Electronic Exchange of Social Security Information in EU

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I. European framework for soc. sec. coordination

• **Treaty of Rome:**
  - free movement of persons => need for co-ordination among social security schemes of the MSs
  - vertical subsidiarity (territorial principle of soc. sec. legislation)

• **Personal scope** (worker, self-employed, students, retired, etc)

• **Territorial scope:** EU + EEA (Iceland, Liechtenstein, Norway and Switzerland)

• **Material scope:** social security systems (sickness, maternity, old-age, invalidity, unemployment, family and workers’ compensation)

• Regulations imply a lot of information exchange between social security institutions of different MSs
Core principles

1. **Equality of treatment**: an immigrant worker should have the same rights and obligations as regular residents (e.g., medical treatment)

2. **Determination of the applicable legislation**: such a worker has to be sure which country is responsible for his/her social protection and to which agency he/she goes to for these services

3. **Aggregation** of insurance, employment and residence periods

4. **Exportability** of rights/benefits

5. **Good cooperation** among competent institutions of MSs!!!
# Generations of coordination legislation

<table>
<thead>
<tr>
<th>Generations</th>
<th>Regulation (R)</th>
<th>Implementing Regulation (IR)</th>
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<tbody>
<tr>
<td>1st</td>
<td>Reg. 3/58EC</td>
<td>Reg. 4/58/EC</td>
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<td>2nd</td>
<td>Reg. 1408/71/EC</td>
<td>Reg. 574/72/EC</td>
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<td>Reg. 859/2003/EC (3rd country nationals)</td>
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<td>(3rd country nationals) Reg. 1230/2010</td>
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II. Communication based on old-fashioned E-forms: data processing
Current soc. sec. data flow: E-forms

- A lot of information is still exchanged on paper forms (E-forms) elaborated by the Admin. Commission on Soc. Sec. for Migrant Workers

- Same structure and contents in all official languages of the EU

- More than 100 types of E-forms (nearly 2000 E-forms when taking account of the various language versions)

- Exchange of paper forms appears 1) cumbersome, 2) complicated and 3) expensive → this may deter possible migrant workers
Problems encountered with paper forms

• difficulties identifying the insured person

• difficulties determining the competent social security institution in another MS

• problems of interpretation of the exchanged forms

• inability to adapt the forms quickly

• difficulties in managing the exchange procedure

• difficulties for the insured person in acquiring appropriate advice

• conflicts between data protection and the obligation to exchange information
III. The Role of the EESSI
What is the EESSI

• **Def.:** EESSI is an information system created by the EU that can be considered as a large scale IT system since it involves cross-border exchanges of a certain amount of personal data on social security between all MSs

• **Purpose:** strengthen the protection of citizens’ rights by enabling the electronic exchange of personal social security information on migrant persons within EU

• **Relevance of topic:** EESSI has considerable impact on the privacy and data protection of individuals
Supranational aim with EESSI

• **The quality level of services** provided by a social security institution to an insured person may not decrease because this person (e.g. migrant or frontier worker, tourist, student, pensioner, ...) made use of his/her right to move within the EU

• **Simplified and speed up** administrative procedures by interconnecting the information systems of the social security institutions involved

• *Improve the acquisition of rights*, the award and the payment of benefits resulting from the application of the Regulations (R+IR)

• **Abolish recent E-forms**

• Allow a **more efficient verification** of data

• Provide a **more flexible user-friendly interface** between different systems

• Provide an **accurate collection of statistical data** on European soc. sec. exchanges

• **Encourage the development** of MSs IT development in the field of soc. sec.
Supranational legal framework

1. European (supranational) social security legislation:
   a) Article 76 & 78 of R. 883/2004
   b) Article 4 (2) IR: exchange via electronic means: through Access Points under a common secure framework
   c) Art. 4 (3) IR: The Administrative Commission shall lay down the practical arrangements

2. Relevant European data protection legislation:
   a) Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data
   b) Reg. (EC) No 45/2001 on the protection of individuals with regard to the processing of personal data by the institutions and bodies of the Community and on the free movement of such data.
Architecture of EESSI
Effectiveness of the EESSI

• **Fight against Fraud and Error:**
  – EESSI and eEHIC can provide timely and accurate data on claims being made in other member states allowing agencies to better work together to identity potential issues such as:
    • Working in one country while claiming benefits in another
    • Declaring false information on family members or their status, etc.

