

Polska



Employment legalisation: Polish social security system

2017-05-15 10:27:12



In 1999 a reform of social insurance was carried out, which was based on the co-financing of premiums by the employer, the employee and three pillars - one repartition and two capital pillars.

The social security system in Poland is based on three pillars:

- **1st Pillar (ZUS)** - obligatory and common. Premiums, deducted from salaries, are written from the individual account of an insured person. The institution which manages the 1st pillar is the Polish Social Insurance Institution (ZUS). Pensions, received from the 1st pillar, are based on the repartition system, which has the character of the generation contract. This means that payments of pensions are financed from the contribution of the people who currently work. The system functions efficiently only if the premiums of employees, which supply the system, are delivered in an amount sufficient for the payment of present pensioners. Thanks to obligatory premiums of 12.22% of gross salary, people acquire pensionable rights that aren't inherited. Additionally an employee has individually created sub-account in 1st Pillar where are transferred obligatory 4.38% of their premiums. Moreover an employee can decide that additional 2.92% of deducted premiums are Sickness insurance booked on this individual account in ZUS.
- **2nd Pillar (OFE)** - is not an obligatory element of the social security system. Employees can choose once every 2 years whether they prefer to transfer 2.92% of their premiums to OFE or leave it in an individual sub-account in 1st Pillar (ZUS). Open pensionable funds belong to the 2nd pillar of the social insurance and are managed by private investment firms (Public Pensionable Associations) that invest premiums into financial markets.
- **3rd Pillar (IKE)** - is a free capital pillar, which is organized as an investing fund. The insured people choose the insurance company (associations of the mutual insurance, insurance associations). After reaching a pensionable age the pensioners (from 2013 the pensionable age is for women born after 30.09.1973 - 65 years, for man born after 30.09.1953 - 67 years) get pensions from the according to the Social Security Institution (ZUS) and the Open Pensionable Fund (OFE) through an Agent Company and eventually the payment from free 3rd pillar.



Obligatory social insurance contributions paid by the employee and the employer.

According to the Act from 13th October 1998 regarding **the social security system social insurance in**

Poland includes:

- old-age pension insurance,
- disability pension insurance,
- insurance in case of sickness leave or maternity,
- leave, known as sickness insurance,
- insurance in case of accidents at work and occupational diseases, known as accident insurance.

According to the above mentioned Act regarding **the social security system, obligatory pensionable and disability pension insurance concerns physical people, who in Poland are:**

- employees,
- people running non-agricultural activity or people cooperating with them,
- people who perform casual work,
- people who perform a job on the basis of agentive contracts, contractor contracts or another contract concerning the provision of services, to which according to the Civil Code are applied regulations about contractor contracts or individuals who cooperate with these people,
- people on parental leave or who receive maternity benefits.

The social security system, obligatory sickness insurance concerns the following people:

- employees,
- members of agricultural production cooperatives and cooperatives of agricultural circles,
- people who perform substitutionary services.

Voluntary sickness insurance concerns the following people, covered by obligatory pensionable and disability pension insurance, on their own application:

- people who perform casual work,
- people who perform the job on the base of agentive contracts, contractor contracts or another contract concerning providing services, which Civil Code apply to regulations about contractor's contracts or individuals who , cooperate with these people,
- people running non-agricultural activities or individuals who cooperate with them.

In general, the yearly base for social insurance in the following calendar year can't be higher than the amount relative to 30 times the proposed average monthly salary in the national economy for the given calendar year. As of 2017, this is 127,890 PLN.

The employer spends 9.76% (financed by the employer) of the gross salary on pensionable insurance. The other contributions for the social security institution (ZUS) regard the following insurance: disability, sickness, accident, health insurance, Labour Fund and the EAG Fund. Social security contributions (13.71%), income tax and health insurance are also deducted from the gross salary. The employer must also pay part of any social security contributions (19.21% - 22.31%)

For example:

Gross salary agreed in contract	Employee Social Contribution	Employee Health Care Contribution	Income Tax	Net to be paid	Employer Social Security	Total employer cost
4,000.00	548.40	310.64	287.00	2,853.96	768.40–892.40	4,768.40–4,892.40
3,000.00	411.30	232.98	199.00	2,156.72	576.30–669.30	3,576.30–3,669.30

Source: Polish Investment and Trade Agency, *Poland your business Partner. Invest in Poland, 2016.*

EU Regulation 1408/71 and 883/2004

Since 1st May 2004, after Poland joined the European Union, regulations concerning the rules of liability for social insurance (included in EU Regulation 1408/71) have become obligatory. According to EU regulations, people moving across the European Union for the purpose of increased earnings are liable to legislation from only one of these countries. The new EU regulations concerning the delegation of employees to work in other European countries came into force on 1st May 2010.

