – Book III – and Code of Social Law – Book IV).

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

Family Benefits Office: Example of the federal state of North Rhine-Westphalia:

- Co-operation agreements with participation of the Family Benefits Office
- Ruhr security cooperation (Sicherheitskooperation Ruhr)
- State policy prioritisation in North Rhine-Westphalia under the leadership of the State Ministry of the Interior and the State Ministry of Home Affairs, Local Government, Building and Digital Affairs

In Germany, child benefit is paid by the family benefits office. The family benefits offices are tax authorities. The obligation to exchange information between the family benefits offices and other national public or private organisations is regulated by law. The legal basis is § 93 Fiscal Code. It stipulates, for example, that both the applicant and other authorities, employers, etc. must provide information to the family benefits offices.

Legal text

§ Section 93 Fiscal Code - Duty of the parties involved and other persons to provide information

(1) The parties involved and other persons must provide the tax authority with the information required to establish facts relevant to taxation. This also applies to unincorporated associations, estates, authorities and commercial enterprises of public corporations. Persons other than the parties involved shall only be required to provide information if the clarification of the facts by the parties involved does not lead to the desired result or does not promise success.

(1a) The tax authority may make requests for information to persons other than the parties involved about a number of facts which are still unknown to it and which relate to persons who are not yet known to it and who can be identified (collective requests for information). The prerequisite for a collective request for information is that there is sufficient cause for the investigation and that other reasonable measures to clarify the facts do not promise success. Paragraph 1 sentence 3 shall not apply.

(2) The request for information shall state what information is to be provided and whether the information is requested for the taxation of the person obliged to provide information or for the taxation of other persons. Requests for information shall be made in writing at the request of the party obliged to provide information.

(3) The information must be provided truthfully and to the best of the person's knowledge and belief. Persons obliged to provide information who cannot provide information from memory shall inspect books, records, business papers and other documents available to them and, if necessary, take records from them.

(4) The person obliged to provide information may provide the information in writing, electronically, orally or by telephone. The tax authority may request that the party obliged to provide information provide information in writing if this is appropriate.

Deutsche Rentenversicherung (Pension): According to Section 2, Paragraph 4 of the SchwarzArbG (German Act on Combating Illegal Employment), the FSK cooperates with the social security carriers (https://www.gesetze-im-internet.de/schwarzarbg_2004/__2.html).

Federal Employment Agency (BA):

The principle regulations for Bundesagentur für Arbeit are

- Section 397 Code of Social Law – Book III –, available on https://www.gesetze-im-internet.de/sgb_3/___397.html,
- Section 52 Code of Social Law – Book II –, available on https://www.gesetze-im-internet.de/sgb_2/___52.html,
- Section 52a Code of Social Law – Book II –, available on https://www.gesetze-im-internet.de/sgb_2/___52a.html,
- Section 2 Act to Combat Undeclared Work and Illegal Employment (Act to Combat Undeclared Work - SchwarzArbG), available on https://www.gesetze-im-internet.de/schwarzarbg_2004/___2.html.

Further regulation is in section 69 Code of Social Law – Book X.

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

"A1 Database" (see Point 1 General Questions)

Federal Employment Agency (BA): Due to data protection regulations and personal rights, it is not possible for the Federal Employment Agency (Bundesagentur für Arbeit) to establish this kind of database.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

Family Benefits Office: Yes - Data protection regulations

Federal Employment Agency (BA): There're no legal codes/ regulations that allows data exchange to fight CS(S)F. EESSI is only for individual cases – not for big data mining.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

Family Benefits Office: The 'MISSIMO' project in the federal state of North Rhine-Westphalia

With the aim of verifying actual presence in Germany, data is made available and collated by various stakeholders as part of a multi-agency collaboration. This data is used to identify certain conspicuous offence patterns, persons and/or streets.

The authorities concerned jointly visit the identified persons in their homes and verify their actual presence, among other things.

Improving the framework conditions, particularly with regard to data protection and the exchange of data between authorities, would support the fight against benefit abuse.

Federal Employment Agency (BA): It would make sense if every country exchanges their relevant data with the next neighbor-countries (for example: Germany and France). Due to this data exchange the authorities in the other country can identify cases of fraud and error (for example: Person receives unemployment benefits in Saarbrücken and works in Forbach/France – but don't inform the German Agentur für Arbeit.)

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Family Benefits Office: Infringements are sanctioned through a criminal law method.

Deutsche Rentenversicherung (Pension): Employers who withhold social security contributions will be prosecuted ('Withholding and misappropriation of wages', Section 266a of the German Criminal Code (StGB) (https://www.gesetze-im-internet.de/stgb/__266a.html)). In addition, the employer is obliged to pay the unpaid social security contributions, including the late payment surcharges levied in these cases.

Social benefit fraud is prosecuted as a criminal offence (fraud under Section 263 StGB) or as an administrative offence Federal Employment Agency (BA):

In cases of non-legal working and fraud mainly by criminal law method. In cases of lower infringements by administrative law. Civil law is usually not proper for infringements on public law (Code of Social Law is public law).

Health Insurance: Administrative and criminal law methods.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Family Benefits Office: There is a legal framework for particularly serious offences.

Deutsche Rentenversicherung (Pension): See 3.1.

Federal Employment Agency (BA): In the sector of administrative law the Bundesagentur für Arbeit and Jobcenter can sanction infringements depending to the intensity and amount of unduly paid of unemployment benefits.

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Family Benefits Office: Sanctions are imposed by way of criminal law.

Deutsche Rentenversicherung (Pension): See 3.1.

Federal Employment Agency (BA): For cases in administrative law, the Bundesagentur für Arbeit and Jobcenter are having non-public provisions when and how to sanction.

In cases of criminal law (fraud, not paid social security contributions) the public prosecutor and the law courts are responsible to sanction.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

Family Benefits Office: The family benefits office has no expertise to assess the facts of the case.

Deutsche Rentenversicherung (Pension): If the tax audit service inspects the company and finds irregularities, the appropriate steps would be taken to check/determine the social security obligation in Germany.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

Family Benefits Office: The family benefits office has no expertise to assess the facts of the case.

Deutsche Rentenversicherung (Pension): If the tax audit service inspects the company and discovers irregularities, the appropriate steps would be taken to verify the social security obligation in Germany.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- What approach does your country take to these practices?
- Do the 'self-employed' subcontractors have any means of redress?

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

Deutsche Rentenversicherung (Pension): See point 1 General questions: Annual submission of life certificates for pension recipients and automatic comparison of death data with various EU member states

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

Deutsche Rentenversicherung (Pension): Pensions paid beyond the month of death are reclaimed in accordance with § 118 of the Sixth Book of the Social Code - SGB VI in conjunction with the recovery regulations - Art. 84 VO 883/2004 will be reclaimed.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

Deutsche Rentenversicherung (Pension): See under point 1 General questions: Annual submission of life certificates for pension recipients and automatic comparison of death data with various EU member states.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

Federal Employment Agency (BA): Everybody who receives unemployment benefits or basic income support for jobseekers will be instructed to inform his local Agentur für Arbeit or Jobcenter if a job is taken up – unconcerned if in country A or country B.

Detecting could be possible, if there is an automatic data matching of data from both countries – but there're no legal framework nor a data exchange between the countries (see answer to question 2.11. too).

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

Regular data synchronisation with the other institution in another EU/EEA country or Switzerland via EESSI/RINA at least once a year.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

The family benefits office has no expertise to assess the facts of the case.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

HUNGARY

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

- continuously expanding the range of electronic forms of administration,
- interconnecting registration systems, creating a national data repository. In the right legal framework, the single register data created is accessible to the bodies and can be used in procedures initiated by clients

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

We exchange data with Germany on a monthly basis. We match names, addresses and also exchange data on the fact and date of death.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

- detailed instructions are included with the form for claiming benefits
- general information available on the websites of pension insurance bodies about the obligation of clients regarding their claims for benefits
- organising international pension consulting days to spread the knowledge of claiming on cross-border benefits
- detailed information has been placed on the website of the Hungarian State Treasury on how to apply for family benefits, including the types of benefits, the scope of beneficiaries, the disqualifying circumstances and the obligation to notify.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

Before starting to be paid the benefit which was claimed, an information letter is sent to the clients with all relevant information.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

Stable.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

- Mandatory integrity training on corruption prevention for all public administration employees
- The risk factors are presented through practical examples (case studies) of possible fraud in public administration.

- The training courses are organized by the Ludovika University of Public Service and delivered by experts and trainers

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

For social security contributions the competent and responsible institution for investigating and sanctioning violations of legal obligations is the National Tax and Custom Administration.

For benefits the competent and responsible institution for investigating and sanctioning violations of legal obligations is the competent institution that is to determine and grant the benefit.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

- failure to notify changes concerning the benefits paid e.g. marriage, moving abroad, creation/termination of an insurance relationship, child leaving the household
- failure to notify or late notification of the the death of a pensioner by relatives
- claiming a pension in a country other than the country of residence and then not to declare to get pension from abroad
- the determination of the actual place of residence in case of residences in 2 member states as there are a few specific rules in the Regulation and Commission guidelines
- determining the law applicable in the event of parallel insurance in two member states

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

In case of benefits paid without legal ground after death, the identity of the beneficiary taken the benefit is often not known.

If benefit (pension) is paid into a foreign bank account, benefits unduly paid after death cannot be recovered from the foreign bank account because the foreign bank will not repay them.

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

All sectoral legislation sets out the data that can be processed and held by the institution responsible for the benefit. For the institutions responsible for the management of the register, the law provides for the possibility to transfer the data.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

Data management and record keeping are regulated by law.

- Act LXXXI of 1997 on Social Security Benefits (Section 96)
- Act LXXXIII of 1997 on compulsory health insurance benefits (Section 79)
- Act CXCI of 2011 on benefits for persons with reduced working capacity and amending certain acts

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

GDPR and national data protection provisions are taken into account when transferring information. If the legal basis and the legal title of the transfer of information can be established by law, there are no restrictions.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Criminal Law: Act C of 2012 on the Criminal Code

Fraud Relating to Social Security, Social and Other Welfare Benefits

Article 395

(1) Any person who induces a person to hold or continue to hold a false belief, or suppresses known facts for the purpose of obtaining or eliciting social security benefits, or pecuniary benefits or benefits by means other than money provided from any sub-system of the central budget to natural persons under the relevant legislation, and thereby causes damage, is guilty of misdemeanour punishable by imprisonment not exceeding two years.

[(2) The penalty may be reduced without limitation if the perpetrator provides compensation for the damage caused by fraud relating to social security, social and other welfare benefits before the indictment is filed.]

information obligation about change in facts or circumstances that may affect the applicable legislation (Subsection 5 of Article 94. of Act CXXII of 2019)

In the event of any changes in the circumstances underlying the determination of the legislation applicable and the issue of the relevant certificate, on account of which the insurance obligation no longer applies, or applies under a law other than Hungarian, or it affects the validity of the certificate (in particular, if employment is suspended or terminated under the duration of posting originally anticipated, or the self-employed person terminates his activity in the other State), the employer and the employee, or the self-employed person affected shall so notify the competent health insurance agency without undue delay, and the health insurance agency shall invalidate the certificate effective as of the date of change.

Act CXXV of 2017 penalties for administrative non compliance

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Act C of 2012 on the Criminal Code

Article 395

2 years of imprisonment, which can be shortened

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

In the Criminal Code, in the chapter on offences against the budget, there is a specific offence called abuse of social security, social or other welfare benefits

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

Act CXXX of 2010 on Legislation requires the preparer of legislation to carry out a prior impact assessment, in the course of which he is obliged to assess the expected consequences of the legislation.

The same Act provides for an ex-post impact assessment, which allows for a comparison of the expected effects at the time of the drafting of the legislation and the actual effects.

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

data reconciliation is carried out once a year with pensioners living abroad: (TnyR. § 76)

How?

- by post,
- by certification by the other Member State or by bilateral exchange of data

the death must be notified to the relatives of the beneficiary abroad within 15 days. (Act LXXXI of 1997 on Social Security Benefits, section 97 § (5))

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

Any person who is found to have withdrawn benefits paid without justification after the death of the beneficiary must repay them (Act LXXXI of 1997 on Social Security Benefits, section 86/A).

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

The fact of death in Hungary is automatically processed.

Hungarian social security pensions with international implications are registered under a separate identification number, which also includes the foreign country concerned. If a pensioner living in Hungary dies and the Member State concerned is known by the Hungarian Pension Payment Directorate, the fact of death is notified.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

Such benefits can only be paid to people living in Hungary. If a person in receipt of such benefits moves to another Member State, he or she must declare this fact. On the basis of his/her declaration, the benefit will be terminated.

If a beneficiary fails to make such a declaration and the institution becomes aware of this, the institution of the Member State of residence will in any case be consulted as to the actual place of residence of the beneficiary.

If it is established that he/she is actually residing in another Member State, the benefit shall be terminated.

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

Clients have a 15-day notification obligation. If they do not do so, but the partner institutions are informed in some way of a change in the client's circumstances, they will inform our office. We will then initiate an "ex officio" procedure.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

IRELAND

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

Yes, the fight against cross-border social security fraud and error is addressed through specific policies within the Department of Social Protection in Ireland. The department works to ensure the integrity of the social security system by collaborating with other countries, to share information and best practices. This includes implementing measures to prevent, detect and address fraudulent claims, as well as ensuring compliance with social security regulations. Additionally, the department participates in various international initiatives and agreements aimed at tackling social security fraud across borders.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

A notable case regarding cross-border social security fraud in Ireland is the case of DPP v. O'Dowd in 2014. In this case, a man was prosecuted for defrauding the Irish social welfare system by claiming benefits while residing and working in the UK. The defendant was found to have failed to declare his true circumstances, leading to significant overpayments from the Irish government.

This case highlighted the challenges of cross-border welfare systems and the measures taken by authorities to combat fraud, including co-operation between the UK and Irish social security agencies. The verdict reinforces the importance of integrity in social welfare claims and the penalties for those who exploit the system. It served as a warning for others who might consider engaging in similar fraudulent activities.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

In Ireland, compliance with cross-border social security legislation is primarily governed by European Union regulations, particularly Regulation (EC) No 883/2004 on the coordination of

social security systems. This regulation ensures that individuals moving between EU member states have their social security rights protected.

Key provisions and mechanisms include:

1. **Equal Treatment**: The regulation mandates that individuals from other EU countries should receive the same treatment as Irish nationals in accessing social security benefits.
2. **Aggregation of Periods**: It allows the aggregation of social security contributions made in different EU countries when determining eligibility for benefits, ensuring that time spent working in other member states counts toward Irish benefits.
3. **Sickness and Disability Benefits**: Specific provisions outline how benefits for sickness and disability are coordinated, ensuring that individuals can receive care and support regardless of where they reside or work within the EU.
4. **Administrative Cooperation**: The regulation establishes a framework for cooperation between social security institutions in different countries, facilitating the exchange of information and ensuring smoother processing of claims.
5. **Appeals and Dispute Resolution**: There are provisions for appealing decisions related to social security benefits, ensuring that individuals have recourse if they face issues with compliance or entitlement.
6. **Transposition into National Law**: Ireland has transposed these EU regulations into national law through the Social Welfare Consolidation Act and various statutory instruments, which detail the operational aspects of social security coordination.
7. **Awareness and Information Campaigns**: The Irish government and relevant agencies run awareness campaigns to inform citizens about their rights under cross-border social security legislation, promoting compliance and enforcement.

Overall, these provisions aim to create a fair and equitable system for individuals who move across borders within the EU, ensuring that their social security rights are maintained and respected.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

Yes, Ireland participates in both bilateral and multilateral agreements with other EU member states to combat and prevent cross-border fraud and error in the field of social security coordination. The primary framework for these efforts is established by EU regulations, particularly Regulation (EC) No 883/2004 on the coordination of social security systems and its implementing regulation, which aim to ensure that individuals moving within the EU are treated fairly and that social security benefits are not misused.

