

Overview of basic situations of simultaneous activities in two or more Member States

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| An employee resides in the territory of one Member State and works in the territory of this state and at the same time works also in the territory of another Member State | Subject to the legislation of the state of residence |
| An employee works for several different employers, which have their registered office in territories of different Member States to that which the residence of the employee is | Subject to the legislation of the state of residence |
| An employee works for one employer in territories of two or more Member States, but he/she does not reside in any of them. | Subject to the legislation of the state of the employer's registered office |
| Employees in international transport (drivers, engine-drivers, airplane crew and inland watercraft crew) | Generally subject to the legislation of the state of the employer's registered office |
| A self-employed person resides in the territory of one Member State and pursues an activity in the territory of this state and at the same time also in the territory of another Member State | Subject to the legislation of the state of residence |
| A self-employed person pursues an activity in territories of two or more Member States, but he/she does not reside in any of them | Subject to the legislation of the state in which territory he/she pursues the main activity |
| A person pursues a self-employed activity in the territory of CR and at the same time works in the territory of another Member State as an employee + other cases stated in the Annex VII of the Regulation 1408/71 | Subject to the legislation of the CR as a self-employed person and at the same time also of another Member State as an employee, the form E 101 is not issued |
| A simultaneous pursuit of a self-employed activity and employment, which is not stated in the Annex VII of the Regulation 1408/71 | Subject to the legislation of the state, where he/she pursues the dependent activity (employment) |

This table is only of an informative nature, it is always necessary that the legislation is determined by the competent institution (in CR it is the headquarters of ČSSZ) and the E 101 form is issued.

Exception within the Article 17 of the Regulation 1408/71...

Article 17 allows that two or more Member States arrange an exception to the abovementioned principles of determining the legislation applicable and that is always in the interest of the workers in question. There is **no legal title** to granting the exception. All interested Member States must agree with the exception. The granted exception to legislation applicable is valid uniformly for sickness, pension and health insurance. If the exception is granted then the state, in whose system the worker remains, issues the form **E 101**. A request for an exception, in the case of interest to remain in the Czech social security scheme is enforced directly at the headquarters of ČSSZ.

- ★ An employee together with an employer enforces the request in a domestic form „Application of employer and employee for an exception to the legislation applicable“
- ★ A self-employed person enforces the request in a domestic form „Application of self-employed person for an exception to the legislation applicable“

Provision of information

Česká správa sociálního zabezpečení
(Czech Social Security Administration)
Křížová 25, 225 08 Praha 5
phone: 257 062 860-8, e-mail: posta@cssz.cz
(bus 104, 120, 197 a 231 – from station „Na Knížecí“)

Regional offices of ČSSZ
All aforementioned forms for requests (not E-forms) are available at regional offices of ČSSZ or at www.cssz.cz, the section European Union, area „EU forms“.



Legislation applicable for migrating workers

ČSSZ and Social Security in the EU



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Determining the legislation applicable regarding migration ...

When people migrate to work throughout the Member States of the EU and Iceland, Norway and Lichtenstein (hereinafter referred to as the Member States), it is necessary to know, in which state they are going to be insured. The participation of a migrating worker (employee or self-employed person) in sickness, pension and health insurance always follows the legislation on social security in that state, which was determined as the one responsible in accordance with the Council Regulation (EEC) 1408/71. Pursuant to the applicable legislation, contributions are paid, and in accordance with it, benefits are paid.

The applicable legislation conforms only to the area of social security, not the area of taxes, industrial etc.

Persons, who are subject to legislation other than the Czech, must make an inquiry at the competent foreign institution regarding registration and payment of insurance contributions. Czech Social Security Administration (ČSSZ) communicates contact details upon request; it does not provide information regarding the implementation of foreign legislation.

The rule of state of employment...

It applies always, when a person works or pursues an activity only within the territory of one state.

★ **Person employed** is subject to the legislation on social security of that **Member State, in whose territory he/she works**, regardless as to where he/she resides, where his/her employer has its registered office, where and in which currency his/her salary is paid, where the taxes are levied, or what his/her nationality is.

