

How Dutch cross border workers also can benefit from the export of Unemployment benefits.

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How Dutch cross border workers also can benefit from the export of Unemployment benefits

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At the end of March and the beginning of April 2019, the media again published some disturbing reports about the planned changes to the unemployment schemes in the European regulation on social security and the possible misuse of Dutch benefits by foreign workers.

The last vote on this package of measures was on the agenda of the European Parliament at the beginning of April 2019 and has been postponed. It is, therefore, very likely that the Romanian Presidency of the EU will have to carry the package over to the next Presidency. It is not clear yet how things will change then and whether this change will affect the vote on this package of measures, also taking into account the European elections of May 2019.

In this report, we briefly set out the facts regarding the unemployment proposals. What changes are on the European table? What determines Dutch unemployment legislation? Are the headlines right and do the (Dutch) politicians tell the whole story?

Revision of EU Coordination of Social Security

In December 2016, the European Commission submitted a revision proposal for the coordination regulations on social security systems (EC 883/2004 and EC 987/2009). Since then, negotiations have been ongoing on the amendments relating to unemployment, long-term care and family benefits. In this contribution, we focus on two parts of the revision, namely the unemployment export scheme and the minimum waiting period in the event of unemployment.

Unemployment export scheme

First, the export in the unemployment benefit scheme. Under the current system, an unemployed person can take his benefit to another member state for three months in order to seek work there. The proposed scheme extends this period to six months. This means that every unemployed person in Europe can export his benefit to another Member State for a maximum of six months, provided that he is looking for a job in that other Member State. It is up to the authorities of the host country to monitor the search for another job and to ensure that the eligibility conditions are met.

The Netherlands is not in favour of extending the export scheme because, in practice, it appears that some EU citizens, more than others, make use of this scheme and the Netherlands seems to lose control of this group of unemployed people as well as of the budget. This is partly due to the fact that in some EU member states, wages are much lower than the unemployment benefits from the Netherlands. The incentive to look for work is therefore minimal. Also, the control in and by the host country is less than what is expected in the Netherlands. In recent weeks, unrest has flared up in Dutch politics and society following reports about the current 3-month export option.

For example, it appears that for employees from Poland - who have worked in the Netherlands and (temporarily) return to Poland with a Dutch unemployment benefit - a job in Poland is financially less attractive than the Dutch unemployment benefit that they are allowed to take with them on a temporary basis on the basis of the export scheme. The fact that the export scheme also applies to other EU citizens *is not clearly stated* in the reports. Any EU citizen who is unemployed and believes that he has a better chance of finding a job abroad may temporarily export his unemployment benefit to a foreign country (subject to certain conditions) in order to look for work there.

Minimum Work Period

The second scheme we focus on is the minimum work period. What does this scheme involve? The Regulation makes it possible to add up insurance periods if one only has been insured for a short time in another country and is eligible for benefits. Under the current Regulation rules, this means that one day's work can be sufficient to include work periods in other countries. The proposed new rule introduces a waiting period of one month. Therefore, only employees who have worked in a country for at least one month and who become unemployed there can invoke the aggregation rule and include their insured periods from former countries of employment. However, this does not mean that the insured years from former countries of employment influence the length of the unemployment benefit. The duration of the unemployment benefit is entirely determined by the last country of employment, that is responsible for the unemployment benefit. However, the unemployment benefit is determined on the basis of the last-earned salary. As a result, as long as the wage gap in Europe persists, the use/abuse of this rule will be attractive. This applies, for example, to Polish employees who come to work temporarily in the Netherlands and then possibly return to Poland with a Dutch benefit for the duration of the benefit. However, this also applies to workers working in other member states where unemployment benefits are higher than the wages in the former country of residence and employment.

Multiple perspectives

The media, the politicians and the authorities involved have made no secret of their indignation at situations of abuse. This is partly justified. Abuse or fraud should indeed be counteracted vigorously. However, simply pointing the finger at those who make use of their right to the free movement of workers is too short-sighted. There are several points of attention that also need to be highlighted in the reports. We will mention some of them here.

Firstly, Polish workers who can take Dutch unemployment benefits with them for a long time is only possible if they have also worked for a long time, in the Netherlands and/or Poland. The simple statement that Dutch unemployment benefit is granted after just one day's work gives a distorted picture. Dutch unemployment benefits are only granted if a sufficient number of weeks and/or years have been worked.

Secondly, the inclusion of foreign periods in the determination of entitlement to benefits is a correct application of the Regulation and is part of the free movement of persons.

Thirdly, Polish workers are not the only ones who are responsible for the temporary export of Dutch unemployment benefits to Poland without control from the Netherlands. This is a combination of the Regulation rules and the Dutch policy with (too) little control and enforcement by the UWV (through austerity operations by the government).

Fourthly, as a result of the Dutch legislation and policy, employers in the Netherlands to a large extent - and more so than in other member states - offer temporary, short-term employment contracts instead of long-term or permanent contracts. In this way, many temporary labour migrants are recruited in certain sectors. In periods of unemployment, these workers temporarily return to their homes and come back later to take up work again, often with a temporary contract...

ITEM, 15 April 2019, dr. Saskia Montebovi