Additionally, Ireland collaborates with other member states through various initiatives and networks, such as the European Platform to Enhance Cooperation in the Prevention and Fight against Fraud and Error in the Area of Social Security Coordination. This platform facilitates the exchange of information, best practices, and strategic measures to effectively address issues related to fraud and error.

Furthermore, Ireland also engages in bilateral agreements with specific countries to strengthen cooperation and share information regarding social security matters, which can enhance efforts to prevent fraud and ensure compliance with regulations.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Not especially applicable in light of application volumes processed, and the established avenues over which information can be provided.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

An above not applicable (given the low volumes dealt with... and the fact that a single border is on the island, as opposed to the multiple borders that may exist on mainland Europe).

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

Current Resources

- **Budget:** The budget for tackling social security fraud in Ireland has seen fluctuations over the years. There has been a moderate increase in funding to enhance cross-border cooperation and improve technological capabilities.
- **Inspectors:** The number of inspectors dedicated to this task has also seen a slight increase. This is part of a broader effort to strengthen enforcement and ensure compliance with social security regulations.
- **IT Resources:** Investment in IT resources has been a significant focus. Enhanced data analytics, improved cross-border data sharing, and the use of advanced software tools have been prioritized to better detect and prevent fraud.

Trends

- **Increasing:** Overall, the trend appears to be an increase in resources. This is driven by the growing complexity of cross-border fraud and the need for more sophisticated tools and personnel to combat it effectively.

Reasons for Evolution

- **Complexity of Fraud:** As fraud schemes become more sophisticated, there is a greater need for advanced technology and skilled personnel to detect and prevent these activities.

- **EU Regulations:** Compliance with EU regulations and the need for cross-border cooperation have necessitated increased investment in both human and technological resources.
- **Political and Operational Buy-In:** Securing political and operational support has been crucial in obtaining the necessary resources to tackle these issues effectively

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

The Department of Social Protection (DSP) in Ireland ensures its inspection services are well-prepared to combat cross-border social security fraud through a robust training program. Here are the main components:

- **Legal and Regulatory Knowledge:** Inspectors receive thorough training on Irish and EU social security laws, focusing on the legal aspects of fraud and the protocols for international cooperation.
- **Advanced Investigation Techniques:** Training includes methods such as surveillance, data analysis, and interviewing, equipping inspectors with the skills to gather and interpret evidence effectively.
- **Cross-Border Collaboration:** Inspectors learn to work with international counterparts, understanding agreements and protocols for sharing information and conducting joint investigations.
- **Technological Proficiency:** Inspectors are trained to use various technological tools and databases for tracking and identifying fraudulent activities, including data analytics and specialized fraud detection software.
- **Ethical Standards and Confidentiality:** Emphasis is placed on maintaining high ethical standards and ensuring the confidentiality of sensitive information.
- **Continuous Professional Development:** Ongoing training keeps inspectors updated on the latest trends and techniques in fraud detection and prevention.

These training elements ensure that DSP inspectors are well-equipped to handle the complexities of cross-border social security fraud effectively.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

1. Department of Social Protection (DSP): This is the primary government department overseeing social security benefits and contributions. They have various divisions that manage different aspects of social welfare.

2. Social Welfare Inspectors: These inspectors operate under the DSP and are responsible for investigating cases of suspected fraud or misuse of social security benefits. They carry out inspections and gather evidence to ensure compliance with social welfare laws.

3. Revenue Commissioners: This body is responsible for the collection of taxes and social insurance contributions. They work closely with the DSP to ensure that employers are complying with their obligations regarding social insurance.

4. Compliance and Control Unit: This unit within the DSP specifically deals with compliance issues related to social welfare payments and contributions. They conduct audits and inspections to ensure that individuals and businesses are meeting their legal obligations.

5. Fraud Investigation Unit: This unit focuses on identifying and investigating fraudulent claims for social welfare benefits.

6. Workplace Relations Commission (WRC): While primarily focused on employment rights and protections, the WRC may also become involved in cases where there is a link between employment issues and social security contributions.

These bodies work in coordination to ensure that legal obligations regarding social security contributions and benefits are upheld, conducting inspections and imposing sanctions as necessary.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

1. Co-ordination between agencies
2. Resource Limitations
3. Complex Legal Frameworks
4. Detection and prevention technologies
5. Public Awareness & reporting

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

- 1) Data Accuracy and Verification
- 2) Fraud and Abuse
- 3) Administrative Burden
- 4) Legal Challenges

5) Time Limits

6) Impact on Recipients

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

Yes, Ireland actively cooperates with foreign inspectorates to combat cross-border social security fraud. This cooperation is essential given the complexities of social security systems across different jurisdictions, especially within the European Union.

Ireland participates in various EU initiatives aimed at enhancing collaboration between member states. One key framework is the EU's Administrative Cooperation in the field of social security, which facilitates the exchange of information and best practices among countries. This includes sharing data on social security contributions and benefits, which helps in identifying fraudulent claims and ensuring compliance with regulations.

Additionally, Ireland works closely with organizations such as the European Anti-Fraud Office (OLAF) and the Social Security Coordination Network, which aim to tackle fraud and abuse in social security systems. The country also engages in bilateral agreements with other nations to enhance information sharing and joint investigations.

Overall, these cooperative efforts reflect Ireland's commitment to maintaining the integrity of its social security system while addressing the challenges posed by cross-border fraud.

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

See Annex III

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

See Annex I

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

See Annex III

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases

fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

Yes, Ireland has established national databases and systems to support the administration of social security and combat cross-border social welfare fraud. Collaborating with other EU countries, Ireland participates in various initiatives aimed at sharing information and improving the detection of fraudulent activities.

One significant framework is the EU's Administrative Cooperation in the field of social security, which allows for the exchange of data between member states. This includes databases that help track claims and verify the legitimacy of social welfare recipients across borders. Additionally, Ireland utilizes its own national databases to monitor social welfare claims and identify any discrepancies that may indicate fraudulent activity.

Efforts also include ongoing training and resources for staff involved in social welfare administration to recognize and address potential fraud effectively.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

Yes, there are limitations on the exchange of information with foreign social security inspectorates in Ireland. These limitations are primarily influenced by several factors:

1. **Data Protection Regulations:** Ireland adheres to strict data protection laws, including the General Data Protection Regulation (GDPR). These regulations impose restrictions on the sharing of personal data across borders, ensuring that individuals' privacy rights are upheld.
2. **National Sovereignty:** Countries often prioritize their own legal frameworks and sovereignty over social security matters. This can lead to reluctance in sharing information with foreign entities to maintain control over domestic policies and procedures.
3. **Different Systems and Standards:** There may be variations in social security systems, policies, and standards between countries. This can complicate the sharing of information, as the data may not be easily comparable or applicable in different contexts.
4. **Mutual Agreements:** Information exchange typically relies on bilateral or multilateral agreements between countries. If such agreements are not in place, or if they lack specific provisions for data sharing, limitations will arise.
5. **Fraud Prevention:** Countries may be cautious about sharing information to prevent potential misuse or fraud. They want to ensure that any shared data is used appropriately and does not compromise their own systems.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

See Annex III

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

In Ireland, infringements related to cross-border social security fraud can be sanctioned through various legal avenues, including administrative, criminal, and civil law methods. Here's an overview of each method:

1. Administrative Sanctions:

- Investigation and Audit: The Department of Social Protection conducts investigations and audits to identify fraudulent claims. If fraud is suspected, the department may suspend payments, require repayment of overpaid benefits, and impose administrative penalties.

- Disqualification from Benefits: Individuals found guilty of fraud may face disqualification from receiving certain social security benefits for a specified period.

2. Criminal Sanctions:

- Prosecution: Social security fraud can lead to criminal charges, including fraud and false representation. Prosecutors may initiate legal proceedings against individuals suspected of committing fraud.

- Penalties: If convicted, individuals may face fines, imprisonment, or both, depending on the severity of the offense. Penalties are outlined in the Social Welfare Consolidation Act and other relevant legislation.

3. Civil Sanctions:

- Recovery of Overpayments: The government may pursue civil action to recover any overpayments made due to fraudulent claims. This can involve legal proceedings to reclaim funds.

- Injunctions: In some cases, the government may seek injunctions to prevent further fraudulent activity or to freeze assets related to fraudulent gains.

In addition to these methods, Ireland collaborates with other EU member states to combat cross-border social security fraud effectively, utilizing the provisions of the EU regulations on social security coordination. This cooperation enhances the ability to share information and tackle fraudulent activities across borders.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

In Ireland, the national legal framework regarding cross-border social security is primarily influenced by European Union regulations, particularly Regulation (EC) No. 883/2004 on the coordination of social security systems. The seriousness of offences and sanctions related to cross border social security can involve various aspects, including fraud, improper claims or violations of regulations.

Also please see Annex I

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Please see Question 1 above

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

Yes, in Ireland, an impact assessment of the risk of fraud and error is typically carried out when preparing legislative proposals in the field of social security. This assessment is part of the broader regulatory impact analysis process, which aims to evaluate the potential effects of proposed legislation. It helps identify risks, including fraud and error, and considers measures to mitigate these risks in the implementation of social security policies. This process is essential for ensuring that legislation is effective, efficient and accountable.

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

In the scenario where a company in Ireland transfers its employment responsibilities to an intermediate company in another state with lower taxes and standards, Ireland would likely approach the situation through several avenues:

1. **Legal and Regulatory Framework:** Ireland would first assess the legality of such an arrangement under its labor laws and EU regulations. The country has robust employment laws designed to protect workers' rights, and any transfer of employment responsibilities must comply with these laws.

2. **Tax Implications:** Ireland would evaluate the tax implications of this arrangement. If the intermediate company is based in a jurisdiction with significantly lower taxes, Ireland's tax

authorities may scrutinize the arrangement to ensure compliance with tax laws, including transfer pricing regulations and anti-avoidance measures.

3. **Social Security Contributions:** Ireland would consider the social security implications. EU rules govern which country's social security system applies to employees. If the workers remain in Ireland and perform their duties there, they may still be subject to Irish social security contributions, regardless of the intermediate company's location.

4. **Employment Standards and Health & Safety:** Ireland has specific health and safety regulations and employment standards that must be adhered to. If workers continue to work in Ireland, the original employer may still retain some responsibilities for compliance with these standards, regardless of the new employment arrangement.

5. **Potential Investigations and Enforcement Actions:** If there are concerns about the legality or ethics of the arrangement—such as avoiding obligations to workers—Irish authorities may launch investigations. This could involve labour inspectors and tax authorities looking into the legitimacy of the employment transfer.

6. **Engagement with EU Frameworks:** Since this scenario involves EU member states, Ireland might engage with broader EU frameworks to address concerns regarding the freedom of movement, employment rights, and potential abuses of the system.

7. **Consultation with Stakeholders:** Ireland may also consult with labour unions, business associations, and other stakeholders to gauge the impact of such arrangements on the workforce and the economy, and to discuss potential policy responses.

Ultimately, the approach would be multifaceted, focusing on legal compliance, protecting workers' rights, and ensuring tax and social security contributions are appropriately managed.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

Ireland has specific laws and regulations aimed at protecting workers' rights, including those of self-employed individuals and subcontractors. When issues arise, such as the exploitation of self-employed workers, substandard accommodation, late wage payments, and potential bankruptcy of contractors, the following approaches may be taken:

1. **Legal Framework:** Ireland has various employment laws, including the Employment Rights Act and regulations concerning the treatment of workers, whether they are employees or self-employed. These laws provide a framework for addressing wage disputes and working conditions

2. **Workplace Relations Commission (WRC):** The WRC is responsible for enforcing employment rights and can provide assistance to workers who believe their rights have been

violated. Self-employed subcontractors can file complaints with the WRC regarding unpaid wages or poor working conditions.

3. Health and Safety Authority (HSA): If the accommodation provided is substandard and poses health risks, the HSA can be notified. They can investigate and ensure compliance with health and safety regulations.

4. Rights of Self-Employed Workers: Self-employed workers have some rights, including the right to fair payment for work completed. However, the recourse available may differ from that of traditional employees. They may need to pursue claims through civil courts for unpaid wages or contractual disputes.

5. Bankruptcy and Claims: If a contractor declares bankruptcy, subcontractors may face challenges in recovering unpaid wages. They may be able to file claims as creditors in the bankruptcy proceedings, but recovery can be uncertain.

6. Advocacy and Support Organizations: There are various organizations and unions in Ireland that advocate for the rights of workers, including self-employed individuals. These organizations can provide guidance, support, and legal advice.

7. Government Initiatives: Ireland has been increasingly focused on improving working conditions and protecting vulnerable workers, which may lead to enhanced scrutiny and enforcement against unfair practices.

In summary, while self-employed subcontractors in Ireland do have avenues for seeking redress, the effectiveness of these routes may vary based on individual circumstances. Seeking legal advice or assistance from relevant organizations can be crucial in navigating these issues.

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

Please see Annex III

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

Please see Annex III

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

Please see Annex III

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

Please see Annex III

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

The Department has everyday liaisons with social security institutions across the EU under Art 72, to facilitate mutual customer claim reviews, the raising of overpayments and, where possible, debt recovery by offset against available foreign scheme arrears.

The Department has everyday liaisons with social security institutions across the EU under Art 72, to facilitate mutual customer claim reviews, the raising of overpayments and, where possible, debt recovery by offset against available foreign scheme arrears.

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

(a) Specific controlling and monitoring actions

We received a monthly report listing EU claims where employment had closed or benefit payment stopped or where a change of address to another State had been made and these claims were reviewed and other member state informed of any change in competency.

In addition, a control certificate issued to each customer every 6 months to confirm ongoing entitlement due to employment or residence. Where required, claims were reviewed and other member state informed of any change of competency.

When required, we also undertook claim reviews on a state basis, e.g. change of policy/additional payment in another member state and other member state informed of any change of competency.

(b) Specific cooperation and concrete data exchange

Exchange of information on individual claims prior to and following award. Exchanges consisted of confirmation of family circumstances prior to decision and outcome of decision in the state following decision. These exchanges minimised the risk of fraud and error.

(c) Recovery of unduly paid benefits and other sanctions

Withholding of arrears for reimbursement of overpayment and/or recovery of overpayment under Article 72 of Implementing Regulation 987/2009 are implemented where required¹.

¹ Information from unpublished Annex III.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

Please see Fraud & Error questionnaire

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

Please see Fraud & Error questionnaire

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

Please see Fraud & Error questionnaire

LATVIA

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

Information change among institutions.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

NO.

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

No

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

No.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

Lithuania and Estonia.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Information in Agency home page, media, seminars.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

The person certifies that the information provided in the application is true and assumes responsibility for the information provided. The benefit award decision includes information about the need to inform The Agency about a change in circumstances.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

Stable

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- What approach does your country take to these practices?

- Do the 'self-employed' subcontractors have any means of redress?

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

Agency tackles information on beneficiaries (state social benefits, family benefits), who have registered address abroad. Before payment of benefits such list of beneficiaries is produced and verified in order to prevent overpayment of benefits. This control is possible due to exchange of data with the Office of Citizenship and Migration Affairs. Agency receives information request from other EU state in case beneficiaries ask benefits in this state.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

LUXEMBOURG

Please note that the questionnaire was sent to the concerned national institutions, which responded separately.

The following institutions contributed to the questionnaire:

- **CNS** (Caisse nationale de santé) - Sickness insurance
- **CNAP** (Caisse Nationale d'Assurance Pension) - Pension insurance
- **CAE** (Caisse pour l'avenir des enfants) - Family benefits
- **CCSS** (Centre Commun de la Sécurité Sociale) - Applicable legislation
- **AAA** (Association d'assurance accident) - Accidents at work and occupational diseases insurance
- **ITM** (Inspection du Travail et des Mines) - Inspectorate of Labour and Mines

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

All of our social security institutions see the fight against cross-border social security fraud and error as a very important issue and some of them have developed specific action plans.