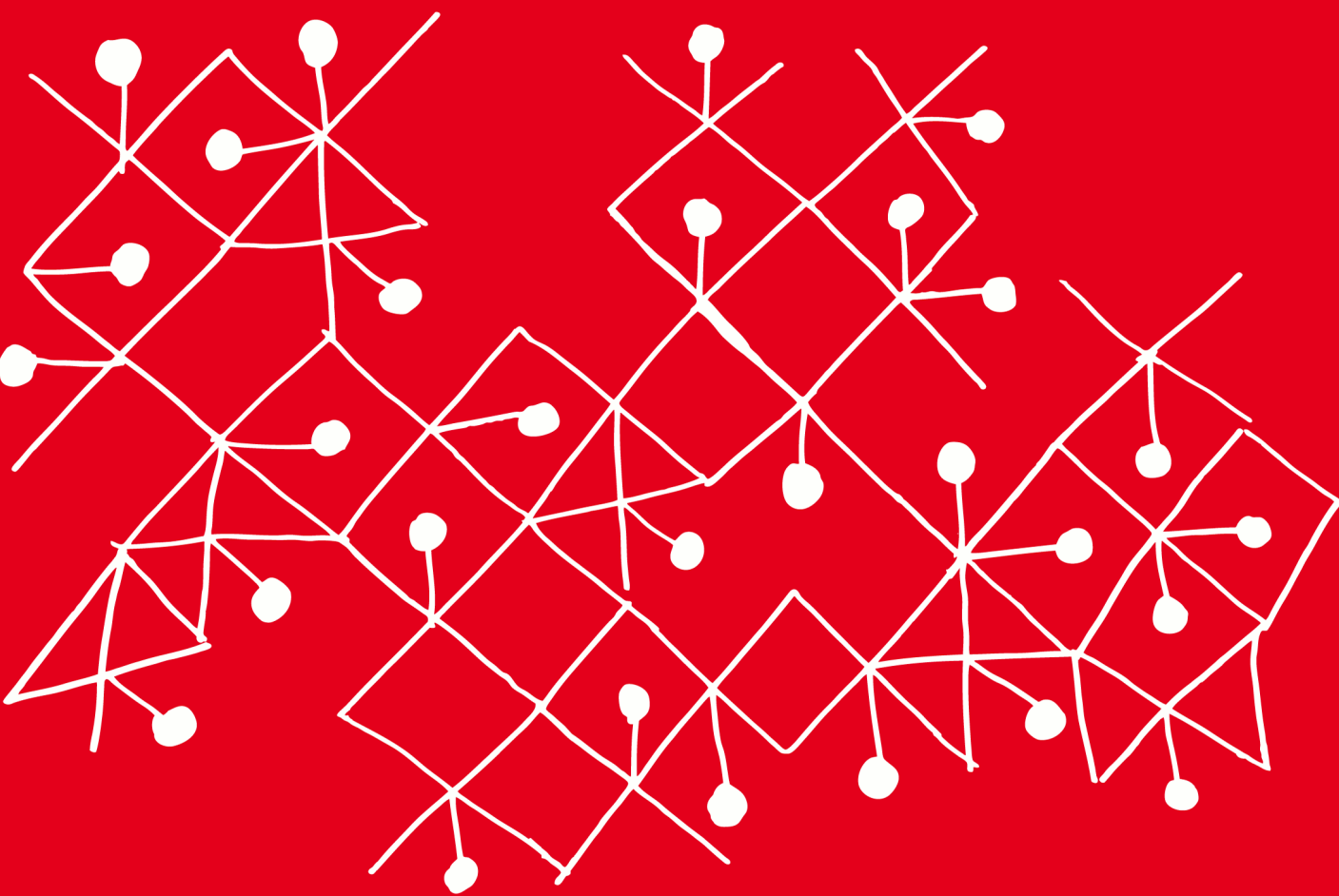
These are the following orders: no 987/2009 from 16th September 2009, which concerns the performance of the order (WE) no 883/2004 in the matter of coordinating systems of social protection, and no 988/2009 from 16th September 2009 as well as no A2 from 12th June 2009 from the administrative board of social protection, which concerns the interpretation of article 12 of order no 883/2004. The general rule has remained, however, according to which, employees are liable to social insurance only in the country in which their work was performed.

There are a couple of exceptions to this rule which anticipate insurance in the sending country, including: keeping the relation between employer and employee and not exceeding the maximum periods of delegation. **The employer must operate their activity in Poland.** For this purpose, it is the object of the company's activities, such as the administration of the company, which is taken into consideration rather than its internal activities. Order no 987/2009 introduced a rule that an employee is liable to the legislation of the delegated country just before the delegation itself. This means that the employee of a Polish company might be delegated according to EU regulations only if just before this time they were liable to Polish social insurance for a period of at least one month.

The delegated employee (according to union regulations) **is a person who is sent by their employer to another EU country and a direct relationship between the two parties still exists.** It is also acceptable to hire an employee in order to delegate them. The delegation period can last up to 24 months. The new regulations refer also to employees who began a period of delegation before 1st May 2010. Decision A2 stipulated that the next period of delegation cannot begin earlier than two months from the end of the previous period of delegation. The documents which confirm the delegation of employees are E-101 form and A-1 form. Both can be found on the ZUS' [website](#). According to the new rules, the right for paying collections for an employee's place of living depends on the performance of their work. If the person works for two foreign employers, neither of which has a head office in their place of living, their place of living will be adequate for paying collections.

It is very important that since 1st May 2010 any employees hired in two countries report this fact to the suitable jurisdiction for their place of living. The institution will then be obliged to point out the appropriate insurance system for this employee. Any temporary legislation passed on this matter will become final two months from the date that the appropriate institution was informed about the situation.

Source: Polish Investment and Trade Agency, *Poland your business Partner. Invest in Poland, 2016.*



INNOWACYJNA GOSPODARKA
NARODOWA STRATEGIA SPÓJNOŚCI



**MINISTERSTWO
ROZWOJU**

UNIA EUROPEJSKA
EUROPEJSKI FUNDUSZ
ROZWOJU REGIONALNEGO



Projekt jest współfinansowany przez Unię Europejską ze środków Europejskiego Funduszu Rozwoju Regionalnego