

Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (Text with relevance for the EEA and for Switzerland)

TITLE III

**SPECIAL PROVISIONS CONCERNING THE  
VARIOUS CATEGORIES OF BENEFITS**

CHAPTER 6

**Unemployment benefits**

*Article 61*

**Special rules on aggregation of periods of insurance, employment or self-employment**

1 The competent institution of a Member State whose legislation makes the acquisition, retention, recovery or duration of the right to benefits conditional upon the completion of either periods of insurance, employment or self-employment shall, to the extent necessary, take into account periods of insurance, employment or self-employment completed under the legislation of any other Member State as though they were completed under the legislation it applies.

However, when the applicable legislation makes the right to benefits conditional on the completion of periods of insurance, the periods of employment or self-employment completed under the legislation of another Member State shall not be taken into account unless such periods would have been considered to be periods of insurance had they been completed in accordance with the applicable legislation.

2 Except in the cases referred to in Article 65(5)(a), the application of paragraph 1 of this Article shall be conditional on the person concerned having the most recently completed, in accordance with the legislation under which the benefits are claimed:

- periods of insurance, if that legislation requires periods of insurance,
- periods of employment, if that legislation requires periods of employment, or
- periods of self-employment, if that legislation requires periods of self-employment.

*Article 62*

**Calculation of benefits**

1 The competent institution of a Member State whose legislation provides for the calculation of benefits on the basis of the amount of the previous salary or professional income shall take into account exclusively the salary or professional income received by the person concerned in respect of his last activity as an employed or self-employed person under the said legislation.

2 Paragraph 1 shall also apply where the legislation administered by the competent institution provides for a specific reference period for the determination of the salary which

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serves as a basis for the calculation of benefits and where, for all or part of that period, the person concerned was subject to the legislation of another Member State.

3 By way of derogation from paragraphs (1) and (2), as far as the frontier workers covered by Article 65(5)(a) are concerned, the institution of the place of residence shall take into account the salary or professional income received by the person concerned in the Member State to whose legislation he was subject during his last activity as an employed or self-employed person, in accordance with the Implementing Regulation.

### *Article 63*

#### **Special provisions for the waiving of residence rules**

For the purposes of this Chapter, Article 7 shall apply only in the cases provided for by Articles 64 and 65 and within the limits prescribed therein.

### *Article 64*

#### **Unemployed persons going to another Member State**

1 A wholly unemployed person who satisfies the conditions of the legislation of the competent Member State for entitlement to benefits, and who goes to another Member State in order to seek work there, shall retain his entitlement to unemployment benefits in cash under the following conditions and within the following limits:

- a before his departure, the unemployed person must have been registered as a person seeking work and have remained available to the employment services of the competent Member State for at least four weeks after becoming unemployed. However, the competent services or institutions may authorise his departure before such time has expired;
- b the unemployed person must register as a person seeking work with the employment services of the Member State to which he has gone, be subject to the control procedure organised there and adhere to the conditions laid down under the legislation of that Member State. This condition shall be considered satisfied for the period before registration if the person concerned registers within seven days of the date on which he ceased to be available to the employment services of the Member State which he left. In exceptional cases, the competent services or institutions may extend this period;
- c entitlement to benefits shall be retained for a period of three months from the date when the unemployed person ceased to be available to the employment services of the Member State which he left, provided that the total duration for which the benefits are provided does not exceed the total duration of the period of his entitlement to benefits under the legislation of that Member State; the competent services or institutions may extend the period of three months up to a maximum of six months;
- d the benefits shall be provided by the competent institution in accordance with the legislation it applies and at its own expense.

2 If the person concerned returns to the competent Member State on or before the expiry of the period during which he is entitled to benefits under paragraph 1(c), he shall continue to be entitled to benefits under the legislation of that Member State. He shall lose all entitlement to benefits under the legislation of the competent Member State if he does not return there on or before the expiry of the said period, unless the provisions of that legislation are more favourable. In exceptional cases the competent services or institutions may allow the person concerned to return at a later date without loss of his entitlement.

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3 Unless the legislation of the competent Member State is more favourable, between two periods of employment the maximum total period for which entitlement to benefits shall be retained under paragraph 1 shall be three months; the competent services or institutions may extend that period up to a maximum of six months.

4 The arrangements for exchanges of information, cooperation and mutual assistance between the institutions and services of the competent Member State and the Member State to which the person goes in order to seek work shall be laid down in the Implementing Regulation.

#### *Article 65*

### **Unemployed persons who resided in a Member State other than the competent State**

1 A person who is partially or intermittently unemployed and who, during his last activity as an employed or self-employed person, resided in a Member State other than the competent Member State shall make himself available to his employer or to the employment services in the competent Member State. He shall receive benefits in accordance with the legislation of the competent Member State as if he were residing in that Member State. These benefits shall be provided by the institution of the competent Member State.

2 A wholly unemployed person who, during his last activity as an employed or self-employed person, resided in a Member State other than the competent Member State and who continues to reside in that Member State or returns to that Member State shall make himself available to the employment services in the Member State of residence. Without prejudice to Article 64, a wholly unemployed person may, as a supplementary step, make himself available to the employment services of the Member State in which he pursued his last activity as an employed or self-employed person.

An unemployed person, other than a frontier worker, who does not return to his Member State of residence, shall make himself available to the employment services in the Member State to whose legislation he was last subject.

3 The unemployed person referred to in the first sentence of paragraph 2 shall register as a person seeking work with the competent employment services of the Member State in which he resides, shall be subject to the control procedure organised there and shall adhere to the conditions laid down under the legislation of that Member State. If he chooses also to register as a person seeking work in the Member State in which he pursued his last activity as an employed or self-employed person, he shall comply with the obligations applicable in that State.

4 The implementation of the second sentence of paragraph 2 and of the second sentence of paragraph 3, as well as the arrangements for exchanges of information, cooperation and mutual assistance between the institutions and services of the Member State of residence and the Member State in which he pursued his last occupation, shall be laid down in the Implementing Regulation.

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- a The unemployed person referred to in the first and second sentences of paragraph 2 shall receive benefits in accordance with the legislation of the Member State of residence as if he had been subject to that legislation during his last activity as an employed or self-employed person. Those benefits shall be provided by the institution of the place of residence.
- b However, a worker other than a frontier worker who has been provided benefits at the expense of the competent institution of the Member State to whose legislation he was last subject shall firstly receive, on his return to the Member State of residence,

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benefits in accordance with Article 64, receipt of the benefits in accordance with (a) being suspended for the period during which he receives benefits under the legislation to which he was last subject.

6 The benefits provided by the institution of the place of residence under paragraph 5 shall continue to be at its own expense. However, subject to paragraph 7, the competent institution of the Member State to whose legislation he was last subject shall reimburse to the institution of the place of residence the full amount of the benefits provided by the latter institution during the first three months. The amount of the reimbursement during this period may not be higher than the amount payable, in the case of unemployment, under the legislation of the competent Member State. In the case referred to in paragraph 5(b), the period during which benefits are provided under Article 64 shall be deducted from the period referred to in the second sentence of this paragraph. The arrangements for reimbursement shall be laid down in the Implementing Regulation.

7 However, the period of reimbursement referred to in paragraph 6 shall be extended to five months when the person concerned has, during the preceding 24 months, completed periods of employment or self-employment of at least 12 months in the Member State to whose legislation he was last subject, where such periods would qualify for the purposes of establishing entitlement to unemployment benefits.

8 For the purposes of paragraphs 6 and 7, two or more Member States, or their competent authorities, may provide for other methods of reimbursement or waive all reimbursement between the institutions falling under their jurisdiction.

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