

# EU Social Security Coordination

**Explanatory Meeting on the Acquis with North Macedonia and Albania – 13 March 2019**

*These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union*

# Overview

***Part I: Legal framework and governance***

***Part II: Ongoing revision of the social security coordination rules***

# Part I

## *Legal framework and governance*

# What is coordination?

Coordination and lack of harmonisation:

**Member States are free to decide** on their national systems:

- who is to be insured under their legislation
- which benefits are granted
- under which conditions

# Coordination vs Harmonisation

- **No EU competence for harmonisation** in the social (security) field
- Fundamental Treaty right of **free movement of workers/persons** not possible, if social security protection is not ensured

# Legal basis for coordination

- **Article 48 TFEU**
- **Regulations 883/2004** (basic)  
**and 987/2009** (implementing)  
+ **1231/2010** (Third Country Nationals)
- Since 1 May 2010
- Previously: Regulations 1408/71 et 574/72
- First rules in **1958** – Regulation 3

# Legal framework

Treaty



Reg 859/2003

Reg 1231/2010

Extension to 3rd  
country nationals

Reg 883/2004

Reg 987/2009

Social  
security  
coordination

Reg 1408/71

Reg 574/72

Reg 3&4

1958

1968

1972

2004

2010

2014

Regulation 1612/68

Reg 492/2011