New obligations introduced in 2018 in Article 408bis of the Social Security Code require the social security institutions to determine the rules of governance to be applied in the performance of their missions and towards stakeholders, in which the policy to combat abuse and fraud plays a central role.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

CNS: Not regarding CSSF – only on a national level → The CNS detected major billing irregularities at a self-employed nursing association that had become a help and care network.

<https://lequotidien.lu/a-la-une/heem-lu-une-escroquerie-de-25-millions-deuros/>

<https://justice.public.lu/fr/actualites/2023/02/communiqu-parquet-lux-prestataires-soins-a-domicile.html>

AAA: concerning fraud by people using the logo of two social security institutions

<https://www.wort.lu/wirtschaft/polizei-warnt-vor-falschen-bankangestellten/13012484.html>

<https://lequotidien.lu/police-justice/deux-suspects-dans-lescroquerie-luxtrust-ecroues/>

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

CNS: Cross-border healthcare benefits are covered by Articles 20 and 20bis of the Social security code and Chapter 6 of the Statutes of the CNS

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

A common treaty on social fraud is currently being negotiated between the Benelux countries.

For more information cf. Luxembourg Annex II

CNAP: cf. Luxembourg Annex III 2.1.2.2.(b)

CAE: we have arrangements with France. We develop bilateral collaboration schemes in order to prevent cross-border fraud.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

CNS: They are informed via our website → Example: <https://cns.public.lu/de/assure/vie-privee/a-etranger/vacances-etranger.html> or for cross-border workers <https://cns.public.lu/fr/assure/vie-professionnelle/frontaliers.html>

AAA: It would be useful for all social security institutions to strengthen communication with policyholders concerning their rights and duties via information channels that are understandable and accessible to all, while drawing the attention of policyholders to the risks incurred in case of fraud or attempted fraud. This would allow all policyholders to better understand and accept the applicable rules and their obligations in this area and would reduce the risk of fraud, if any.

As part of the instructions for abuse and fraud files by the AAA, specific templates have been created concerning requests for additional information from policyholders including the following specific preventive and dissuasive measures:

- by certifying on honor the accuracy and authenticity of the information and documents provided.
- by certifying to be informed that any false declaration or falsification of documents, any usurped obtaining of a right would expose me to criminal and financial sanctions. In the action plan to combat abuse and fraud, there is a project to extend and include these specific mentions in all AAA compensation request forms to be completed by policyholders.

CAE: All our forms mention the obligation to provide true information to our institution. We are actually completing the forms with the legislative consequences if fraud attempt.

CCSS: They are informed via CCSS Website-> www.ccss.lu and www.guichet.lu (general state information site)

Their rights and obligations are defined in our legislation (Article 447 of our social security Code)

Indication on the form of the obligation for insured people to provide true information.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

CNS: information on the website and via social media, newsletters to healthcare providers

CCSS: Only information on our website

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

CNS: Over the last years, there has been an increasing focus on fraud and recruitment in this field at CNS. There is greater awareness of fraud among all social security institutions.

CAE: We will recruit several agents in order to tackle the monitoring and the follow up of fraud attempts. Increasing resources, (budget, inspectors, IT resources) are due to the new strategy plan in the tackle of the social security cross border fraud.

AAA: we have recruited qualified personnel to strengthen the service dedicated to the fight against fraud. Concerning IT resources, it would be necessary to carry out a global reflection between all Luxembourg social security institutions in order to develop IT techniques for reconciling and exploring data.

CCSS: Increasing resources, (budget, inspectors, IT resources) are due to the new strategy plan in the tackle of the social security cross border fraud.

2. Questions for inspection services

CNS: N.B.: The CNS has sworn controllers who carry out spot checks in case of work disabilities.

In a more specific CSSF context, our department deals with requests for reimbursement from people who have made an illicit use in another country of their expired EHIC card (cf. Regulation No. 883/2004).

In the event of suspicion of major fraud or Cross-Border fraud, we call on the services of other administrations and refer the cases to the Public Prosecutor's Office or judicial police officers.

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

AAA:

- participation of agents from the AAA's anti-fraud service in training on the fight against documentary fraud.
- raising the awareness of AAA agents through specific training during which the problem of the reality of the affiliation of policyholders in Luxembourg was addressed (in particular the problem of letterbox companies).
- upcoming organization of training dedicated to document fraud for all AAA agents having to analyse documents with a view to making a decision
- internal training at the AAA to raise awareness of shared action to fight against abuse and fraud by means of practical examples carried out in 2023, in order to acculture AAA staff to the importance of this theme.

CAE: We organized a training in collaboration with EN3S, the French social security school and the French border police with the aim to recognize the conception of European fraud networks and falsified identity documents or civil status documents. Some members of our staff took part in an training with the Luxembourgish police and we will organize also a course for the whole staff with the police section which is responsible for falsified documents.

CCSS:

- Participation at international conferences about cross-border social security fraud.
- Participation of agents from the CCSS's anti-fraud service in training on the fight against documentary fraud.

CNS: Participation in the European Healthcare Fraud & Corruption Network, participation in EN3S conferences and training courses (as on the ISSA guidelines)

Would you share your training curricula/tools in this field with other MS' inspection services?

AAA: Yes

CAE: We are open to each collaboration with other member states.

CCSS: We have no tools to share but if we had some we'd be willing to share them

CNS: Yes

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

CNS: The CNS has a specific service tackling fraud and abuse issues within the CNS ("Service LAF").

In the context of fictitious affiliations to Luxembourg social security, the CNS exchanges information with the CCSS. The CCSS carries out the required controls (on site) to check the reality of employment. On the basis of their report and findings, the CNS can proceed to recover any social security benefits that have been wrongly paid.

In the event of suspected criminal offences relating to unduly paid social security benefits, the facts are reported to the State Prosecutor, after an initial investigation by the Service LAF.

CNS

Service Lutte Abus et Fraude

4, rue Mercier

L-2144 Luxembourg

Laf.cns@secu.lu

CCSS:

CCSS

4, rue Mercier

L-2144 Luxembourg

www.ccss.lu

CAE: Every institution of social security has its own inspection services.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

AAA: The AAA encounters three essential problems in the field of the fight against cross-border fraud:

- A lack of knowledge of the useful contact addresses of the social security organizations specifically competent in the border countries
- Lack of collaboration with the competent social security authorities of neighboring countries; example of the verification of the reality of an incapacity for work by means of administrative inspection visits to the homes of insured cross-border residents.
- The restrictive application of the GDPR constitutes an obstacle to obtaining the documentation necessary for the examination of AAA files.

CAE:

- The most heavily burden is the interpretation of data protection rules. Even if the European regulation foresees cross border collaboration, many DPO are blocking transnational collaboration. This is a great barrier, which will lead to a high risk of cross-border fraud.
- The second lack is the very low digitalized collaboration between EU Member States. The exchange of data between EU Countries is still organized by letter exchange. EESSI facilitates the exchange but is often used as a better mail exchange program. Forms are not filled in correctly. Several countries are not answering the EESSI requests.
- EU member states should work together in a more effective way to control the accuracy of the data of the client files. Mass exchanges of data between EU Member States on the base of a clear defined client database should help to make more efficient controls, that clients are not applying in several EU Member States.
- Fraud departments are depending on many external institutions. First, they have to check with local or international institutions in which country the client is entitled to child allocations. If they have a suspicion of fraud, they have to ask for evidences. They have to work together with police departments and the prosecutor office. These administrative procedures need a lot of time an energy. In cross-border cases, the burden is even higher because you depend on institutions which are often not financially impacted and which prefer treating the cases where they have a financial damage. In every EU MS, there should be a national Antifraud entity, which is regrouping a member of the different administrations and which is coordinating the work of all national instances.
- Child allocations funds often face falsified birth documents or civil status documents. We depend on external help to identify if the documents are fake. Embassies do not have the necessary staff to control greater quantities of civil status documents.

CNS: In our field of activity, we encounter the following main problems:

- Lack of resources
- Limited powers of action
- Lack of automated data exchange procedures between institutions and administrations (on a national and EU level)
- Coercive measures not very dissuasive
- Lengthy procedure times

CCSS:

- Lack of workforce
- Inadequate legislations
- Lack of cooperation between other state institutions
- No data mining tools

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

CNS:

- The CNS has no power to issue constraints
- Debtors leaving the territory without leaving an address
- Impossibility of obtaining information from the authorities of certain other countries

CAE: Many EU Member states are not applying the processes foreseen in the EU Regulation 987/2009 to recover for the requesting country.

Compensation on base of article 72 isn't always executed. Some countries even ask the permission to the assignee before reimbursing the other member state or if the assignee is the other parent, which is living in the same household. They also refuse to reimburse because the periods do not harmonise.

Many problems are encountered in three country cases based on article 58 of EU regulation 987/2009, especially if the parents divorced and they omit to collaborate to introduce a request in the 3 countries.

Some countries apply very short prescriptions periods or try to apply the client prescription period to the other EU MS. It should be clearly specified, that there is no prescription between funds.

CCSS: Sometimes lack of cooperation between other state institutions.

AAA:

- insolvency of the insured
- unknown address of the insured

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

CNS: more regular cooperation with inspectorates of neighboring countries has been established based on personal initiatives, but cooperation is not systematic

CAE: Yes, we are building up our bilateral network with the neighbour EU MS countries to fight against CS(S)F especially with the national and local French fraud department, with Belgium, Germany and the Netherlands.

CCSS: There is no extensive cooperation but mostly punctual cooperation with neighbouring countries inspectorates.

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

As already mentioned, a common treaty on social fraud is currently being negotiated between the Benelux countries for the improvement and strengthening of cross-border cooperation in the fight against social fraud and in the protection of health and safety at work and decent working conditions.

Also see answer 1.4.

CAE: The cooperation consists in bilateral meetings in order to exchange on the experiences in CS(S)F and the fraud schemes detected by the inspectors. We also help each other in the verification of official documents and try to elaborate scenarios how to control client data by mass exchanges or giving reciprocally access to web services databases in order to control the client data.

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

There is a legal basis for the exchange of information between national public institutions (Article 412 of our social security code).

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

Article 412 of our social security code :

“Les autorités publiques donnent suite aux demandes qui leur parviennent dans l'intérêt de l'exécution du présent Code de la part des conseils d'administration, du Conseil arbitral de la sécurité sociale ou d'autres organes des institutions de sécurité sociale ou d'autres autorités publiques et adressent spontanément aux organes des institutions de sécurité sociale toutes les communications pouvant intéresser leur fonctionnement.

Le même devoir incombe aux organes des institutions de sécurité sociale dans leurs rapports réciproques.

Les institutions de sécurité sociale, l'Administration d'évaluation et de contrôle de l'assurance dépendance, le Contrôle médical de la sécurité sociale, l'Inspection générale de la sécurité sociale et les juridictions arbitrales sont habilités à obtenir tous les renseignements individuels indispensables à l'exécution de leurs missions.

Les frais résultant de l'exécution de ces devoirs sont remboursés par les institutions de sécurité sociale, comme faisant partie des frais d'administration, en tant qu'ils consistent en frais de voyage et de séjour, ainsi qu'en taxe aux témoins et aux experts ou en d'autres déboursés.”

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

CNS: Yes, these databases are mostly fed by internal sources, or by information from other social security institutions.

AAA: Social security institutions have a common personal database called "CCdoss".

CAE: Luxembourg has national databases fed by internal and external sources. The biggest burden are GDPR restrictions which constraints effective policies against CS(S)F.

CCSS: CCSS, the sole social security administration in Luxembourg responsible for the affiliation, has his own database fed with information for insured person, employers and other public institutions.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

CNS: In the event of an official request from public authorities or public social security institutions of another country, we transmit the requested data in accordance with the provisions of the GDPR.

CAE: The main reasons/concerns behind the limitations are the GDPR restrictions.

CCSS: The main reasons/concerns behind the limitations are the GDPR restrictions.

AAA: The main reasons/concern behind the limitations are the GDPR restrictions.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

CNS: Exchanges could be faster. Less formalism. In practice, the EESSI reveals hardly operational. EHICs could function like smart cards, with instant information on the affiliation of a patient treated in a hospital in another country.

AAA: It would be necessary to define contact persons in each competent cross-border social security institution and to organize bilateral meetings between the social security institutions of Luxembourg and the bordering countries, in order to clarify the supporting documentation which can be sent by post or electronically (EESSI) in compliance with the GDPR, as well as the administrative checks that could be carried out on the territory of the insured residents of the border.

In addition, the exchange of all useful data for the fight against cross-border fraud should be generalized, in particular by exchanging tax and commercial company data.

CAE: Define the legislative framework concerning the CS(S) F collaboration between EU Member States in the EU regulation 883/2004 and 987/2009.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

The three options exist depending on the seriousness and nature of the case.

- by administrative means: formal fine against the insured person by presidential order or against healthcare providers via proceedings before the Commission de surveillance and Conseil arbitral
- by criminal means: criminal complaints and denunciations to the Public Prosecutor's Office
- by civil means: recovery of undue payments

For more information, cf. Luxembourg Annex I

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Yes, cf. Luxembourg Annex I

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social

security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Yes, for example Articles 451, 447, 437 of the social security code.

For more information, cf. Luxembourg Annex I

CCSS: CCSS is responsible to sanction the failure to pay social security contributions in due time (Articles 428 and 429 of the social security code).

Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Yes, cf Luxembourg Annex 1

CNS: Yes, subsidy fraud for example as provided for in articles 496-1 and 496-2 of the Criminal Code.

AAA: The following specific provisions exist to PREVENT the payment of undue compensation

93 alinéa 3 du Code de la sécurité sociale : N'est pas pris en charge l'accident de trajet que l'assuré a causé ou auquel il a contribué par sa faute lourde ou si le trajet a été interrompu ou détourné pour un motif dicté par l'intérêt personnel et étranger aux nécessités essentielles de la vie courante ou indépendant de l'activité assurée.

123 alinéa 1er du Code de la sécurité sociale : Sauf en cas de circonstances exceptionnelles dûment motivées, aucune prestation n'est accordée à charge de l'Association d'assurance accident si l'accident ne lui est pas déclaré dans l'année de sa survenance. Pour les maladies professionnelles, ce délai ne prend cours que le jour où l'assuré ou l'ayant droit a eu connaissance de l'origine professionnelle de la maladie.

Article 134 du Code de la sécurité sociale : Ni l'assuré ni les ayants droit n'ont droit à des prestations si l'assuré a provoqué intentionnellement l'accident ou la maladie professionnelle. Il en est de même si l'accident survient pendant la perpétration d'un crime ou d'un délit intentionnel et si l'assuré a été condamné de ce chef irrévocablement à une peine d'emprisonnement de huit jours au moins.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

No, not systematically.

Only when the subject of the legislative proposal or amendment specifically concerns potential fraud and the setting of fines.

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

CCSS: Based on information from other countries, we initiate on base control of the suspected employer in cooperation with the first MS.

ITM: The relationship of subordination is decisive in determining who is to be considered as the employer. An employee is one who is at the disposal of his employer, and an employer is one who, within the framework of his power of direction, decides on the tasks to be carried out by the employee and the duration/periods for which he is to be at the employer's disposal.

An employment contract is defined as an agreement whereby one person undertakes to place his activity at the disposal of another, under whose subordination he places himself, in return for remuneration.

The definition of a contract of employment is based on three irreducible constituent elements: the provision of work, the provision of work in return for remuneration or a salary, and the subordination relationship in relation to the power of direction inherent in the capacity of employer.

For there to be legal subordination, the contract must place the employee under the authority of the employer, who gives orders concerning the performance of the work, controls its accomplishment and verifies its results.

