AMCHAM Luxembourg: Expats’ rights to social security benefits in Luxembourg

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With you today

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Agenda

• Back to the basics
• Which set of rules apply?
• US-Lux soc sec treaty
• EU regulations
• Case studies
• Questions?
Wow this is complicated: Back to basics

1. Personal scope: Which set of rules applies to my situation?
2. Material scope: Is my “issue” covered by that legislation?
3. What does that legislation say?
Which set of rules applies?

- Bilateral Treaties: US-LUX social security treaty
- EU Regulations: 883/2004 and 1408/78
- Luxembourg legislation
# US-Lux social sec treaty

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<tr>
<th>Who does it cover?</th>
<th>What benefits does it cover?</th>
<th>Totalization rule:</th>
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<tr>
<td>• All individuals subject to the social security legislation of the US or Luxembourg – equal treatment of US/Lux residents with US/Lux citizens for the entitlement to benefits</td>
<td>• Retirement, disability and survivors benefits. Not the US Medicare program or Supplemental security income (SSI)</td>
<td>• Insurance periods under one State’s legislation count as insurance periods for the entitlement to benefits under the other State’s legislation</td>
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Which national social security scheme applies?

- General principle: Only one applicable social security scheme - country of work
- Exception: Temporary secondment from US to Lux or from Lux to US – Initial scheme is maintained for maximum five years
- Certificate of coverage
EU regulation: I am a US citizen. Does an EU regulation apply to me?

EEA citizens: Employee or self employed subject to soc sec of a MS(s)

Non-EEA citizens: Legally staying on territory MS and moving to other MS
EU regulation: What is it all about?

1. Only one application legislation: Coordination
2. Non-discrimination with citizens MS
3. Totalization
4. Exportability of benefits
5. No overlapping of benefits
EU regulations: One applicable legislation. But which one?

- You work in one country: Work State principle
- Your work in one country but live in another: cross border. Work State principle but special rules for healthcare and unemployment benefits
- You work in one country but will be seconded to another country: You remain subject to the social security scheme of the first country (subject to conditions)
- You work in several countries
- You do not work
EU regulation: Which benefits are covered?

1. Sickness, maternity and equivalent paternity benefits
2. Old age pensions, pre-retirement and invalidity
3. Survivors benefits and death grants
4. Unemployment benefits
5. Family benefits
6. Benefits in respect of accidents at work and occupational diseases

NOT: Non-contributory benefits, social and medical assistance and tax
Case of John: EU regulations – Locally hired in Luxembourg

John and Lizzy are US citizens and have three children (one new born). John has been working in Germany for five years and is now asked to come and work at the EU HQ in Luxembourg. He will be locally hired in Luxembourg and will therefore be subject to the Luxembourg social security scheme (country of work).

- Sickness and maternity
- Family benefits
- Pension
Case of John

Sickness and maternity

1) John and his family are taking a break and spend their holidays in Italy. One of the children, Johnny, breaks his foot. Are health care costs covered?

2) Lizzy, after giving birth of her 3rd child, has continuous stomach problems. She has heard of a good doctor in Brussels. Can she consult him in Brussels? Can she undergo surgery in Brussels?

3) Lizzy was entitled to maternity benefits in Germany. Will she lose them when she moves with her husband to Luxembourg?

4) Lizzy and the children do not yet follow John because the school year has not ended. Cindy has bad cough for weeks and needs to see a doctor.
Case of John

Sickness and maternity

1) Short stay and holiday: yes, in accordance with the legislation of the country of stay

2) Planned health care abroad:
   • Doctor visits abroad may take place freely. Advance payment and reimbursement of costs by Luxembourg CNS
   • Hospitalization abroad: prior approval from CNS required (S2 form) – costs covered pursuant to the tariffs of the country where health care is provided (Belgium)

3) Cash benefits/maternity benefits: the country where you are (last) insured responsible for paying according to those rules (regardless where you live)

4) Living abroad: healthcare and medicine in your country of residence (Germany) as if being subject to soc sec in that country
Case of John

Family benefits

1) The entire family moves to Lux. Will they receive German or Lux family benefits?