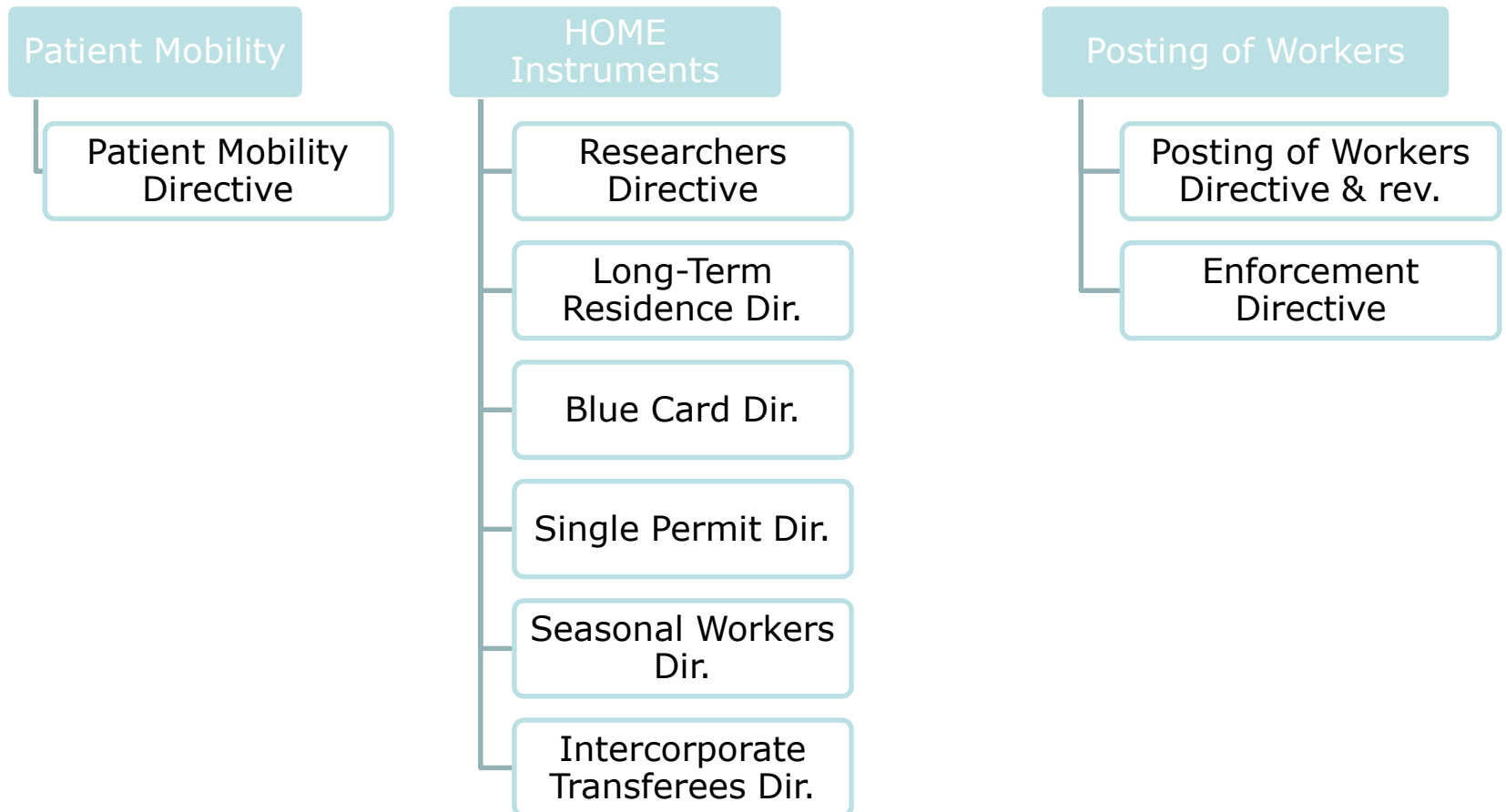
Free  
movement  
of workers

Directive 68/360  
Regulation 1251/70

Directive 2004/38

Dir 2014/54

# Other EU instruments

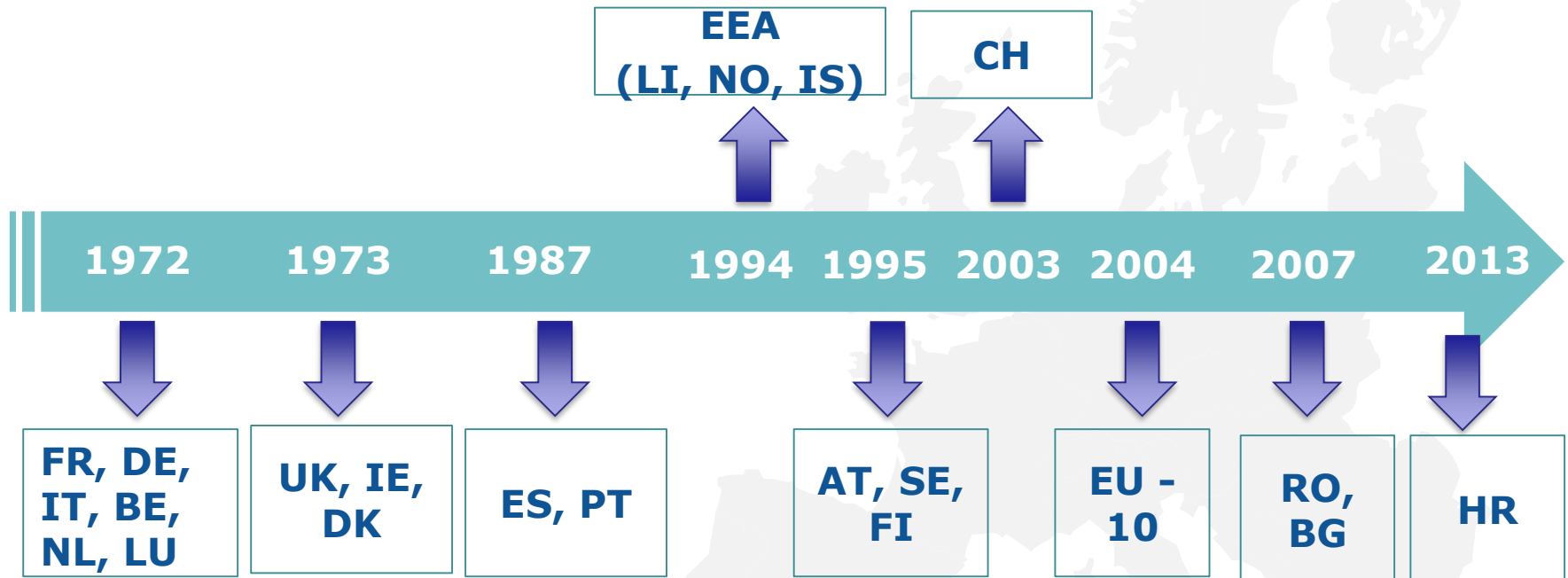




# Basic Principles

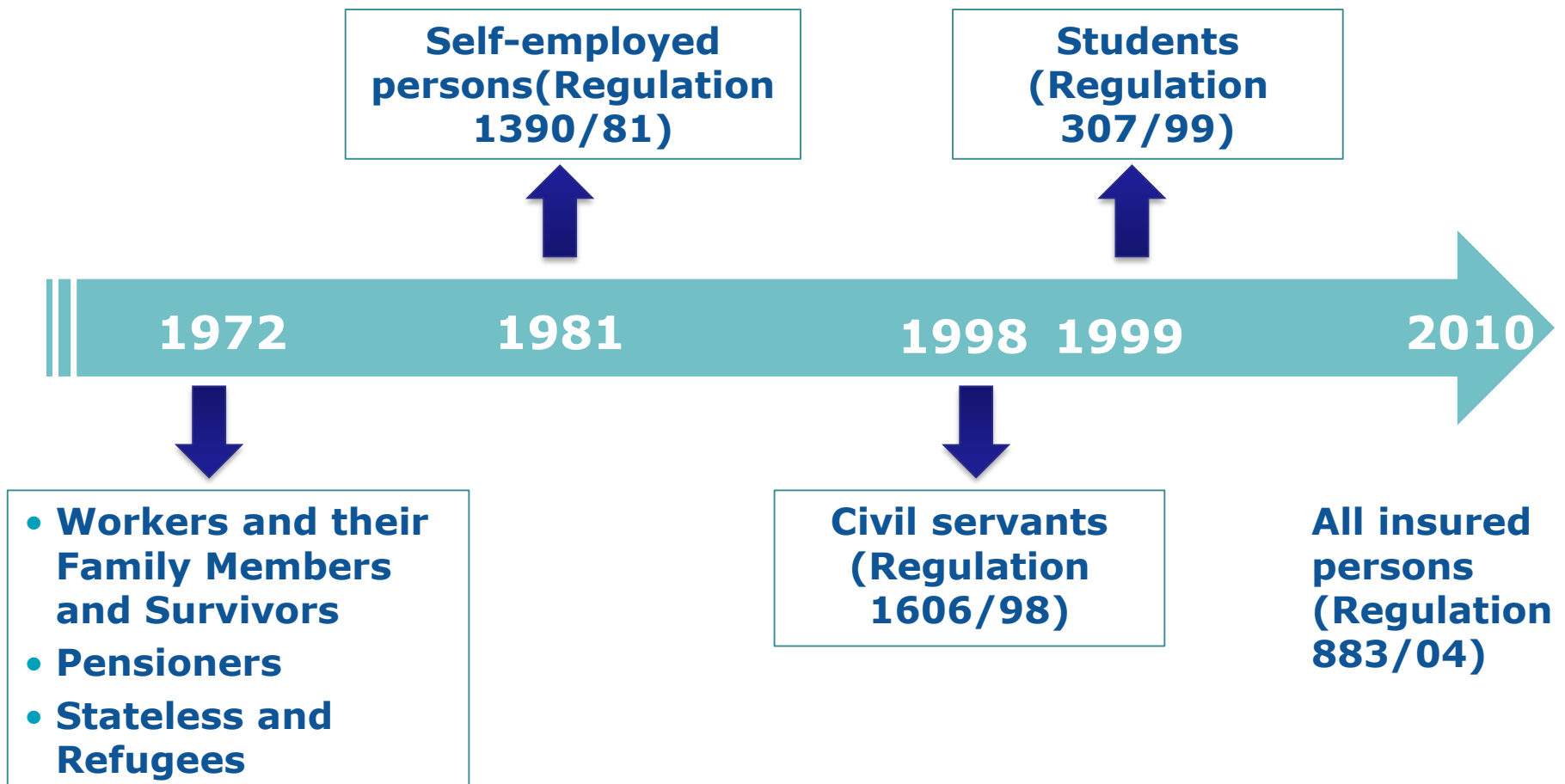
- **Prevention of conflicts of law** (determination of single applicable legislation, no gaps or double payments)
- **Equality of treatment** (including indirect discrimination) \* *limitations for inactive citizens following recent EU case law*
- **Aggregation of insurance periods**
- **Maintenance of acquired rights** (export of cash benefits - except for SNCBs and limited for unemployment benefits)