In assessing whether or not a subordinate relationship exists, the judge must take into consideration not only the terms of the agreement between the parties and the obligations arising therefrom, but also all the indications provided by the particular situation of the parties into which the subordinate relationship must be integrated, and from which the true intention of the parties may emerge

Case law: <https://itm.public.lu/content/dam/itm/fr/files/faq/jurisprudence/6204-98ttl.pdf>

a) In the case in point, the employees of company A, based in Luxembourg, were transferred to company B, based in another country.

It is specified that the employees "continue to work as before". It would therefore appear that the said employees have continued to work for company A in Luxembourg, within the framework of an employment relationship.

In practice, company B becomes the "employer", which means that in principle an employment contract is concluded with the said employees.

However, it is irrelevant with whom the employment contract is concluded, since in any case it is the company that exercises authority over the employees that is to be considered the employer. Depending on the situation, this could just as well be company A as company B.

It is also specified that company B issues invoices to company A's customers in Luxembourg.

In the event that company B has taken over authority over the employees, it would be considered the employer and would not in this case need to invoice company A for anything, except for the service of finding employees for company B.

In this case, the employees could be temporarily seconded to Luxembourg by company B as part of a service provision, and the provisions relating to secondment would apply.

Luxembourg labour law and occupational health and safety legislation would apply.

If, on the other hand, company B has no authority over the employees in question, this would be a case of "portage salarial" (Umbrella company).

In Luxembourg, there are no specific provisions relating to this, but we would be in a situation where company B lends employees to company A.

A would use the employees, who would work in Luxembourg on behalf of and under the authority of company A.

In this case, Luxembourg's provisions on the temporary loan of labour would apply (article L. 132-4 of the Labour Code).

To be able to temporarily lend manpower in Luxembourg, you need authorization from the Ministry of Labour, and this is only possible in the cases provided for by law.

These cases are provided for in article L. 132-1 :

...in the event of:

- threat of redundancy or underemployment;
- the performance of occasional work insofar as the user company is not in a position to respond by hiring permanent staff, provided that this provision concerns companies in the same sector of activity;
- restructuring within a group of companies;
- as part of an employment maintenance plan within the meaning of article L. 513-3, approved by the Minister for Employment.

Illegal lending of labour is punishable by law. The employment contract with the lending company is then declared null and void by the Court, and the employees are deemed to be in an open-ended employment relationship with the user company, in our case company A.

b) The practical case then raises the question of the situation in which Luxembourg is the State of establishment of company B and company A is established abroad. Company B has therefore concluded employment contracts with employees, and these same employees are on loan to company A.

In this case, if the employees work in Luxembourg, the provisions on the temporary loan of labour apply.

Company B can only lend employees to company A if it complies with the conditions set out above.

As in case a), the employees must be registered in Luxembourg, and Luxembourg labour law and occupational health and safety legislation apply.

Insofar as company A is established in another country, if company A performs a service for a customer in Luxembourg, the provisions governing secondment are applicable.

If, on the other hand, the employees are working abroad, then that country's legislation on the temporary loan of labour will apply.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

We don't really see how this concerns social security, but we did ask our Inspectorate of Labour and Mines.

ITM: Here we have a situation where the subcontractor is established in State A and the self-employed worker is established in State B.

It would appear that the self-employed are working in State A and that the subcontractor is providing them with accommodation in State A, which would be poor and for which the self-employed would have a substantial amount deducted from their wages.

In principle, self-employed workers are not paid a salary, but are invoiced for the work they carry out for their clients. In Luxembourg, self-employed workers must in principle have a business permit from the Direction générale des Classes moyennes.

If the self-employed person is established abroad, he or she must contact the Direction générale des classes moyennes to obtain a preliminary certificate and to be able to exercise his or her professional activity in Luxembourg (unless it concerns an activity for which establishment authorization is not required).

In Luxembourg, accommodation provisions apply only to employees who work away from their usual place of work and for whom the employer provides accommodation.

If there is a relationship of subordination between the self-employed and the subcontractor, the self-employed can take their case to the Court to obtain a ruling to the effect that they are to be considered as employees and are entitled to a salary, and therefore to have the rules on accommodation applied to them.

In the event that the subcontractor is active in Luxembourg and the self-employed workers are not to be considered as employees, but do not have an establishment permit (although they

should), the ITM could draw up an official report for the Public Prosecutor's Office for illegal employment.

The subcontractor risks criminal sanctions for using self-employed workers who do not have an establishment permit, or for carrying out work for which the subcontractor does not have an establishment permit. In this case, the ITM can also issue a procès-verbal for illegal employment.

In the case of "bogus self-employed workers", and on the basis of evidence of a relationship of subordination, the ITM may also issue a procès-verbal stating that they are to be considered as employees, and that the provisions of the Labour Code applicable to them have therefore not been complied with, and that this is criminally reprehensible.

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

CNAP: The CNAP annually requests a life certificate from any pension beneficiary residing abroad in order to ascertain his or her state of life and thus entitlement to the pension in question.

In order to obtain such information more quickly and easily (after or with a view to the award of a pension), CNAP has also set up an electronic exchange with the competent pension institutions of several countries (DE, FR, BE, IT) on the basis of agreements → cf. Luxembourg Annex III 2.1.2.2.(b)

AAA: Each year, the AAA's Benefits department, assisted by the Methodology department, asks policyholders holding a foreign account number and receiving a pension to provide a life certificate.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

AAA: Upon the death of the insured, the AAA contacts the banks as quickly as possible with a view to recovering the amounts due. If the transfer is not possible, the AAA contacts the heirs as well as the notary in charge of the succession.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

CNAP: cf. Luxembourg Annex III 2.1.2.2.(b)

AAA: Each year, the AAA's Benefits department, assisted by the Methodology department, asks policyholders holding a foreign account number and receiving a pension to provide a life certificate. If the AAA does not receive the life certificate, the payment of the annuity is suspended.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

CAE: CAE is always asking a Non-Payment certificate in the former country of employment or residence. Or, sometimes it is not clear which was the former country of employment or residence.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

CNS: In terms of prevention, there are exchanges with social security institutions in other member countries.

As a general rule, however, we detect misuse of the EHIC by a former policyholder when the statement is submitted by the social security institution of the other country. Once we have received the statement, we check whether the registration number is still active. If this is no longer the case, we will proceed with recovery.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

CNS: As a first step, we dispute the claim of the other social security institution and ask them to check their claim again. If the other institution insists, however, after re-analysing their file, we will settle their account. We then send a request for reimbursement to the former insured person (at the last residence known to us).

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations

(e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

CNS: We have two levels of control:

- 1) We ask the hospital to provide us with a declaration of honour to be signed by the patient (Exception: unconscious patient) giving details of the length of the patient's stay in Luxembourg and confirming that the care is urgent.
- 2) A visual check is carried out on the authenticity of the EHIC.

POLAND

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

ZUS DMR

The Social Insurance Institution (ZUS) works with around 26 million customers and several hundred institutions at home and abroad. It combines two essential functions of a social security institution: it performs tasks related to universal social insurance with those of a financial institution. In paying out various types of benefits, it makes every effort to ensure that the finances of the funds entrusted to it and ZUS are managed effectively.

The manner in which these tasks are carried out is set out, inter alia, in the 'Social Insurance Institution Strategy for 2021-2025'. Among the strategic objectives are: sealing the system of public finances, process automation and modern IT architecture, as well as increasing the operational and financial efficiency of ZUS - within the framework of which ZUS carries out tasks in the area of, inter alia, investigation and remission of receivables due to arrears or unduly collected benefits.

The objectives are implemented, among others, through programmes: "Automation of pension and disability benefits", "Central Register of Customers of ZUS", as well as systemic prevention and detection of fraud.

Real benefits resulting from the above activities include:

- automatic withholding of pension benefits on the basis of information on the death of a benefit recipient obtained from the RU PESEL - functionality in this respect has largely reduced the number of cases in which there are overpayments of benefits after death,
- increase in the quality of tasks performed by eliminating activities performed by clerks processing cases in the system in a manual manner (reduction of the number of errors made by users when performing tasks),
- establishment of the System and Social Security Fraud Detection Committee - which identifies and effectively manages (counteracts and minimises) risks.

NFZ

The recovery of claims for unlawful use of benefits in kind is based on national legislation. If fraud is detected, it is reported to the relevant state authority.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

ZUS DMR

ZUS has been entrusted with the task of setting up and running a National Contact Point (NCP) for all Polish social security institutions. In ZUS, the role of the NCP is performed by (the Department of International Benefits and Family Support) - in accordance with the Administrative Commission Decision No. H5 of 18 March 2010. "concerning cooperation on combating fraud and error within the framework of Council Regulation (EC) No 883/2004 and Regulation (EC) No 987/2009 of the European Parliament and of the Council on the coordination of social security systems".

There is no equivalent of the International Social Security Fraud Team in ZUS. However, the organisational units of ZUS implementing international agreements (RUM) perform the tasks of Polish competent institutions within ZUS in the field of pension benefits subject to coordination and are designated to cooperate with competent institutions of individual EU/EFTA Member States and Great Britain and Northern Ireland (as a country covered by the Trade and Cooperation Agreement) and within the framework of administrative assistance, are obliged, at the request of foreign competent institutions, to provide, in the above-mentioned scope, in individual cases, specific information and documents - insofar as these are in the possession of the RUM or it is within the competence of the RUM to obtain them.

NFZ

As the National Health Fund (NFZ), we do not have legislative power. Under the Polish legislation, a person may receive publicly funded benefits in kind only if they are entitled to do so on the basis of national or EU legislation.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

ZUS DMR

ZUS has concluded agreements with foreign institutions on:

- electronic exchange of death data (with Germany, Sweden, Croatia, UK, Italy, Netherlands, Denmark, Spain).

- electronic data exchange (with Germany (EOA, MOU), Italy, UK (MOU), Croatia (HZMO)).

Agreement on technical and procedural cooperation between the Social Insurance Institution (ZUS), the Agence centrale des organismes de sécurité sociale (ACOSS) and the Centre des Liaisons Européennes et Internationales de Sécurité Sociale (CLEISS) to ensure the correct application of the Regulations on the coordination of social security systems as regards the applicable legislation.

The agreement includes, inter alia

- the identification of the interlocutors of each institution (contact persons) in cases where it is suspected that situations have arisen which may contravene the provisions of the European regulations applicable to the applicable legislation (fraud, optimisation and social evasion).
- exchange and sharing of best practices and experiences.

KRUS

The agreement between Deutsche Rentenversicherung (the German Pension Insurance Institution) and ZUS (the Polish Social Insurance Institution), the Farmers' Social Insurance, the Pension Benefit Institution of the Ministry of Interior, and the Military Pension Office on the European Information System of the German Old-Age and Disability Pension Insurance Institution pertaining to the access to German insurance, and old-age and disability pension data of nationals of the EU/EEA member states and Switzerland (22 November 2011).

NFZ

As the National Health Fund (NFZ), we are not the competent institution to conclude bilateral agreements.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

ZUS DMR

The instruction refers to the benefit collected by the insured person. It should indicate clearly and exhaustively the circumstances giving rise to the lack of entitlement to benefits. However, it is permissible for the instruction to consist in a citation of the provisions defining those circumstances. It should be sufficiently comprehensible for a recipient of benefits to be able to relate it to his own situation and contain an obligation to notify the pension authority of the circumstances giving rise to a loss of entitlement to benefits.

Usually, the official formula of an instruction is implemented by ZUS by placing instructions on benefit application forms or in the decision of the Social Insurance Institution itself.

Information on the coordination of social security systems is available on the website of ZUS. Information is also provided via the Call Centre, during trainings and conferences.

KRUS

The decisions granting agricultural benefits contain information that the beneficiary is obliged to notify the organizational unit of KRUS (the Farmers' Social Insurance) paying out the benefit of the circumstances impacting the entitlement to or the amount of the benefit; when requested, the beneficiary is obliged to submit proof for further existence of the entitlement to the benefit. Moreover, the Farmers' Social Insurance provides information by publishing relevant articles on its website or in local print media.

NFZ

National legislation, information campaigns, website, application forms for entitlement documents, leaflets etc.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

ZUS DMR

Customers have wide access to the services provided by the Department in the various contact channels (Customer Service Rooms, Call Centres, www.zus.pl website), taking into account the specificity and potential of these channels, and the possibility of handling the case in any channel - regardless of how the customer submits the application or initiates the case. Services are tailored to customers' needs (including those related to disabilities), friendly, transparent and understandable. Innovative services will be among them. When introducing new services, ZUS pursues a broad information policy: in the press, on television, on the radio and on the Internet.

Disseminate information by organising training and publishing guides to persons concerned and employers.

NFZ

As above - i.e. national legislation, information campaigns, website, application forms for entitlement documents, leaflets etc.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

ZUS DKP

ZUS has noticed a decreasing trend in the employment of Social Insurance Institution control inspectors in recent years. Recently, measures have been taken to increase the staff of control inspectors.

NFZ

Growing importance of IT resources, e.g. electronic verification of identity and entitlements, electronic transfer of information between institutions.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

ZUS DKP

Organising training sessions for ZUS control inspectors in charge of contribution payers' control departments, current provision of information on changes in regulations, e.g. international transport. Training sessions for the Company's control inspectors organised by external companies at the level of ZUS branches.

The training provided includes a description of specific cases of diagnosed abuse in this area and current changes in legislation.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

ZUS DMR

Overpaid benefits are subject to recovery with default interest determined in accordance with the legislation. ZUS shall issue a decision on the reimbursement of unduly collected or unduly paid benefits on a case-by-case basis.

If unduly collected or paid benefits that are subject to investigation are not returned by the deadline, the overpaid benefits are deducted from the benefit or compensation paid. This task is carried out by the employees handling pension benefits. If the benefit is not paid or has been reduced due to the generation of income to an amount from which it is not possible to make deductions, which is related to the guarantee of the benefit amount that results from the provisions of the Pension Act, the case should be forwarded for the investigation of the unduly collected benefits by means of administrative enforcement.

NFZ

Clear guidelines for clerks for the issuance, cancellation and registration of EU entitlement documents, trainings on knowledge of national and EU law and IT systems.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

ZUS DKP

Inability to initiate an audit of a contribution payer who operates a virtual office due to the lack of a person with whom to initiate an audit.

Avoidance of the submission of documentation covered by the control.

The possibility for entrepreneurs to file objections and complaints in accordance with the applicable legislation, which effectively block the conduct of inspections or prolong their duration. Obligation to notify the payer of contributions prior to the commencement of the control. Limitation of the duration of inspections resulting from the interpretation of the law by administrative courts.

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

ZUS DMR

The possibility for ZUS to demand the return of unduly collected benefits is limited in time. The reimbursement of the amount of unduly collected social security benefits may not be demanded for a period longer than the last 12 months, if the benefit recipient has notified the benefit paying body of the occurrence of circumstances causing the cessation of the right to benefits or withholding of their payment, and the benefits were still paid despite this, and in other cases - for a period longer than the last 3 years.

The obligation to inform about a change in personal situation (e.g. cessation of education, amount of earned income, taking up employment) affecting the right and the amount of benefits paid out by ZUS - rests with the benefit recipient. ZUS clients often fail to fulfil this obligation or submit the information too late.

In the case of benefit recipients residing abroad, in a country with which ZUS institutions do not exchange electronic data on death, information on the death of a benefit recipient is received with a delay.

In addition, it is difficult to enforce the claim from the bank (when, for example, the benefit is paid by persons who are co-owners of a bank account).

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

ZUS DMR

Social security institutions cooperate bilaterally on an ongoing basis, taking action as problems and needs arise. No data are available in this regard.

NFZ

As the National Health Fund (NFZ), we are not the competent institution to conclude bilateral agreements.

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative

information, verification of official documents, informal meetings, exchanging personnel, etc.)?

ZUS DMR

Due to the obvious advantages of electronic exchange of data on the amount of benefits paid and on the deaths of benefit recipients, ZUS is initiating cooperation in this area with foreign insurance institutions of both EU and contractual countries, either during liaison institution talks or by correspondence. Currently, ZUS is implementing an agreement on the exchange of information on benefit amounts with a Spanish social security institution.

