

Highly Mobile Workers and the Coordination of Social Security in the EU

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IMPACT PARAGRAPH

WHY SHOULD WE CARE ABOUT THIS RESEARCH?

With increasing mobility and digitalization in our work environments, the debate on the enjoyment of social security protection has been reignited both nationally and internationally. Work forms and patterns have become more volatile than a half-century ago, when on-call contracts, temporary agency work, platform-work, and teleworking were still unknown concepts. Moreover, the Covid-19 pandemic demonstrates that work relationships can also be virtual. More than ever, work can be pursued ‘anywhere’ by (virtually) going beyond country borders. The topic of mobility, therefore, touches upon both the subject related to flexibilization of labour leading to more job mobility of economically active persons, as well as geographic mobility through changes in workplaces becoming increasingly detached from a certain place and territory. This is also demonstrated in a growing amount of research literature touching upon the future of work, new forms of work, platform work, sharing, or the gig-economy.

As a workforce consists of human beings, sooner or later, the need or desire to enjoy certain social security protection will arise. The emergence of atypical forms of work in the wake of worldwide flexibilization and digitalization poses challenges for the legislator and their policymakers in the field of social security protection. Within the EU, the act of working is inextricably linked with the coordination of the national social security schemes. However, the EU social security law framework is still designed with the standard employment engagement as the common default situation. In order to come to a better legislative framework that covers various forms of mobility, it is, therefore, necessary to have a better understanding of mobility-related and legal problems that cross-border workers may encounter. In addition, it is also necessary to identify possible areas of improvement and what such improvement could look like. That is, exactly, what this research has contributed to. It has tested the law in its extremities, *in casu* high mobility, and identified both its’ flaws and strengths that, in turn, paved the way for various routes towards achieving more legal certainty in the context of increasing mobility. By doing so, it explored the issues of persons who pursue various work activities for a shorter or longer period that takes place in two or more Member States in the EU labour market, in short, highly mobile workers.

This project focused on a better understanding of the conflict rules deciding which social security scheme has to provide social benefits when a need arises due to certain events or circumstances, for example, sickness, unemployment, retirement, housing, education or

family circumstances. The relevance of this research lies, firstly, in the novel focus on the multi-activity rule in EU social security law (Article 13 of Regulation 883/2004) which few publications have focussed on. Secondly, the research took a bottom-up approach by viewing the subject matter from the worker's perspective. Therefore, it used various examples stemming from the social reality of working persons that are likely to work across borders easily: a live performing artist on the rise. Persons working in the live performance sector must travel to reach their audiences, but they also have less of a language-barrier when collaborating. Furthermore, it is a sector known for its volatile and transnational work culture. By doing so, this research bridged the gap between 'the law in the books' and the 'the law in practice'.

In addition to the academic added value of this research, the research outcomes have an obvious social relevance, in particular, for the policy world. Most legal frameworks relate to mobility with a strong focus on physical movement taking place across national borders (geographic mobility). This also means that rules and legislation still relate strongly to the territory of a certain State, such as the place where a person lives or where the person works. Yet, in an increasing virtual world of work, the workplace can be virtual, which poses a challenge on how to apply rules that actually often assume a physical and stable work place. The question arises how to make 'better' rules when this is no longer so obviously the case. It has turned out that there are, actually, various possibilities to create more legal certainty for cross-border workers, which can even be approached from different policy levels. This research, therefore, has provided a guide to different policy approaches on both the national and the European level.

WHO SHOULD CARE ABOUT THIS RESEARCH?

On the one hand, the outcomes of this research can be taken as a first stepping stone for further research in the field of social security protection and highly mobile workers. On the other hand, it may very well also serve as a guideline concerning current and future policy enhancement in the field of EU social security law. The intended audience that has been envisioned is, therefore, national and European law researchers and policymakers, as well as the workers and employers living and working across borders.

Concerning the policymakers, the research outcomes are a good starting point for further investigation and to pave the way for modernizing policies by including mobility in its broadest sense. This is particularly relevant for border regions that benefit from free movement of persons, such as the Euregion around Maastricht University that is also the home location from which this research was conducted. In short, this research provided

various insights regarding the impact of the labour market developments on the social security position of EU citizens. These insights can very well be used to ensure that the right of free movement of EU citizens is respected through diminishing legal uncertainty and administrative obstacles as much as possible.

Concerning the EU citizens living and working across national borders, better insights will indirectly help persons working and advising in cross-border environments. One can think hereby of people working in the legal division of an organization or company established in cross-border regions that are inevitably confronted with various mobility-related issues. Furthermore, public information services of the local government, but also such cross-border service points such as *Grenzinfopunkt* or *Solvit* will benefit from a better in-depth understanding as well as indirectly profit from better policies. This is also true for more commercial employment agencies and head-hunters recruiting internationally who will indirectly benefit from the research outcomes, as it encourages more predictability regarding the laws and regulations. One can think of commercial service providers concerned with international mobility, such as Fragoman, PricewaterhouseCoopers International, Ernst & Young, Deloitte, and McKinsey to name a few well-known ones.

HOW ARE THE RESEARCH FINDINGS DISSEMINATED?

First of all, this research has been set up with the idea of content sharing at an early stage by means of article publications during the course of the PhD project. Accordingly, parts of this research have already been published consisting of three article contributions and one Blog. The first publication was in a Dutch professional journal (*Vakblad Grensoverschrijdend Werken* (2019)), followed by two peer-reviewed journal Articles in the English language with the *Maastricht Journal of European and Comparative Law* (in 2020 and 2021 respectively). The Blog was published on the publicly available website of Maastricht University addressing the subject of this research in relation to supporting measures during the Covid-19-pandemic and their (non-) cross-border consideration. All of these publications have been disseminated through announcements in the newsletter of the research institute I have been affiliated with (ITEM), the research publications database of Maastricht University (available at <https://cris.maastrichtuniversity.nl/en/publications/>) and as a news feed on my personal LinkedIn page. Last but not least, I intend to publish the research outcomes with this book being available ‘open access’ to ensure the greatest possible audience reach.

Furthermore, I already engaged with my target audience on numerous occasions.

Concerning an academic audience, I presented my first research findings at the *European Conference of Social Security* in Amsterdam, the *Max Planck Institute for Social Law and Social Policy* in Munich, the *Institute for Transnational and Euregional Cross border Cooperation and Mobility/ITEM*, and *Ius Commune Research School of the Faculty of Law at Maastricht University*, the *Young Researchers School of the European Institute of Social Security* in Spetses (Greece).

Also, I had the occasion to discuss mobility-related issues with policymakers who are coping on a daily basis with puzzling questions of cross-border workers at, among others, *Transmic* and *MoveS* seminars, and the *Annual Conference on European Social Security Law*. The informal discussions I had with people working in the field, among others, senior policymakers of the Belgian and Dutch national implementing authorities, were, in my humble opinion, insightful for both sides. During all these encounters, I had the occasion to exchange ideas and present my preliminary findings.

Thirdly, during my entire PhD trajectory, I have been lecturing on the topic of cultural entrepreneurship to classical music students at the Conservatorium Maastricht. Hereby, I also touched upon the legal issues that may occur when working internationally. Thanks to the international background of the students, I had the occasion to engage with, I not only could enlighten them on how to handle mobility-related issues, but I also gained various valuable insights about situations in social reality.

Finally, as regards the future, I will continue to engage in the debate and take along my researcher knowledge while engaging in a new challenge as legal policy officer concerning international social security matters at the Dutch implementing authority of social security insurance (*Sociale Verzekeringsbank [SVB]*).

Eva Catharina