★ **Person self-employed** is subject to the legislation on social security of that **Member State, in whose territory he/she pursues an activity**, regardless of where he/she resides, what his/her nationality is, or where the taxes are levied.

In this case, **no European forms are issued**; a locally responsible regional office of ČSSZ will issue a Certificate on Application of Czech Legislation upon request. In other cases, it is on the contrary necessary to have a relevant E-form issued.

There are specific rules concerning persons employed by diplomatic missions and consular authorities. Ministry of Foreign Affairs provides you with further information.

The issuing of E-forms in CR is free of charge.

Posting of workers...

The most common exception to the rule of the state of employment is the posting of workers. If the determined conditions are fulfilled, a person is not subject to the legislation of the state where he/she works or pursues an activity for a defined period of time, but he/she is still covered by the legislation on social security of the state, where he/she was posted from. **The worker always must have the form E 101, possibly E 102, issued.**

Conditions on posting of employees...

- Duration of posting is maximally **12 months** (it can be extended by another 12 months);
- The employee works for an employer, which is posting him/her, and he/she is a participant of insurance for a period of one month minimally before his/her posting;
- The employment relationship between the employee and the posting employer lasts for the whole period of posting, the employee is remunerated by the posting company, he/she must not conclude an employment relationship with the receiving company;
- The employer, which is posting employees abroad, must be economically active in CR;
- The employee must not be posted for the reason of substitution of another posted employee, who has already reached the term of his/her posting;
- β The minimum period between repeated posting of the same person is usually 2 months.

Conditions on posting of self-employed persons...

- A self-employed person must be performing an activity in CR and participate in insurance for a period of one month minimally before his/her posting;
- The duration of posting is maximally **12 months** (it can be extended by another 12 months);
- A self-employed person must document that he/she has an entrepreneurial activity secured abroad;
- The minimum period between repeated posting of the same person is usually 2 months.

A person proves the fact that he/she is subject to the legislation on social security of the posting state towards a foreign institution **via the form E 101**, issued by ČSSZ, possibly by a regional office of ČSSZ; or possibly or possibly **via the form E 102**, confirmed by foreign institution.

Enforcing a request for an E 101 form...

★ **If the period of posting is longer than 3 months**
Via the form „Application of employer for a form E 101 in case of posting employee“ or „Application of self-employed person for a form E 101 in case of posting“ at a locally responsible regional office of ČSSZ. The form E 101 is issued by the headquarters of ČSSZ.

★ **If the term of posting is shorter than 3 months**
Via a written request, which contains: the name, registered office and address of the employer, its identification number, variable symbol, e-mail or telephone contact to the applicant; or name, surname and birth number of the posted persons; or name, surname, identification number, variable symbol, birth number and address of the posted self-employed person, purpose and location of posting. The E 101 form is issued by the regional office of ČSSZ.

Extension of the duration of posting...

The period of posting can be extended maximally by a further 12 months. An extension of the duration of posting is requested by an employer or a self-employed person via the E 102 form, which must be sent to the competent institution in the receiving state (to which the worker was posted) before the elapse of the original duration of posting.

Simultaneous activities in two or more Member States of the EU...

In case a person works or pursues an activity in two or more Member States simultaneously, or works in the territory of one Member State and at the same time pursues an activity in the territory of another Member State, it is necessary to determine one state, whose legislation will be applicable. Pursuant to the Article 12a of the Regulation (EEC) 574/72, **a person is obliged to communicate** simultaneous activities to a competent institution of the Member State, in which he/she resides.

An employee must always have the E 101 form issued, for which he/she applies as follows:

A person residing in CR refers to a regional office of ČSSZ, where a relevant form will be filled in. On the basis of this, the headquarters of ČSSZ then determines, whether the person is subject to the legislation of CR and issues the form E 101; or possibly determine, which other Member State should the person in question refer to.

Contributions are levied to the system of the determined state, from the entire income and from all activities.