As part of ongoing cooperation, ZUS organises and participates in meetings at the level of liaison and executive institutions - to improve cooperation, optimise international procedures and exchange information.

In addition, in the organisational units of ZUS implementing international agreements, persons are appointed to contact and cooperate with the competent institutions of individual EU/EFTA member states and Great Britain and Northern Ireland - to provide administrative assistance in individual cases,

NFZ

As the National Health Fund (NFZ), we are not the competent institution to conclude bilateral agreements.

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

ZUS DMR

Currently, ZUS (universal social security system) and the Kasa Rolniczego Ubezpieczenia Społecznego - KRUS (farmers' social security system) cooperate in handling pension cases subject to EU coordination and bilateral agreements.

We are working on electronic system exchanges with several national institutions (tax and labour). In 2023, we started a system exchange with the National Health Fund, which is regulated by national regulations.

NFZ

In accordance with national and EU legislation, in compliance with data protection regulations.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

ZUS DMR

Regulation of the Minister of Health of 23 May 2023 on the detailed scope and manner of transmission of data concerning persons covered by health insurance and contributions payers, persons receiving benefits granted under the provisions on sickness or accident insurance, persons applying for a pension or a disability pension, employees taking unpaid leave and persons receiving a family pension who are under 18 years of age (sejm.gov.pl)

NFZ

In relation to the National Health Fund: Act of 27 August 2004 on publicly funded healthcare benefits and Regulation of the Minister Of Health on the scope and method of transmission of data concerning insured persons.

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

ZUS DMR

There are no databases at national level.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

ZUS DMR

ZUS is bound by the "Information Security Policy", according to which, in the course of carrying out its tasks, ZUS is obliged to comply with the provisions of the law (Polish and international), including the provisions obliging the Department to protect information, in particular with regard to the protection of personal data, rights and freedoms of natural persons in connection with the processing of their personal data.

We provide information if it is:

- for social security purposes and
- requested by the competent institution.

If the exchange of information takes place by correspondence outside EESSI and the request concerns the insurance history in Poland, the data will be provided if the request contains complete identification data, i.e. in accordance with national legislation (art. 50 ust. 8 ustawy o systemie ubezpieczeń społecznych), namely: the name and surname of the insured person and his/her personal identification number and, if the insured person has not been assigned a personal identification number, the series and number of the identity card or passport.

NFZ

In accordance with national and EU legislation, in compliance with data protection regulations.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

ZUS DMR

ZUS proceeds with enforcement when a reminder is unsuccessful. Enforcement can take place through administrative and judicial enforcement.

NFZ

Depending on the type of infringement, it may be an administrative or it may be reported as a crime. The civil law method is independent of the above and may also be pursued.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

ZUS DMR

In our opinion, workers employed in country B should be subject to the applicable legislation of our country. In case of obtaining information about such a practice, we would conduct an investigation in this regard by applying to, among others, the social security institution in country B requesting an inspection at the employer.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

ZUS DMR

In the event of obtaining information about such a practice, we would carry out an investigation to determine whether the employment in our country is of a purely ostensible nature, and the work is performed exclusively in another country. If such a practice is confirmed, we would provide relevant information to the social security institution in the country where the work is actually performed.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

ZUS DMR

In the area of international benefits periodically:

1. pensioners and recipients of social insurance benefits residing abroad are sent - to be completed and signed by the beneficiary himself - the appropriate form "Declaration of a person who resides abroad about the right to collect Polish old-age benefit and disability benefit" together with information to it.

The form is filled in and legibly signed by the pensioner or an authorised person who has actual custody of the pensioner. However, the handwritten signature of the form must be certified by the competent office or authorised person in the country of residence of the persons mentioned, or by an authorised person at a Polish diplomatic or consular post.

The form must be returned to ZUS unit from which the pensioner received it.

Failure to certify that the pensioner is still alive may result in withholding of benefit payment until such proof is provided. However, the withholding of benefit payment only takes place after the above form has been sent twice, which was unsuccessful due to the lack of response from the client.

A client residing abroad to whom a benefit has been granted and paid by ZUS, after receiving a form from ZUS for confirming with his/her own handwritten signature the right to continue receiving the benefit, has the possibility to make such a confirmation during an e-visit.

2. ZUS and foreign institutions of countries (with which ZUS has signed agreements on electronic data exchange, i.e. Germany, the United Kingdom, Australia, Croatia, Sweden, Italy, the Netherlands, Denmark, Spain) exchange electronic files concerning pensioners and pensioners residing on the territory of the other country - in order to obtain mutual confirmation of deaths in electronic form.

To clients residing in these countries, ZUS does not send paper forms (the exception is when the pensioner has not identified himself/herself due to lack of identification data).

KRUS

Pursuant to Article 128 of the Act of 17 December 1998 on Old-Age and Disability Pensions from the Social Insurance Institution (Journal of Laws of 2023, item 1251, consolidated text, as amended), each calendar year, KRUS sends out to its beneficiaries residing in other EU Member States 'the Certificate of Life and Residence.' The purpose of the form is to establish the appropriateness of continuing to pay the benefit.

Moreover, since 2014, KRUS has used the European On-Line Information System of the German Old-Age and Disability Pension Insurance Institution (EOA). Thus, it can obtain information on death of pensioners and verify mailing details of pensioners residing in Germany.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

ZUS DMR

Pursuant to Polish legislation, ZUS issues and sends to the foreign bank a decision on benefits unduly collected. It gives Polish legal provisions as justification. It may also ask for the details (name, address, bank account number) of the person who paid the benefit after the death of the beneficiary.

KRUS

Anyone who collected undue benefit is obliged to return it, pursuant to Article 138(1) Act of 17 December 1998 on Old-Age and Disability Pensions from the Social Insurance Institution (Journal of Laws of 2023, item 1251, consolidated text, as amended), which applies to agricultural old-age and disability benefits through Article 52 of the Act of 20 December 1990 on Social Insurance of Farmers (Journal of Laws of 2024, item 90).

The unduly collected benefit is deducted from current benefits. If someone does not collect benefits, the unduly collected benefit will be enforced under the provisions of the Act of 17 June 1966 on Administrative Enforcement Proceedings (Journal of Laws of 2023, item 2505, consolidated text, as amended). Since KRUS is not the enforcement authority, it has to submit the enforcement title to the competent enforcement authority, i.e., the competent head of the tax office or director of the competent Social Insurance Institution.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

ZUS DMR

ZUS has information on whether a person was entitled to and received benefits from a foreign insurance institution when: ZUS has conducted pension proceedings with a foreign institution in the case of a benefit recipient, if the foreign institution or the client themselves inform ZUS of this fact. ZUS does not conduct proceedings in this respect ex officio to all its benefit recipients.

KRUS

As part of the coordination of the social security systems, insurance institutions of EU/EFTA Member States which participate in the proceedings for the entitlement to old-age/disability pension notify each other whether such entitlement is granted or denied. When such information is not communicated, KRUS submits the E001/P 8000 form with that state – the request for information on the collected foreign benefit.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

ZUS DMR

As far as SNCB pensions (for employment on the railways) are concerned, in Poland their counterpart is possibly a pension for employment in special conditions or of a special nature. Entitlement to their payment does not depend on residence in Poland.

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

NFZ

As National Health Fund (NFZ) we try to avoid this issues by issuing document for the estimated period of entitlement only. E.g. EHIC for children is issued no longer than until they reach the age of 18. We also carry out regular verification of the issued entitlement documents. This applies in particular to documents issued for long periods of time, e.g. S1. If the lack of insurance or the change of applicable legislation is established, the document is cancelled. We also inform our clients about the terms of eligibility for benefits in kind and the consequences of unauthorised use of the entitlement documents.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

NFZ

We proceed in accordance with the Decision S4, which states that “a claim may not be rejected on the grounds that the person has ceased to be insured with the institution, which has issued the EHIC or the entitlement document, provided that the benefits were given to the beneficiary within the validity period of the document used”. This means that the claim for reimbursement is accepted. We then seek a recovery of the costs for the unauthorised use of the benefits in kind from the person, on the basis of the national legislation.

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

NFZ

Health care providers are required to thoroughly verify the person's ID, entitlement and the ID and entitlement documents in their possession E.g. the EHIC must comply with the guidelines of Decision S2. In case of any doubts about the validity of the EHIC, the healthcare provider requests from our regional branch to obtain a PRC from the competent institution.

SLOVAKIA

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

In autumn 2022, the Dutch social insurance institution UWV, through the ELA (European Labour Authority), asked the Social Insurance Agency to investigate 88 cases of suspected Dutch social security system fraud.

These were Slovak citizens employed in Dutch companies, where they were also insured, and claimed sickness benefits from the Netherlands immediately after the employment relationship began.

Sick leave certificates or medical certificates that were issued in the Slovak Republic, showed signs of fraudulent behaviour.

The suspicious circumstances were as follows:

- Clients have worked in the Netherlands through an employment agency for a short time, sometimes just a few days.
- Clients claimed sickness benefits because they had either suffered injuries as a result of a car accident or as a result of a fall (several clients were involved in the same car accident).
- Medical documents submitted were missing or showed signs of falsification.
- Most of the clients were from one region of Slovakia.

Based on the cooperation provided under the EU Coordination Regulations, the Social Insurance Agency verified the suspicious cases in the medical records of the clients in cooperation with health care providers and health insurers, and informed the Dutch institution UWV about the results of the investigation in 2023.

As of February 2024, the following has been identified:

- Number of cases received: 88
- Reviewed cases: 63
- Approximately half of the cases were incorrect (alteration or falsification of a medical report).
- In 19 cases, the request from the Netherlands was withdrawn (no documentation received for verification).
- 6 cases remain to be investigated.

The above investigations were carried out for the needs of the Dutch institution. But facts were also found concerning insurance in the Social Insurance Agency which were or will be further dealt with in our competence (e.g. violation of the medical regime during sick leave, in one case an extraordinary medical check-up was ordered while receiving an invalidity pension, criminal charges for forgery and subsidy fraud were filed).

Link to case information:

<https://www.uvw.nl/nl/nieuws/vervolg-ziktewetfraude-2022#:~:text=De%20mogelijke%20fraude%20met%20Ziektewetuitkeringen,klein%20aantal%20per%20jaar%20zijn.>

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

The specific provisions regarding cross-border social security have been introduced in the national legislation only to the extent necessary, but don't concern the fight against fraud and errors.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

The Slovak Republic has concluded several international social security treaties with other countries, but they do not specifically provide for procedures to prevent cross-border fraud and errors.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Applicable legislation

Insured persons, their family members and other clients are informed about their rights and obligations regarding cross-border social security/applicable legislation of the Slovak Republic through several sources: The website of the Social Insurance Agency provides a wealth of information on cross-border social security, including information on how to obtain information on your rights and obligations, how to apply for benefits and how to resolve problems. The website is regularly updated to remind clients of their obligations towards the Social Insurance Agency. The Social Insurance Agency also has branches across the country that can provide personal advice on cross-border social security. Information on cross-border social security is also available on the European Commission's website.

Unemployment benefit

Information regarding claiming unemployment benefit or exporting this benefit to another member state of the EU, the EEA and Switzerland is available on the website of the Social Insurance Agency, in information leaflets that can be found in every branch of the Social Insurance Agency, or information is provided directly by the employees of the Social Insurance Agency when contacting clients in person, by telephone or by e-mail. Clients are instructed about the obligation to provide truthful information when claiming unemployment benefits, which they confirm with their signature.

Sickness and maternity benefits in cash

The website of the Social Insurance Agency provides information on the procedures for claiming cash benefits in the case of individual life situations - illness, pregnancy, maternity, nursing. The website also provides information on the procedures for claiming these entitlements if the person concerned is incapacitated for work in another EU Member State. In addition to these procedures, the rights and obligations of the insured person/beneficiary are set out for each benefit. At the same time, insured persons shall certify the truthfulness and completeness of the information on the benefit application form by signing it. Insured persons may also ask the Social Insurance Agency for an opinion on their entitlements in cross-border situations.

Family benefits

Information is provided on the websites of the Ministry of Labour, Social Affairs and Family and the Central Office of Labour, Social Affairs and Family. Beneficiaries are informed by special information letters about their rights and obligations concerning cross-border social security in relation to family benefits, as well as in any further contact with the authorities and in the decision-making process on family benefits. Mass media are also used to inform and raise awareness in this area.

Pension benefits

The website of the Social Insurance Agency provides information on the conditions of entitlement to pension benefits and on the procedures for claiming pension benefits also in relation to insured persons who have been insured for pension benefits in a country other than the Slovak Republic. In addition to these procedures, the rights and obligations of the recipient of the pension benefit are set out for each pension. When applying for a pension benefit, insured persons are informed about the obligation to provide truthful information, which they confirm with their signature.

Health insurance

On their websites, health insurance institutions inform insured persons about the rules related to cross-border healthcare, the applicable legislation, how to apply for an EHIC/S1 and planned treatment. They also provide information on the rights and obligations of insured persons and thus try to prevent problems from occurring.

The insured persons of all three health insurance companies are informed through the branches, information on coordination procedures is published on the websites, in case of specific questions there are also Call Centers, telephone contacts, email, chatbot.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

In Slovakia, there are various means of raising awareness of the obligation to provide truthful information to institutions. These include, for example, information campaigns, teaching in schools, publications, websites and telephone lines of the Ministry of Labour, Social Affairs and Family, Labour, Social Affairs and Family Offices and the Social Insurance Agency. Specific information letters on cross-border social security rights and obligations in the context of family benefits, comprehensive information on the coordination of social security systems in the area of family benefits in the context of the decision-making process, with an emphasis on the obligation to reimburse family benefits unduly received.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

The control activities of the Social Insurance Agency are carried out by approximately 180 controllers. The control focuses mainly on the fulfilment of registration, notification and reporting and payment obligations of employers - external control. The number of controllers has been decreasing since 2018. We see the decline of inspectors mainly in the difficulty of the controlled issues caused by frequent changes to the legislation that the inspectors have to control, in the aging of personnel capacities and their retirement, and in the difficult acquisition and retention of new inspection employees. Controllers have access to the information systems of the Social Insurance Agency, to selected information of other public authorities, with which they provide mutual cooperation during the inspection.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

Controllers of the Social Insurance Agency proceed in accordance with valid European and Slovak legislation and in accordance with the methodological instructions.

Labour inspection bodies are trained to supervise compliance with labour law, legislation in the field of cross-border posting of employees and legislation in the field of violations of the prohibition of undeclared work as well as safety and health protection at work. The supervision of the inspection authorities in the mentioned areas and the mutual provision of related information with the Social Insurance Agency can in certain cases help fight certain aspects of CS(S)F.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

Each health insurance company has a department that carries out checks on health insurance payers. When non-payment of health insurance contributions is identified, it has the competence to impose a lower penalty and to report the misconduct to the Health Care Surveillance Authority, which has the competence to issue a higher penalty.

The Social Insurance Agency checks the fulfillment of obligations by employers, especially in the area of employee insurance relations and payment of insurance premiums, which are imposed on them by the Social Insurance Act. For violation of these obligations, Social Insurance can impose a sanction.

The control activity is carried out by the employees of the external control of the branches of the Social Insurance Agency (36 branches, 177 inspectors).

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

We consider the verification of documents by other member states to be a big problem.

From the point of view of the labour inspection authorities, one of the biggest problems can be considered the complications associated with the activities of the letter box companies. Also problematic is the activity of natural persons - entrepreneurs who meet the conditions for performing dependent work (so-called bogus self-employment) and cases of falsification of PD A1 forms.

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

The National Labor Inspectorate is the liaison body for posted workers in the Slovak Republic, which has the task of checking compliance with working conditions and employment

conditions as well as investigating facts related to posting. For this purpose, it mainly uses the Internal Market Information System (IMI system), which serves for the administrative cooperation of the Member States in the field of posting of employees.