• **Improved Service for migrant Citizens:**
  – As citizens move more widely through the EU in the future they will increasingly expect government to have a similar approach to managing their data as commercial organisations such as banks, retailers, airlines etc where access is available anywhere in the world
  – Local systems such as the Crossroads Bank in Belgium are already proving the citizen benefit of cross agency data access, and removing some of the privacy objections
EESGI as a benefit for the citizens & Governments

• Fairness and Eligibility:
  – In the area of social protection & healthcare, cross border availability is still seen by many citizens as a threat rather than a benefit

• Ease of Living & Working Abroad:
  – EESGI, and to a degree EHIC, are currently seen as tools for MS to reduce paperwork, if indeed the EU citizens are aware of them at all (take up rates of EHIC vary hugely from MS to MS)
  – Claiming benefits, getting medical care, or relocating to a new country is seen by many citizens as difficult, despite these EU initiatives which are designed to smooth the process
IV. Data & information protection issues of EESSI
Shared responsibility: MSs - EU

1. MSs responsibility
   - Data collection (competent MS administration: under national data protection rules, implementing Dir. 95/46/EC)
   - MS responsibility: processing of the data + exchange of personal data in EESSI [R. Articles 77 & 78 ]
   - The competent administration: data controller [Nat. Legislation + Dir. 95/46/EC]

2. European level responsibility:
   - Coordination of EESSI (secretariat of EESSI)
   - Advice (DG EMPL. B.4. Admin. Commission)
   - Central infrastructure [DG EMPL. B.4.]
   - Ensuring the security of the exchanged data
   - Controller of the public data base [IR Art. 88 (4)]
   - Later data processor [Comission DIGIT Data Centre]
E-forms → SED: Structured Electronic Document

• The exchange of social security information is done by **structured electronic documents (SEDs)** to be exchanged (in total 350 SEDs)

• The SEDs can only be exchanged within predefined **work flows**. To that end, about 100 flows have been defined within which the SEDs can be exchanged.

• Flows can only be exchanged between two competent administrations; → if data must be sent to several recipients, the sending administration must repeat the operation as many times as there are recipients.

• They cannot send data directly to all recipients.
# Volume of SED
*(estimation in million/year)*

<table>
<thead>
<tr>
<th>Service</th>
<th>Volume (m)</th>
</tr>
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<tbody>
<tr>
<td>Pensions</td>
<td>3.3</td>
</tr>
<tr>
<td>Healthcare</td>
<td>5.3</td>
</tr>
<tr>
<td>Check for entitlement to free healthcare</td>
<td>2.5</td>
</tr>
<tr>
<td>Family benefits</td>
<td>1.5</td>
</tr>
<tr>
<td>Unemployment</td>
<td>1.5</td>
</tr>
<tr>
<td>Postings</td>
<td>1.2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>15.3</strong></td>
</tr>
</tbody>
</table>
Search function in EESSI

• It is possible only for clerks of competent administrations to search flows of information taking place through EESSI.

• They will have access to the headers of all flows, but will only be able to access the content of a particular SED message if they are authorised to do so (i.e. they are the sender/designated recipient of such flow.)
Who are the data subjects?

• Active **migrant** workers, self-employed and their family members, having worked in more than one of the MSs and claiming for social security benefits.

• Non-active persons who have links with more than one of the MSs. (students, pensioners, etc.)

• Third countries legally resident in the EU

• $\sum$: personal scope of R. (**migrant persons within EU+4 EEA + migrant 3rd country nationals**)
The scope of personal data exchanged

- **Personal data**: Name, sex, address, birth date and place, residence information, family status, family composition and identities (including e.g. children adoption) of current and deceased members, social security entitlement info (social security ID; PIN (Personal Identification Number) in the relevant social security administration, start, end, possible refusal reasons etc.),
- information on **patient's health** (including e.g. medical exams/treatments) and **work accidents**,
- information on **benefits enjoyed**,
- **financial information** (incl. bank account, fiscal identification and trade register numbers, income),
- **employment status and employment record** (including reason for termination).
- Data revealing **sexual orientation** may, in certain cases, be derived from the civil status. [*Sp.-Fr ECJ case on widow’s pension*]
Data transfer

• The recipients of the data exchanged through EESSI will be the clerks of competent MSs administrations in the relevant specific sector of social security.

• The Commission ensures the exchange of personal data between MSs, but shall not have access to the content of the personal data that will transit through EESSI encrypted
Data subject’s right to access

- Data subjects have the right to access to their data and to modify/change them by contacting the local, regional or national administration.

- Since the Commission does not collect and does not have access to data subjects' personal data, it cannot allow them to access and rectify the data.

- Information to data subjects shall be provided by the local, regional or national administration where data subjects file a social security benefit claim.
Storing of personal data

- Personal data are **not stored in the EESSI system, but are kept in repositories by the** Access Points of national administrations.