2) John moves to Lux but Lizzy and the kids stay in Germany because the school year is not over yet

3) John moves to Lux but Lizzy stays with the kids in Germany. Lizzy works in Germany
Case of John

Family benefits

1) Payment by country where you are insured (Luxembourg)

2) Payment by country where you are insured even if the family members reside in another country

3) Both insured in different countries but no double family benefits. Country where you are insured and living with the kids but top up by other country if higher
Case of John: Pension

After two years assignment in Luxembourg, John is asked to go and work in the UK where he ends up his career at the age of 63. Throughout his professional life, he has been insured 25 years in Germany, two years in Luxembourg and 10 years in the UK.

1) In which country does he need to apply for his retirement pension?

2) Which country(ies) will pay his pension? Last country of employment (UK), country with the longest insurance career (Germany), or each country where he has been insured?

3) Will he receive a Lux pension whereas the legislation requires minimum 10 years insurance in Luxembourg?

4) John and Lizzie move to the south of France. Will this affect their pension right?
Pension

1) Residence country or country where you were last insured
2) Each country in which you have been insured at least one year. Pension from each country determined according to its own legislation (notably age condition) and prorated to years of insurance in this country
3) Yes: Totalization principle: years of insurance spent in other MS will count for eligibility to Lux pension.
4) No: Exportability of benefits. Right to the minimum pension granted under the legislation of the country of residence. Supplement paid by this country, as the case may be
Jane and Tim are UK citizens and have two children. Jane’s company decided to send her on a secondment mission to Luxembourg for an initial period of two years. The whole family is moving to Luxembourg, Tim is having a career break to take care of the children. As Jane is on a temporary secondment, she remains subject to the UK social security scheme.

1) Is Jane entitled to receive health care in Luxembourg for herself and her family, although she is subject to UK social security?

2) Is she entitled to family benefits in Luxembourg as the family resides here?

3) Will she be entitled to a pension from Luxembourg?
Case of Jane

1) Yes: Right to health care in the country of secondment: S1 form to be requested from health care institution of country of origin

2) No: The country of origin is competent to pay family benefits. Not entitled to any supplement from Luxembourg

3) No: No affiliation to security scheme in the country of secondment ⇒ no pension from that country
Case of Steve: US-Lux treaty

Steve and Mary are US citizens and have one child. Steve is seconded from the New York office to the Luxembourg branch of his employer for a period of three years.

- Sickness and maternity
- Family benefits
- Pension
Case of Steve

Sickness

1) Will Steve and his family be entitled to health care under the Luxembourg legislation?

2) The family spends summer vacation travelling around Europe. While in Sweden, Mary falls sick and needs to consult a doctor. Will she be entitled to the reimbursement of health care costs from Sweden or from Luxembourg?
Case of Steve

Sickness

1) No: Health care is not covered by the US-Lux treaty. Need to secure private health insurance

2) No: The EU Regulation does not apply if not subject to the social security legislation of an EU country. Coverage by private health insurance as the case may be (highly recommended!)
Case of Steve

Family benefits - Pension

1) As Steve is residing in Luxembourg with his family, is he entitled to family benefits from Luxembourg?

2) Will Steve be entitled to a pension from the Luxembourg State once he retires?

3) After his three years of secondment, Steve’s company offers him to continue working in Luxembourg under a local contract (and subject to Luxembourg social security). He hesitates as this may be detrimental to his pension rights in the US. Is it so?
Case of Steve

Family benefits - Pension

1) No: Family benefits are not covered by the US-Lux treaty and Luxembourg law does recognize residence in Luxembourg while on secondment as a fix and stable domicile to give entitlement to family benefits

2) No: Luxembourg social security is not applicable → no accrual of pension rights in Luxembourg

3) No: Pursuant to the US-Lux treaty, periods of insurance under the Lux legislation will be taken into account to qualify for US pension + entitlement to Lux pension – periods of insurance under the US legislation will be taken into account to qualify for Lux pension (even if less than 10 years of insurance in Luxembourg) = totalization principle
Questions?

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