The Social Insurance Agency currently does not cooperate with foreign inspectorates in the fight against CS(B)P.

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

These cooperation mechanisms are linked to the work of the European Labour Agency, which promotes harmonised and joint inspections, data exchange, requests for legal and administrative information, verification of official documents, informal meetings, exchange of staff. However, from the point of view of the National Labour Inspectorate, these mechanisms mainly concern the issue of cross-border posting of workers and undeclared work. The National Labour Inspectorate uses the IMI system for administrative cooperation between Member States in the field of posting of workers

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

The inspection will require the cooperation of the relevant institution.

The exchange of information between the National Labour Inspectorate and the Social Insurance Agency takes place through a special application created for this purpose (secured remote access for individual users), or through the electronic mailbox of both of these institutions.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

The legal framework for cooperation between the Social Insurance Agency and labour inspection bodies:

- Act No. 461/2003 Coll. on Social Insurance,
- Act No. 125/2006 Coll. on Labour Inspection,
- Act No. 82/2005 Coll. on Undeclared Work and Undeclared Employment,
- Act No. 351/2015 Coll. on cross-border cooperation in the posting of employees for the performance of work in the provision of services,
- Directive No. 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services,

- Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No. 1024/2012 on administrative cooperation through the Internal Market Information System,
- Regulations on the coordination of social security systems (1408/71, 883/2004, ...).

Agreement on cooperation in the exchange of information concluded between Social Insurance Agency and National Labour Inspectorate.

The National Labour Inspectorate and labour inspectorates cooperate with the Social Insurance Agency on a regular basis. The content of the cooperation concerns defined areas, namely the exchange of information, in particular:

for the purpose of controlling compliance with the prohibition of undeclared work and undeclared employment by the labour inspectorates,

for the purpose of identification of posting, control of compliance with posting rules and other information related to posting within the meaning of the provisions of Section 5(1)(a) of Act No 351/2015 Coll., within the meaning of Article 76(4) of Regulation No 883/2004 and Article 4 of the Directive on posting of workers,

for the purpose of notification of facts found in the performance of activities and the provision of assistance necessary for the performance of social insurance in accordance with the provisions of Section 233(3) of Act No. 461/2003 Coll., as well as for the purpose of notifications in the provision of incentives arising from the results of activities in the performance of social insurance.

The National Labour Inspectorate provides the Social Insurance Agency with mutually agreed data upon request, for the purpose of verifying the actual performance of the employer's activities in the territory of the Slovak Republic in order to prevent circumvention of social security legislation in accordance with Article 76(4) of Regulation No 883/2004 and Article 4 of the Directive as a result of the formal establishment of a company (so-called "letter box companies").

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

Social Insurance Agency does not have a database/databases to support the administration of social security in the fight against CS(B)P.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

The exchange of information in the field of applicable legislation is carried out in accordance

with coordination regulations. The required information is provided in a secure form with regard to the protection of personal data of the persons concerned.

From the point of view of the labour inspection authorities, these are mainly legal and technical limitations. Insufficient European legislation in the area of undeclared work and insufficient technical solutions for the exchange of information, especially the limitations of the IMI system in the exchange of information.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

Streamlining and improving the exchange of information between Member States' institutions would contribute most to the improvement of the overall fight against CS(S)F and errors.

Extending the legal and technical framework of the IMI system for the exchange of relevant information.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Violations are sanctioned based on the provisions of administrative law.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

The health insurance company can assert a claim against the insured person or the insurance fund payer by means of a statement of arrears in respect of the advance payment of insurance premiums and interest on arrears. This results in the issue of a statement of arrears, which becomes final and enforceable on the expiry of the time limit for lodging objections. The final and enforceable statement of arrears shall constitute a writ of execution.

The wrongfully paid benefit is recovered from the beneficiary or from the third party who caused the wrongful payment of the benefit (e.g. the employer) within the meaning of the Social Insurance Act - Administrative Act. If fraud in a higher amount is proven, penal sanctions are possible under criminal law.

Failure to pay contributions on time is sanctioned in administrative proceedings through a penalty.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

If the above-mentioned situation is discovered, the Social Insurance Agency would proceed as follows.

It would be necessary to carry out an inspection of the employer in Slovakia by the Social Insurance Agency and at the same time request the National Labour Inspectorate to carry out an inspection of the employer. The inspections would check whether the company in Slovakia fulfils all its obligations towards its employees, including the payment of wages, social security and employment contributions, the provision of health and safety protection, as well as where the company's real headquarters are located and where the actual performance of the employees' activities takes place .

If a company in Slovakia does not fulfil its obligations, or if evasion of obligations is detected, the Social Insurance Agency can take steps to rectify the situation, for example by imposing a fine on the company.

There would also be communication with the relevant institution/institutions in country B, in which the intermediate company is registered, for the purpose of informing about the situation that has arisen and joint action in preventing the circumvention of legal regulations.

For this purpose, country B would be requested to investigate the situation and carry out an inspection of the intermediate company in question in order to determine whether the company is a legal and legitimate business, as well as where its employees actually carry out their activities.

From the point of view of the National Labour Inspectorate, in such a case, some aspects of the performance of dependent work could be supervised. This would mainly involve the verification of compliance with the provisions of the Labour Code in connection with the establishment of an employment relationship as well as with changes to working conditions and employment conditions due to posting for the performance of work in the provision of services to the territory of another member state of the European Union. The labour

inspectorates could also, if necessary, use the competences consisting in the investigation of the facts related to the posting and the provision of relevant information to another EU member state (information for the purpose of identifying the posting, or determining whether the employer in the territory of the Slovak Republic carries out, in addition to internal management and administrative activities as well as other essential activities indicating real economic activity in the state of residence and control of compliance with posting rules and other information related to posting).

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

If Slovakia were country B in this scenario, the relevant department of the Social Insurance Agency could also carry out an inspection of the employer in order to ascertain the fulfilment of obligations towards its employees, but above all in order to ascertain the real seat of the company and the place of performance of the employees' activities. For this purpose, the National Labour Inspectorate would also be requested to carry out an inspection. If, based on the checks, violations of the law were found, it would be necessary to take measures to correct the situation. In both cases, cooperation between institutions in the countries concerned is important. This may include the conclusion of cooperation agreements, the exchange of information, or the joint coordination of investigations in order to ensure the protection of the rights of citizens and employees, regardless of where they work.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

- In the performance of work by self-employed workers on the territory of the Slovak Republic, a check of compliance with the prohibition of illegal employment by labour inspectorates can be carried out (verification of aspects of the performance of dependent work).
- As these are self-employed workers, the Social Insurance Company cannot provide them with any remedies or compensation for unpaid wages. From the point of view of the labour inspection authorities, these are mainly means of redress through the court process.

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

A pensioner living outside the territory of the Slovak Republic is obliged to submit a Certificate

of Living to the Social Insurance Agency at regular intervals, once a year if he/she lives in an EU/EEA and Switzerland, quarterly if he lives outside the EU/EEA.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

We cooperate with the institutions in the concerned Member State through EESSI.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

We cooperate with the institutions in the concerned Member State through EESSI.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

The Social Insurance Agency cooperate with the institutions in the concerned Member State through EESSI.

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

Unemployment benefit

If a citizen receives an unemployment benefit in our country A and decides to get a job in country B, he has the possibility, in accordance with the coordination regulations, to export this benefit to country B. In order to maintain the right to an unemployment benefit granted in our country A, it is necessary register with an employment service institution in country B and be subject to their control mechanisms. Country A and country B exchange information with each other electronically that affects the maintenance of benefit entitlement. If a citizen gets a job in country B while receiving unemployment benefit in our country A and does not undergo regular checks at the employment service institution, he loses the right to unemployment benefit payment. At the same time, the citizen is informed that in case of concealment or non-disclosure of facts that have a decisive influence on the entitlement and payment of unemployment benefit, he is aware of the legal consequences of this action.

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

Recipients of family benefits have a reporting obligation to inform the relevant labour office of

all decisive facts and their changes that affect the payment of family benefits. The legality of the payment of benefits is also investigated on the basis of various incentives. When paying the full amount of family allowances, a regular check is carried out to meet the conditions for their payment.

The relevant authorities have implemented specific control measures. Regarding family benefits, there are no criminal law provisions for sanctioning improperly paid benefits, but citizens are obligated to return improperly paid benefits in accordance with Slovak legislation and also in accordance with EU regulations. Relevant measures against fraud would involve legislatively introducing sanctions for unauthorized receipt of benefits due to clients' failure to comply with reporting obligations or due to incorrect information provided to the authorities by clients aiming to receive family benefits improperly. Additionally, consistent adherence to EU regulations by EU member states and improved levels of timely mutual information sharing in the field of family benefits among institutions would also contribute to the elimination of unauthorized and incorrect payment of family benefits.

A better level of cross-border timely mutual provision of information in the field of family benefits between institutions would contribute to the elimination of unauthorized and incorrect payments and to the prevention of fraud and errors in the payment of family benefits. Especially in cases where families coming from another Member State are granted family benefits in another Member State within the framework of national legislation based on the family's residence, while they may be subject to coordination regulations and benefits may be paid in the previous state also within the framework of national legislation.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

In the case of overlapping reported health care, health insurers send an objection to duplication. If the amount claimed for reimbursement seems suspicious in relation to the type of healthcare provided, a request for specific information is send.

We have encountered cases where a foreign provider has requested reimbursement through a reimbursement benefit and at the same time the patient/insured has requested reimbursement directly from the Slovak health insurance company in the form of a refund. In case of such a finding, we are sending an objection.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

Health insurance companies shall respect and comply with Decision No S11 on reimbursement procedures for the implementation of Articles 35 and 41 of Regulation (EC) No 883/2004, in particular Article 2(3).

“An institution which is obliged to refund the cost of benefits provided on the basis of an EHIC may request that the institution with which the person was rightly registered at the time of the award of the benefits shall refund the cost of those benefits to the first institution, or if the person was not entitled to use the EHIC, settle the matter with the person concerned.”

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

In case of doubt about the entitlement or validity of the EHIC, the health care provider can request the assistance of the health insurance company or the NCP in verifying the claims.

SPAIN

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

In relation to the issue, it should be noted that in Spain there is no specific action plan for the prevention of cross-border fraud, but rather the EU Regulations and the labour and social security legislation of our country apply.

At national level, in Spain the Labour and Social Security Inspectorate has adopted guidelines on how to combat cross-border social security fraud on applicable legislation.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

Our major cases are related to cross-border social security fraud on road transport companies. The Spanish Labour and Social Security Inspectorate has evidence that these companies don't carry out any activities in their countries of origin, but we don't rely on the collaboration of our counterparts in these countries. That's why some cases are blocked in the dialogue procedure provided by Decision A1 and others are blocked in the investigation process through IMI questions with no response. Currently, there are no hyperlinks or judicial or prosecutor's communications available on these issues.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

Spanish legislation was amended by the Royal Law-Decree 3/2022 of 1 April to introduce new administrative infringements in order to punish cross-border fraud in posting (in cases related to Directive 96/71) and cross-border social security fraud committed by companies and self-employed workers from Spain or from other Member states. As mentioned above, the Labour and Social Security Inspectorate has recently adopted guidelines on how to apply these new rules by Inspectors.

Spain has signed several Memorandum of understanding on data exchange with different Member States in order to assist each other to the correct application of the EU Regulations on Social Security and to combat fraud and errors that may occur in this area.

Also, specific provisions in the legislation have been introduced in order to sanction breaches of legal obligations with regard to paying social security contributions or receiving social security benefits in cross-border situations.

Through Law 45/1999, EU Directives were developed, and the development of these situations was legislated.

Currently, article 10 of the Law on Infractions and Sanctions in the Social Order (RDL 5/2000), defines three types of infractions regarding posted workers (Minor, serious and very serious), developing their corresponding sanctions.

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

Yes, Spain (INSS) has signed these kinds of Memorandum of Understanding on data exchange with different Member States, being these:

- Germany.
- The Netherlands.
- France.
- Switzerland.
- Sweden.
- Belgium.
- Poland.
- Denmark

The Spanish Labour and Social Security Inspectorate has concluded agreements with France, Portugal, Romania and Italy but none of them are specifically directed to cross-border social security fraud.

In the scope of the European Labour Authority, a meeting was held in Lyon in December 2022 with inspectorates from France, Portugal and Italy and cross-border social security fraud was one of the topics discussed. It is probable that some discussion will be held within this framework relating to this specific topic in the near future.

The Spanish Inspectorate has proposed to set up actions on cross-border social security inspections within ELA's activities. Within this framework, in June of this year was held in Madrid a seminar aiming at exploring the possibilities of achieving multilateral and bilateral administrative arrangements on enforcement of the Regulations on coordination of social security systems. The objective of the competent institutions would be to address the

possibilities of reaching administrative arrangements or memorandums of understanding that favour cooperation and exchanges of information in the enforcement of the Regulations through a framework administrative arrangement that could subsequently be developed and detailed through bilateral administrative arrangements or memorandums of understanding between competent institutions of the Member States.

On the other hand, the Social Security General Treasury coordinates its actions for the detection and correction of situations of cross-border fraud with the Labour and Social Security Inspectorate.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

Currently, Spanish Social security institutions are providing information on these subjects through their websites and offices.

The information is provided through the website: www.seg-social.es, as well as through telephone, mailboxes where citizens and companies can find out about the procedures, requirements, as well as their rights and obligations.

For instance, regarding the EHIC, in order to prevent fraud in cases determined under the Regulations, citizens are still informed about the use of the EHIC through an information campaign which is disseminated and updated periodically through the website of the Spanish Social Security and through information sheets issued to insured parties alongside the EHIC.

Currently, a MOU is being developed jointly with Portugal, which aims, among other issues, to improve information and assistance to cross-border workers between both countries.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

Information tools that have been mentioned above.

Compliance with social and labour legislation.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

Resources in the Spanish Labour and Social Security Inspectorate have remained stable. In 2020 a Special Unit, EU Labour Mobility Unit, was created in order to coordinate actions in cross-border fraud on labour and social security issues, and establish direct links to the European Labour Authority, especially with the Spanish NLO (National Liaison Officer) in ELA.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

EU Labour Mobility Unit has created a Network of Experts composed of 40 Inspectors from all the Spanish regions in order to provide them with continuous training and information on cross-border fraud. We have shared this idea with the European Labour Authority, and it is possible that a similar network is going to be set up at this level in the near future.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

In Spain, inspection competences on labour and social security issues are concentrated in the Labour and Social Security Inspectorate (ITSS), a State Agency within the Ministry of Labour and Social Economy.

The Labour and Social Security Inspectorate is responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

The five biggest problems of the labour and social security inspectorate in the fight against CSSF are the following:

- Letterbox companies in the road transport sector whose workers have been entitled with PDA1 form in their country of origin. These companies are usually subsidiaries created by Spanish road transport companies. IMI is not an appropriate tool to exchange information on social security and the Spanish Inspection has an interest in studying how EESSI can help to serve this purpose.
- Spanish letterbox companies, especially in the construction sector. A campaign on this issue was designed by EU Labour Mobility Unit to be carried out last year.
- Cross-border fraud in social security benefits, especially on unemployment benefits. Contacts with the French NCP of the Platform of Fraud and Error have been made along 2022 with this purpose. The Spanish Inspection has an interest in studying how EESSI can help to serve this purpose.
- Fraud in applicable legislation by self-employed workers of the road transport sector posted from other Member States without any activity in their country of origin.

- Fraud in applicable legislation with respect to self-employed workers. Spanish social security legislation entails less contributions than other national systems and for that reason there are some cross-border fraud issues.

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

There has been successful cooperation with three inspectorates (France, Portugal and Italy) and unsuccessful with one Inspectorate (Romania).

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

Mainly, Memorandum of Understanding on electronic data exchange.

As well, there have been joint inspections with France, a concerted inspection with Italy and exchange of information with Portugal.