- They could also be stored by the MSs' authorities in local databases in cases where national IT systems exist.

- Personal data are kept for the purposes related to a data subject's claim under the responsibilities of national administrations exchanging them.
Comission’s task before launch the system

1. only transmit encrypted data [no access to the content of the sensitive data transiting through EESSI;]

2. To fix the time limits for the retention of log files;

3. help ensure that data subjects can fully enforce their rights at the relevant contact point in the MS.;

4. complement the security policy with detailed provisions, especially in those areas where the policy remains high level (sensitive data);

5. establish a workable audit plan and conduct one or more security audits of the system;
Summary: Critical success factors of EESSI

- Important pragmatical change for the near future (1 May 2012???)
- IT technology systems in some MSs (*catch up process*)
- Need for radical cultural change within MSs governments, e.g.
  - from hierarchy to participation and team work
  - meeting the needs of the customer, not the government
  - empowering rather than serving

– HAVE A GOOD LUCK FOR US !!!!
One possible good example
From EHIC to eEHIC
eEHIC – Opportunity for the European Health Care System

Electronically captured insurant data means:

Communication without errors:

- Patient
- Health care provider
- Health insurances
- Liaison offices

→ Benefit for all participants
first step to the eEHIC

EU-project NETC@RDS – first pilots in 16 countries
- electronification of entitlements
- electronic data set
- cross-border online verification

eye-readable EHIC since 2004

paper based entitlements until 2004

cross-border medical health care
eEHIC: Welcome to Reality

• Much of European eID is still for the future
• EHIC is already there
  – 150 Mio EHIC issued, more to come
  – A decision has been taken
    that it should become eEHIC
  – But:
    There are reasons for Member States
    not to follow this trail.
• And so the trouble starts...
EHIC and eEHIC

• **EHIC:** European Health Insurance Card
  – Based mainly on decision 190 (in 2003)
  – Defines a dataset
    • Identification data
    • Administrative data
    • Expiry date

• **eEHIC:** Electronic EHIC
  – Basically same legal background
  – EHIC and eEHIC in parallel
  – Interoperability
eEHIC Background

• EESSI (Electronic Exchange of Social Security Information)
  – Fully electronic data exchange
  – Major pan-European Network with a central hub
  – Based on national Access Points

• MS with different and contradictory expectations
  – “eEHIC with on line verification of entitlement is the only way to go”
  – “There is no need or no business case to invest in eEHIC and/or in eEHIC ready IT infrastructure”
  – Each MS wants to go at its own pace, taking as much as possible advantage of their own infrastructure + what EESSI will offer

• Smart card may be seen as old technology
  – Everything covered by background systems
  – Mobile, biometrics ...
Actors

1. Administrative Commission of Social Security of Migrant Workers (CA.SS.TM) has set the strategic principles (Document 163/05)

2. CA.SS.TM: eEHIC ad hoc group
   - eEHIC will coexist with EHIC (cards & infrastructure)
   - Migration from EHIC to eEHIC at own pace for each Member State
   - eEHIC based on existing national/regional cards and their infrastructure should
     • Coexist in an interoperable manner in the “short term”
     • Converge towards common specifications in the “medium term”
   - eEHIC infrastructure will be part of EESSI

3. CEN Workshop on eEHIC
   - Definition of technical standards by
   - Profiling existing standards
Co-Existence

Plastic EHIC as Dataset Container

eEHIC as online access token

in parallel
Online vs. Offline

• Off-line solution
  – eEHIC as dataset container
  – National/regional cards readable
    • Challenging but possible
  – Option: Electronic verification of origin and authenticity

• On-line solution add-ons
  – Checking of card validity and/or person entitlement
  – Option: Additional data or services
    • Up-to-date EHIC dataset
    • Supplementary data (Pensioner etc)
  – Security needed
    • Authentication of access requestors
    • Securing access
Security and Privacy

• Data communication is to be protected

• Each MS is responsible for its own security policy, including authorizing HCP (*health care professional*) access, but a common security policy is needed as an umbrella

• EHIC data set may be electronically signed by *e*EHIC issuers for proof of origin and of authenticity (using existing infrastructure)

• EHIC data set (as of now) does not require privacy measures on the chipcard, even when in electronic form
Roadmap

1. Future CA.SS.TM Decisions on
   - Final layout of the eEHIC
   - Legal framework
   - Investment plan
   - Deployment strategy
   - ...

2. Implementation by MS (at own pace, with transitional period ...
Thank you very much