# Territorial Scope



# Personal Scope

from Regulation 1408/71 to 883/2004



# Third Country Nationals

- **Extending Regulations based on Title V of the Treaty**  
(not applicable to DK; to UK and IE only, if they opt in)
- **Regulation 1231/2010 extends Reg 883/2004 to 3rd country nationals if**
  - 1. Legally resident in a Member State, and**
  - 2. Cross-border situation**
- NB: UK opted in for former Reg 859/2003, but only IE for 1231/2010

# Material Scope

- **Sickness, maternity and paternity benefits**
- **Invalidity benefits**
- **Old-age benefits**
- **Pre-retirement benefits**
- **Survivors' benefits**
- **Accidents at work & Occupational diseases**
- **Unemployment benefits**
- **Family Benefits**
  
- **Special non-contributory benefits (SNCBs) – between social security benefits and assistance (not exportable)**
  
- **Social assistance excluded**

# Determination of applicable legislation

- **Rules to make sure that one social security legislation applies to a person at one time (prevents double or non coverage)**
- **Basic principle – *lex loci laboris***
- Special rule for civil servants & armed forces + civilian service
- Unemployed and non-active persons – legislation of the State of residence applies
- Specific rules for: posting & pursuit of activities in 2 or more MS
- MS can agree on exceptions in the interest of persons concerned

# EU Social Security Committees

**Advisory Committee**

**Administrative  
Commission (AC)**

**Technical  
Commission**

**Audit Board**

**Ad Hoc  
Groups**

**Executive  
Board**

**Working  
Parties**

**Conciliation  
Board**

**Ad Hoc  
Groups**

**Conciliation  
Panel**



# Administrative Commission

- Committee « sui generis », directly based on the Regulations
- Chaired by Presidency
- 1 government representative (+ 1 alternate) of each MS
- assisted by experts
- Commission representative
- Secretariat by the Commission (Secretary General)
- observers from EEA countries (NO, IS and LI) and CH



# Administrative Commission

- **Main Tasks**
  - All administrative and interpretative questions
  - Promote cooperation and exchange of best practices
  - Electronic data exchange (EESSI)
  - Proposals to Commission for legislative changes
- **Legal Quality of Decisions** (by qualified majority)
  - Legally not binding
  - BUT: administrative cooperation



# **Technical Commission on data processing**

EESSI – Electronic Exchange of Social  
Security Information

# Audit Board

- Settling of Health Care Claims between MS
- Calculation of average healthcare costs
- Rapporteur on technical aspects

# Advisory Committee

- Information and consultation of social partners
- Composed of government, trade union and employer representatives
- Chaired by the Commission

# **Compliance with EU Law – EU infringement procedure**

Administrative letter to AC member

EU-pilot

Letter of Formal Notice

Reasoned Opinion

Referral to Court of Justice of the European Union

## Part II

### *Ongoing revision of the social security coordination rules*

## **Political and Policy Context for Revision of Social Security Coordination rules**

- The current EU's social security coordination rules have been in force since 1<sup>st</sup> May 2010.
- The labour market and society are constantly evolving, as are national social security systems and the case-law of the Court.
- Targeted adjustments are needed to ensure that the rules are fair, simpler to apply and easier to enforce.

# General Policy Objective of review

To continue the modernisation of the EU Social Security Coordination Rules by:

- further facilitating the exercise of citizens' rights,
- ensuring legal clarity,
- ensuring a fair and equitable distribution of the financial burden and
- promoting administrative simplicity and enforceability of the rules.

Simply: **clear, fair and enforceable rules**



# Scope of the proposal

Targeted amendments on:

- Social security of posted workers / work in 2+ Member States
- Access of economically inactive citizens to social benefits
- Long-term care benefits
- Family benefits
- Unemployment benefits

# State of play

- The Commission presented the proposal on 13 December 2016 (COM(2016) 815 final - [link](#))
- The legislative process on this file involving both the European Parliament and the Council is currently on going
- [Current rules](#) remain in place until entry into force of the new ones.



# What changes when you join the EU and what to be ready for:

*Full* application of social security Regulations

*Full* participation in all social security committees

*Full* responsibility for compliance with EU-law

*Full* involvement in preparation of new projects

*Thank you for your attention*