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

The Labour and Social Security Inspectorate Act 23/2015 allows a wide exchange of information with other Spanish Institutions and equivalent institutions from other EU Member States.

The supply of the necessary information by the national public institutions and private institutions to the Social Security Administration in order to exercise its functions must be allowed without the data subject's consent, within the limits established by law.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

The Labour and Social Security Inspectorate has cooperation agreements with the Social Security bodies, the Tax Agency and the Ministry of Transport

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases

fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

Social Security databases are fed by social security bodies and other public bodies which provide social benefits.

The Spanish Social Security constantly cross-checks information with its different databases in order to uncover cases of fraud. There is no specific database of fraud cases.

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

The Labour and Social Security Inspectorate Act 23/2015 provides the possibility to exchange information with other EU inspectorates on inspection matters.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

The Spanish Inspection has an interest in the possibility to explore that EESSI has some specific BUCs to exchange information between European social security inspectorates.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Administrative and criminal method.

Infringements can always be sanctioned through administrative methods and in serious and exceptional cases by criminal methods, when there is circumvention and the debt amount exceeds 50.000 €

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Yes

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social

security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

Yes, we have particular administrative and criminal provisions in place to sanction these violations, and yes, they could fall within the scope of fraud.

Most of infringements are covered by an administrative provision, the Law of Infringements and Sanctions in the Social Order (LISOS) especially in articles 10.3.b) and 23.1 paragraphs l) and m). Very serious infringements, as above mentioned, can be subject to criminal code pursuant to article 307.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

Yes

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

As mentioned above, the Royal Law-Decree 3/2022 established specific infringements for these cases amending the Law of Infringements and Sanctions in the Social Order (LISOS) in new articles 10.3.b) and 23.1 paragraphs l) and m). These rules encompass fraud in companies and self-employed workers from Spain and from other Member States.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- What approach does your country take to these practices?

- Do the 'self-employed' subcontractors have any means of redress?

For the purposes of the Directive 96/71/EC, the definition of worker is that which applies in the law of the Member State to whose territory the worker is posted according to article 2.2.

If the Inspectorate considers that posted workers are fake self-employed workers, it should be applied the Spanish labour legislation to them according to the Directive 96/71, and PDA1 forms are solely binding in the area of social security according to the ECJ of 14.05.2020 in case C-17/19 Bouygues travaux publics. With regard to social security issues, it is mandatory that the procedure provided by article 5 of Regulation 987/2009 should be followed.

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

Bilateral Memorandum of Understanding on electronic data exchange to report instances of deaths. Spain has signed several Memorandum of Understanding on electronic data exchange with different Member States in order to assist each other to the correct application of the EU Regulations on Social Security and to combat fraud and errors that may occur in this area. Under these arrangements, the Signatories may proceed to terminate the right to benefits by exchanging data, as soon as a Signatory becomes aware of the death of a pensioner or beneficiary.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

Bilateral Memorandum of Understanding on electronic data exchange to report instances of deaths.

Under the Memorandum on data exchange signed between Spain and some Member States, also, using the information obtained from the data exchange, the Signatories may claim, if applicable, the amounts that a third person have unduly received in accordance with the provisions of Regulation (EC) No 987/2009.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

None

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

We are coordinated between the different areas and as soon as we receive any information

from an interested party who has changed address, the pension area is informed, and the address is changed immediately.

The information referred through EESSI's BUCS also helps.

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

As soon as we become aware of the change of situation or address, the benefit ends.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

When we receive a communication from the interested party requesting information, we ask if he or she resides abroad and also if he or she works or is a pensioner in another country.

If the EHIC is no longer valid due to a change in the insurance conditions of our insured person, we inform him/her that the EHIC is no longer valid and should not be used. If the insured person receives a treatment that is not covered by the EHIC, for example a scheduled treatment, we will not accept the related invoice.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

If our insured has been informed about the cancellation of his EHIC, it would be possible to initiate a procedure to recover this amount from our insured.

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

Our healthcare providers have the possibility to request through the so-called "billing

administrator” to contact directly the competent institution in Spain in order to initiate a S_BUC_05 in order to obtain a certificate of entitlement similar to the EHIC/PRC. In addition, the “billing administrator” can also contact the competent institution in Spain, in order to write to the competent institution in another country to verify the validity of the EHIC.

The public health service would contact the competent institution to ask whether the EHIC is valid if they have doubts about the date of issuance or about its authenticity if they suspect it may be a false one.

The determination of whether treatment is necessary or scheduled is a decision for medical criteria.

SWEDEN

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

There is no specific strategy/action plan for cross-border fraud and error, but the actions taken concern both national and cross-border situations. There is a national strategy against work-related crime from 2022.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

There are no specific provisions related to the cross-border situation; the provisions concern both national and cross-border situations.

Provisions in the Social Insurance Code require the person to certify the correctness in the application of a benefit/allowance. It is a criminal offence to provide the authorities with wrongful information or withhold information if it leads to an incorrect payment (Bidragsbrottslagen).

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

Yes, for more information, see Annex II, sections 1.26 and 2.21.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

General information about a persons' rights and obligations, regarding the duty to provide correct information can be found on websites and to some extent on application forms or decisions, in some cases including information about requirements to return wrongful payments based on incorrect information. Case-handlers with specific knowledge about the coordination rules handle cross-border situations.

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

Information tools, see the previous answer.

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

The trend is to strengthen the authority's capacity to prevent as well as combat fraud and error, amongst other by intensifying the cooperation between the authorities.

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

The Swedish Tax Agency is responsible for taxes and contributions and the Swedish Social

Insurance Agency, The Swedish Pension Agency and the Unemployment funds for the benefits/allowances.

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

- Exchange of information between stakeholders (in Sweden and between Member States)
- Identity of the person
- Deaths abroad and incorrect civil registration

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

- Lack of contact details to the individual
- Lack of cooperation between Member States

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative information, verification of official documents, informal meetings, exchanging personnel, etc.)?

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

There are legislative acts that provides with obligations to notify other agencies to prevent or combat fraud and error (lagen [2008:206] om underrättelseskyldighet vid felaktiga utbetalningar från välfärdssystemet, lagen [2024:307] om uppgiftsskyldighet för att motverka felaktiga utbetalningar från välfärdssystemet samt fusk, regelöverträdelse och brottslighet i arbetslivet).

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

It is possible to exchange information as long as the information is needed to handle the individual case (application of a benefit).

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Depending on the case, through administrative (repayment of the benefit) and criminal sanctions (fine or imprisonment).

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Yes, since a person can be sentenced to prison.

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social

security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

See question I.

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

In principle, all possible consequences should be analysed when preparing a legislative proposal.

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

All cases depend on the facts of the case, but if the applicable legislation ought to be changed due to the circumstances of the case Sweden would act in accordance with the coordination rules.

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

Actions taken depend on the facts of the case.

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

The Swedish Pensions Agency has electronic exchange of data (personal circumstances – date of death, civil status) with **Finland, Poland, Sweden, Denmark, Norway, (the United Kingdom), Germany and Spain** through Memoranda of Understanding. The purpose is mainly to quicken the administration to avoid incorrect payments. For other residents abroad, proof of living is sent out once a year for the beneficiaries to fill in. If no proof of living is received, the payments are blocked. Information can also be found in the benefit decisions that the beneficiary is obliged to report a move abroad. When a person changes their address with the Tax Agency and announces that they have moved abroad, the Pensions Authority receives an automatic notification of this event.

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

When information about a death is received, a letter is sent to the estate asking them to pay back the benefit that has been paid out after the death. If no money is received, the matter is handed over to the recovery management, which may file a recovery against the estate. If the beneficiary is resident abroad and has a foreign bank account, we can stop the payment up to and including the day before it reaches the beneficiary's bank account, provided we receive information about the death before the payment date.

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

In cases where we know that a foreign pension exists, that information is registered in our computer system, however, the death impulses for residents within Sweden are automated. This means that when information about a death is received from the Tax Agency to the Pensions Agency, the benefit is withdrawn automatically without any administrator being involved. Thus, we have no way of notifying other countries automatically of the death. Only the countries covered by the electronic data exchange Memoranda of Understanding receive information about the death automatically.

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

If a beneficiary reports emigration to the Swedish Tax Agency, the Swedish Pension Agency automatically receive an impulse about the event. Otherwise, no measures are taken in relation to this. The beneficiary has a reporting obligation to report circumstances that may affect the right and size of the benefit, for example emigration or a foreign pension.

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

It is very difficult to discover such situations, regardless of whether Sweden is country A or B. The information must come from the applicant, another national authority or from the foreign social security institution to be discovered. Thus, the unemployment insurance funds normally need to rely on the applicant providing correct information, and the individual persons are also informed about the importance of immediately notifying changed circumstances that may affect the right to unemployment benefit. If a person starts working, the unemployment insurance funds can receive information from the Swedish Public Unemployment Service, but it is more difficult to detect that someone is working in another country. If the fund receives information about work in another country actions are taken to investigate whether it is Swedish legislation that applies for the person or not and whether the applicant is still entitled to unemployment benefits.

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

The Swedish Social Insurance Agency depends on information regarding changes in the persons family situation from the individual person, from employers' other authorities in Sweden, e.g., the Swedish Tax Agency, The Swedish Board of Student Finance (CSN), health-care providers, childcare providers or from authorities in other countries. When the Agency receives such information, it investigates whether it is Swedish legislation that should apply and/or whether Sweden is primarily competent or not. Depending on the reliability of the information that the situation has changed, payments can be stopped. The individual person is according to Swedish legislation required to inform the authorities about circumstances that can affect the payments of benefits.

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

The Social Insurance Agency must rely on the other country's assessment (insurance institution and/or health care provider) that the conditions of Article 19 have been met. When the country of treatment sends its claim, the insurance status of the person who received care at the time of treatment is checked. If the person was not insured, a copy of the persons EHIC is asked for. If the creditor country can provide a valid EHIC, the claim will be paid.

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

If the validity period of the EHIC does not cover the treatment period, we check whether the patient was insured in Sweden during the treatment period. If the patient was insured, the claim is paid, if not it is contested. If the creditor country can provide a valid EHIC, the claim will be paid. Occasionally, reimbursement is asked for according to Article 2(3) of AC Decision S11. There are however no legal means to claim reimbursement from the patient who used a Swedish EHIC when he/she was no longer insured in Sweden.

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

All public healthcare providers or associated private healthcare providers are regularly informed about which documents that can be accepted when providing healthcare to patients who are not insured in Sweden. They are accordingly expected to know the difference between a valid EHIC and an invalid one. The healthcare providers are also asked to request a valid EHIC on the day of treatment. Retrospectively presented EHICs will not be accepted. Healthcare providers are furthermore informed about the criteria set out in Article 19 of Regulation 883/2004, i.e., that the individual's state of health, diagnosis and expected length of stay will determine which benefits in kind can be provided on the basis of an EHIC. If a healthcare provider has doubts about the validity of an EHIC, he can ask for a provisional replacement certificate from the Member State that issued the EHIC.

SWITZERLAND

Versions	Date de mise à jour	Descriptions / Remarques	Nom ou rôle
1	07.2023	Création du document	AZI / ASZ
2.	08.2023	Renseignement des rubriques	AZI / ASZ
3.	07. / 08.2024	Maintenance des rubriques et mise à jour du document	AZI / ASZ
4	8.2024	Consolidating the responses from the different sectors (new and last years responses)	Lem/OFAS

P (Central Compensation Office CCO) : in blue

AWOD (Suva): in green

UB (Unemployment Benefits; Seco): in orange

1. General Questions

1.1. Is the fight against cross-border social (security) fraud (CS(S)F) and error the subject of specific policies (e.g. strategic plan, action plan) regardless the level ?

AWOD (SUVA): Not known

The fight against insurance fraud is one of the strategic priorities of the CCO and is part of its overriding goals.

1.2.1. Can you give an example of a major case that has been the subject of considerable press attention (describe the case, link...)?

AWOD (SUVA): Not known

Attempts at identity theft in order to obtain the reimbursement of Swiss OASI contributions fraudulently.

1.2.2. Please describe the case and provide sources (hyperlinks – e. g. Prosecutors' offices communication, Judicial Courts media communication), if possible.

Please refer to the elements in the judgment of the Swiss Federal Administrative Court below:

[Arrêt \(entscheidsuche.ch\)](#)

1.3. To what extent have specific provisions been introduced in the legislation/regulations/agreements... in order to ensure compliance with cross-border social (security) legislation and to promote its enforcement?

AWOD (SUVA): Not known

Federal Law on the General Part of Social Insurance (LPGA):

In particular:

- [art. 28 \(Cooperation in implementation\)](#)
- [art. 31 \(Obligatory notification in cases of changing circumstances\)](#)
- [art. 43 \(Examination of application\)](#)
- [art. 43a \(Observations\)](#)
- [art. 52 a \(Provisional suspension of benefits\)](#)

[Federal Ordinance on the General Part of Social Insurance \(OPGA\):](#)

In particular:

- [art. 7 let. a. ff. \(Requirements for specialists carrying out an observation\)](#)

[Swiss Penal Code \(CP\):](#)

- [art. 146 \(Fraud\)](#)
- [art. 148a \(Illicitly obtaining of insurance social insurance or social assistance\)](#)

1.4. Does your country have bilateral or multilateral agreements with other MS/institutions in order to combat and prevent cross border fraud and error in the social security coordination field? Please list.

AWOD (SUVA): Not known

Electronic monthly exchange of dates of death with:

- [Germany \(DRV\) since 2010;](#)
- [Italy \(INPS\) since 2016;](#)

- Spain (INSS) since 2018;
- France (CNAV) since 2021;
- Croatia (HZMO) since 2022;
- Denmark (ATP) since 2023;

- A new agreement was reached with the Austrian social security system (PVA) in October 2023. Discussions have been held with the Belgian (SFPD), Portuguese (ISS-IP) and Dutch (SVB) social security bodies.

- The Swiss representations abroad of the Department of Foreign Affairs also provide a notification system for dates of death of Swiss citizens living in others countries.

1.5. How are insured persons, their family members and stakeholders informed about their rights and obligations concerning cross-border social security? Are there any awareness means concerning the obligation to provide true information to the institutions?

AWOD (SUVA): Suva will send an information letter to the injured person, how it is handled by the private insurers is unknown to us.

UB: In the context of unemployment insurance, insured persons for whom the insurance case has occurred (unemployment) are informed by the competent cantonal services. Unemployed persons are also summoned at regular intervals for monitoring and counselling interviews. The interviews focus on job search and the rights and obligations of the unemployed (including, depending on the profile of the unemployed, the conditions of stay or job search abroad).

Unemployment insurance forms require insured persons to answer truthfully and to make them aware of the consequences (administrative and criminal) of possible misrepresentations.

- Basic information is provided on the first pension decision;
- The CCO website provides practical information on the rights and obligations of insured persons;
- Also see Federal the General Part of Social Insurance Law (LPGA):
 - art. 28 (Cooperation in implementation);
 - art. 31 (Obligatory notification in cases of changing circumstances),

1.6. Which specific preventive measures are taken into account in your country that should encourage insured persons, their family members and stakeholders to comply with the EU legislative framework (information tools, trainings...)?

AWOD (SUVA): Not known

UB: For example, the website www.arbeit.swiss contains information for people coming from abroad to work in Switzerland as well as for insured persons wishing to work in the EU or EFTA area - for example, a brochure entitled "Living and working in the EU/EFTA" (see pdf below). It contains the first information on rights and obligations in the context of social security.

Please refer to the answers to questions 4 and 5 above.

Also refer to revision of Disability Insurance pension entitlement:

Federal Law on the General Part of Social Insurance (LPGA):

- Art. 17 LPGA (Revision on pension entitlement in the frame of Disability Insurance)

Federal Regulation on Disability Insurance (RAI)

- Art. 86 ff. RAI also in line with art. 87 from Regulation 987/2009 (Revision on pension entitlement in the frame of Disability Insurance)

1.7. How do you evaluate the resources (budget, inspectors, IT resources) which are put at the disposal of inspection authorities in your members states to tackle SSC cross border fraud? What is the trend with these resources: increasing, decreasing, stable? What is the reason for that evolution, according to you?

AWOD (SUVA): Not possible to give an answer

The fight against fraud is an issue that has evolved steadily since 2008 (since the fifth revision of Swiss Disability Insurance). The legal framework has evolved considerably. See also answers to letter B below (*Questions for inspection services*).

2. Questions for inspection services

2.1. Describe how your inspection services are trained with a view to combatting CS(S)F? Would you share your training curricula/tools in this field with other MS' inspection services?

AWOD (SUVA): Internal implementation on a case-by-case basis.

Because of the specialities of Suva and Switzerland, the sharing of this training cannot be generalised and is therefore not useful.

- Staff and officers responsible for combating fraud are trained through internal awareness workshops, as well as by their colleagues and management;
- A certification programme is available for detectives or people who make observations, who require authorisation to practise from the federal supervisory authority;
- Staff also complete training courses on internet searches.

2.2. Which public bodies (inspection services, agencies, authorities, departments, administrations) are responsible for investigating and sanctioning violations of legal obligations with regard to paying social security contributions or receiving social security benefits? Are there specific inspection services/departments dealing with this issue? Please provide contact data information such as: name, address, website, hyperlinks...

AWOD (SUVA): Suva, as an organisation governed by public law, in relation to the services it provides, and the competent criminal authorities in relation to prosecution

- Regarding the Swiss OASI pensions from the Swiss Compensation Office (SCO):

The officer in charge to fight against fraud is part of SCO legal department. He is responsible for carrying out the appropriate checks before any legal action is taken.

Contact: damiano.ciattini@zas.admin.ch - Fraud prevention officer / +41584619225

- Regarding the Swiss Disability Insurance Office for people living abroad (OAIE):

Officers in charge to fight against fraud are part of a special *ad hoc* group who examine the issue from the point of view of combating fraud.

Contact: diane.kaiser@zas.admin.ch - Head of Service / + 41584673546

Contact: diego.rudolf@zas.admin.ch - Deputy head of Service / + 41 584673253

- Regarding Recoveries issues in the frame of UE regulations:

Head of litigation department responsible for internal coordination between the administrative and penal levels.

Contact: nora.doradoperez@zas.admin.ch - Head of Service / + 41 58 485 07 66

2.3. List the five biggest problems inspection services or other public bodies are facing in the fight against CSSF?

AWOD (SUVA): Various legal bases

Opportunities for data exchange and communication

1. Difficulties to get answers from foreign public bodies (often necessary to go through the Swiss Federal Department of Foreign Affairs);
2. Lack of an anti-fraud network and contacts within the liaison bodies and lack of a directory concerning anti-fraud experts within the various social insurance intuitions;
3. Lack of a European directory of competent bodies in inheritance law (competent authorities for the liquidation of the estate) to overcome the difficulty of identifying heirs;
4. Difficulties in obtaining proof from other countries (e.g., observation made by detectives are currently not possible under EU coordination rules);
5. Lack of sufficiently detailed medical reports from liaison bodies to highlight changes in pensioners' state of health;

2.4. List the main problems public bodies are facing in the recovery of unduly paid social security benefits or of outstanding contributions?

- Incomplete R017 forms (e.g., missing attachments, incorrect exchange rate or incomplete bank instructions);
- Non-compliant attachments (Enforcement title not certified as a true copy in conformity of the original);
- Late transmission of files (very short deadline for taking action before the institutions);
- 5-year period expired in relation to Article 82 of European Regulation 987/2009.

AWOD (SUVA):

- Creditworthiness
- Moving abroad

No receipt of payments of recoveries from the responsible EU/EFTA accident insurer (for our assistance in kind), warning partly without result.

Non-payment of division claims of DE, FR, IT and AT

2.5. Is there an extensive cooperation with foreign inspectorates in the fight against CS(S)F (please quantify)?

Unfortunately, not or not sufficiently.

AWOD (SUVA): Represented by Suva: No

2.6. Have special mechanisms for cooperation been installed to combat CSSF? What does this international cooperation include (e.g. concerted and joint inspections, data exchange, requesting legal and administrative

information, verification of official documents, informal meetings, exchanging personnel, etc.)?

We get support from the Swiss representations abroad. We also work with the Federal Social Insurance Office on a case-by-case basis, and with Interpol in specific cases.

AWOD (SUVA): Represented by Suva: No

2.7. How does your country allow for the exchange of information between national public institutions (i.e. between social security authorities, fiscal services, police, judicial services, etc.) or private institutions (e.g. when they are responsible for paying benefits)?

AWOD (SUVA): Legal bases, e.g. Art. 96 and 97 of the Federal Act on Accident Insurance (UVG), Art. 32 of the Federal Act on the General Part of Social Insurance Law (ATSG) as well as applicable bases in criminal laws and the Data Protection Act

- **Social security field:**

- Regulation (EC) no 883/2004
- Regulation (EC) no 987/2009
- Bilateral social security agreements with various contracting states

[Social security agreements and standard-setting conventions \(admin.ch\)](#)

- **Fiscal area:**

- Bilateral Double taxation agreements with various contracting states

[dba-liste-en.pdf](#)

- **Justice and police area:**

- Cooperation under the Schengen/Dublin agreements:

[Schengen/Dublin \(admin.ch\)](#)

Please note that the CCO has no prerogatives in the areas of taxation and cooperation in the field of Justice and Police.

2.8. Please present the legal framework (legal acts, case law, cooperation agreements, protocols etc.) regulating cooperation between these institutions?

AWOD (SUVA): Please refer to the answers to question number 7.

Please refer to the answers to the question number 7 and consult the links below.

2.9. Does your country have national databases to support the social security administration in their fight against CS(S)F? How are these databases fed (e.g. by internal and/or external sources (i.e. data exchange with other (internal or foreign) public/private (inspection) authorities)?

AWOD (SUVA): Not known

There are databases for the insurance sector but not specifically for combating insurance fraud (e.g. births, deaths, commercial activities, foreign resident population, etc.).

2.10. Are there any limitations on the exchange of information with foreign social security/labour inspectorates (e.g., due to privacy legislation)? Are special legal provisions required? What are the main reasons/concerns behind these limitations?

AWOD (SUVA): In the absence of application cases, a generalised response is not possible. The legal bases of all the countries involved must be examined on a case-by-case basis.

CCO's experts in fight against fraud note the lack of collaboration/exchange in the frame of Eu Regulations rules probably due to the lack of a European network of experts.

The provisions on data protection could also contribute to complicating the exchange of information between national bodies. Please note that the Swiss Federal Data Protection Act has been revised and came into force on 01.09.2023.

The CCO experts in fight against fraud would appreciate to exchange information with the experts from European liaison bodies.

2.11. Have you found examples, proposals or suggestions for measures to improve the overall tackling of fraud and error in the field of CS(S)F and error? If yes, please describe.

AWOD (SUVA): No answer possible

An interesting measure for the CCO would be to have a list of contact persons for foreign organisations involved in the fight against insurance fraud, in order to be able to exchange directly.

3. General questions with respect to the legal framework

3.1. How are infringements sanctioned: through an administrative, criminal or civil law method?

Mainly thought administrative measures and the federal penal law and procedure (art. 148a CP);

AWOD (SUVA): Regulated in the applicable laws (e.g. Federal Act on the General Part of Social Security Law (ATSG), Federal Act on Accident Insurance (UVG), Swiss Criminal Code (StGB) etc.): reduction of benefits, refusal of benefits, recovery (e.g. Art. 21 ATSG , Art. 25 ATSG, Art. 45 ATSG, Art. 53 ATSG, Art. 112 UVG) (see Annex I, pages 210 et seq.)

UB: Violations of the Unemployment Insurance Act are mainly punished administratively. In the event of a serious violation, the case may be reported to the criminal prosecution authorities. If so, the criminal prosecution authorities are competent to investigate the case and, if necessary, to hand down a sentence. A serious example is that of a person registered as unemployed in Switzerland and receiving unemployment benefits who is also gainfully employed (in Switzerland or abroad) without notifying the competent services.

3.2. Does the national legal framework provide for seriousness in offences and sanctions?

Yes, it does (e.g., art. 148a al.1 CP provides custodial sentences and art. 148a al. 2 provides fines).

AWOD (SUVA): Not known

3.3. Do you have particular administrative or criminal provisions in place to sanction unduly paid social security benefits or the failure to pay social security contributions in due time? Could those violations fall within the scope of more general administrative or criminal law sanctions (e.g. fraud)?

AWOD (SUVA): See in particular Article 25 of the Federal Act on the General Part of Social Security Law (ATSG).

Yes, for example:

Federal Law on General Part of Social Insurance (LPGA):

- Art. 79 LPGA (Penal dispositions).
- Art. 79.3 LPGA also provides basis allowing Social Insurance to exercise right of plaintiff in penal proceedings.

Federal Law on Old-Age and Survivors Insurance (LAVS):

- Art. 87 LAVS (Offences);

Swiss Penal Code (CP):

- Art. 148a CP (Illicitly obtaining of social insurance or social assistance benefits)

3.4. When a legislative proposal in the field of social security is prepared, is an impact assessment of the risk of fraud and error carried out?

AWOD (SUVA): Not known

Approaches may vary according to political views, but as a general rule, the fight against insurance fraud is an essential aspect of social security.

For example:

- Since 2008, Switzerland systematically introduces a clause to fight against fraud in insurance in new social security agreements.
- Since 2019 the latest revisions to the Federal Law on the General Part of Social Insurance (LPGA), which coordinates most Swiss social insurance schemes, have significantly strengthened this aspect.

4. Specific questions on the basis of case situations

4.1.1. What approach would your country take when confronted with a situation where a company in your country decides to transfer the responsibility for the employment of its employees to an intermediate company in another State, which has lower taxes, social security contributions, and employment and health and safety standards, although these workers have never worked in or visited that other Member State and in practice continue to work as they previously did. However, under the new arrangement, the intermediate in Country B becomes the employees' employer and invoices its client, in your country.

4.1.2. If your country were country B in this scenario, what approach would your country take to this practice?

As we understand the situation:

- Regarding OASI/DI contributions:

Employers who fail to join a compensation fund and fail to deduct their employees' contributions within the time limits set by law commit an offence within the terms of art. 87, 3rd sentence, of the Federal Law on Old Age and Survivors' Insurance.

- Penalties:

The employer is liable to a so called "day-rate system" (monetary fine) or heavier penalties under the Swiss Criminal Code depending on the facts of the case (e.g. forgery of documents, fraud, etc.).

AWOD (SUVA): No answer possible

4.2. What approach does your country take when they find out that subcontractors in their country work with self-employed workers from another State living in their State and where lodging is provided by the contracting company, which is substandard but for which excessive amounts are deducted from their wages. Wage payments are often late and, even after deductions for their accommodation, incomplete. At a point when wages have been unpaid for several weeks the contractor declares itself bankrupt.

- **What approach does your country take to these practices?**
- **Do the 'self-employed' subcontractors have any means of redress?**

Generally speaking, in the case of fraudulent bankruptcy, reference should be made to the title "Crimes or offences in bankruptcy and debt collection" of the Swiss Criminal Code, in particular article 163.

Please note that some aspects concerning the protection of employees are also related rep. to Swiss Civil contract and Swiss Employment Laws.

However, those aspects do not fall within the scope of CCO's activities.

a) What approach does your country take to these practices?

Not within the CCO's area of competence.

b) Do the 'self-employed' subcontractors have any means of redress?

Not within the CCO's area of competence.

AWOD (SUVA): Not known

4.3. What arrangements are in place in your country to identify when a person receiving a pension has passed away if he or she is living in another EU Member State?

- Electronic exchange of dates of death with Germany, Italy, Spain, France, Croatia and Denmark.

AWOD (SUVA):

- Case-specific: Requesting certificates of life
- Death data comparison between Germany and Switzerland (see Annex II, p. 206) and Agreement on the Exchange of Data between ATP, Udbetaling Danmark (UDK) and the Central Compensation Office (CCO) of the Swiss Confederation (see Annex II, p. 212)

4.4. What arrangements are in place to recover an overpaid pension when the deceased has been living in another EU Member State?

- Administrative cooperation in accordance with art. 76 of Regulation (EC) 883/2004;
- Requests for recovery in accordance with art. 78ss of Regulation (EC)987/2009.

AWOD (SUVA): Contacting the responsible liaison office in the respective EU/EFTA country

4.5. What arrangements are in place to identify, when a person dies, whether he or she is in receipt of a pension from another EU Member State, and what action is taken?

- Examination of the documents in the file and letter to the foreign social security office.
- Please note that, in general terms It is not easy to identify the entitlement to a foreign pension without information on file. The duration of the Insurance career accomplished in Switzerland can also provide some tracks (e.g.; persons with a short career in Switzerland who live abroad are more liable to have been entitled to a national pension from their country of residence or origin. However, this remains an assumption).

AWOD (SUVA): Not known

4.6. What measures are in place in your country to detect if a person enjoying his or her retirement, while in receipt of a SNCB pension, lives in another Member State? And what measures are taken if this is detected?

- If we are talking about pensions under the Belgian rail system, as we understand it, there is no specific procedure. If there are difficulties to identify the scheme in question, one option is to contact the main national pensions body, in this case the SNP.
- AWOD (SUVA): Suva: By notifying the change of address, then informing the injured person with an information letter. For the private insurers: not known

4.7. What measures are in place in your country A to detect/prevent that someone, who receives unemployment benefits from your country A, decides to take up a job in country B without reporting this to your country A while continuing to receive benefits? What measures are in place if you are country B?

Not within the CCO's area of competence.

AWOD (SUVA): No answer possible

UB : L'assurance chômage ne dispose pas des instruments nécessaires pour savoir si une personne a travaillé à l'étranger pendant son chômage. Par contre, si la caisse relève des indices selon lesquels un assuré se trouve à l'étranger, elle peut à nouveau instruire son dossier en lui demandant des informations supplémentaires ou soumettre le cas aux cantons pour examen de l'aptitude de placement.

Dans le cadre du recouvrement de créances à l'étranger la caisse doit faire appel à l'assistance des autorités étrangères. Dans certains cas l'autorisation du SECO est nécessaire. (Unemployment insurance does not have the necessary tools to determine whether a person has worked abroad during their unemployment. However, if the fund detects indicators that a beneficiary is abroad, it may reopen the case and request additional information from the individual or submit the case to the cantons for assessment of the individual's suitability for placement.

In the context of debt recovery abroad, the fund must request assistance from foreign authorities. In some cases, the approval of SECO (State Secretariat for Economic Affairs) is required.).

4.8. What measures are in place in your country to detect/prevent that a person continue to receive family benefits at the full rate while following a change in his/her family situation, your country is no longer primarily competent?

Not within the CCO's area of competence.

AWOD (SUVA): No answer possible

4.9. Which measures are in place in your country to detect/prevent that someone receives a healthcare treatment abroad while not having the right to receive it under the Coordination Regulations (e.g. invalid EHIC, treatment not covered under EHIC)?

Not within the CCO's area of competence.

AWOD (SUVA): No answer possible

4.10. Which measures are in place in your country for cases where someone receives a necessary healthcare treatment on the basis of an invalid EHIC issued by your country and the country of treatment requests reimbursement of the costs for the treatment provided?

Not within the CCO's area of competence.

AWOD (SUVA): No answer possible

4.11. Which measures are in place in your country to detect/prevent that someone who stays temporarily in your country receives a healthcare treatment without having the right to it under the Coordination Regulations (e.g. in case the treatment is not necessary or planned (inappropriate use of EHIC) or when there are doubts about the validity of the EHIC)?

Not within the CCO's area of competence.

AWOD (SUVA): No answer possible