

Mini-jobs in a cross-border context

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Introduction

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1. Mini-jobs: a definition

- marginal employment in Germany (“geringfügige Beschäftigung”)
- two types:
 - as short-term employment (<3 months, <70 days p/yr)
 - an income limit (max €520 p/m, €6,240 p/yr)



1. Mini-jobs: a definition

Main features

- Mini-Job = labour contract (German law)
- Excluded from German social security ('sozialversicherungsfrei')
- Employee pays no taxes or social security premiums
- Employer pays flat rate levies to the "Mini-Job Zentrale"



2. Mini-jobs: the numbers

Commercial sector:

- bars, restaurants, catering
- retail
- trade

Private sector:

- cleaning aide
- domestic helper
- babysitter

2. Mini-jobs: the numbers

- 5,7% of the German working population (2020):
8,6% women and 2,9% men
(appr. 6.4 million mini jobbers in Germany)
- Commercial sector: almost 40% of the mini-jobbers receive the maximum income
- Households: almost 50% of the mini-jobbers receive an income of merely € 150
- Mini-jobs are most popular in the federal state of North-Rhine Westfalia (“Nordrhein-Westfalen”), bordering The Netherlands.



3. Mini-jobs: problems in a cross-border context

- The obstacle:

Art. 11 of Regulation (EC) no. 883/2004 jo. (EC) no. 987/2009:

A person shall be subject to the legislation of a single Member State

Pursuing “an activity as an employed person” in a Member State means being subject to the legislation of that Member State



3. Mini-jobs: problems in a cross-border context

- **EU Regulation:**

A cross-border (NL-D) mini-jobber becomes subject to German social security

but

- **German law:**

a mini-jobber is exempted from (most of the) social security in Germany (“sozialversicherungsfrei”)

4. Impact for Dutch mini-jobbers in Germany

For the duration of their mini-job in Germany a mini-jobber will be exempted from the (main part) Dutch social security system as well as the German social security system

4. Impact for Dutch mini-jobbers in Germany

In the Netherlands

- no statutory old-age pension
- no statutory health insurance
- no insurance for statutory survivors' benefit
- no child support

In Germany

- no health insurance
- no long time care
- no unemployment insurance

4. Impact for Dutch mini-jobbers in Germany

Exemption (articles 13 of the Regulation):

- Activities as an employed person in two or more countries
- +
- At least 25% of the work is performed in the Member State of residence

= social security of the Member State of residence

5. Legal assessment

European Court of Justice as well as Dutch Supreme Court:

Article 11 of the Regulation (the principle of a single applicable legislation) is:

- contrary to the **principle of equality**, however this principle is deemed subordinate to contrary provisions of the Regulation;
- not contrary to the **principle of free movement of persons**;
- the goal is coordination rather than harmonisation

6. Possible solutions

- European Court of Justice:

Member State of residence may grant (extra) access to social security

- Article 16 of the Regulation:

“Two or more Member States may by **common agreement** provide for exceptions to Articles 11 to 15 in the interest of certain persons or categories of persons.”

6. Possible solutions

- Already in place: Agreement D with AU, DK, and L (re. Healthcare)
- To Do:
 - Agreement D – NL, or
 - unilateral granting Dutch mini jobbers access to Dutch social security
- Also needed: Agreement D - B, Fr, CZ and P ?



7. Discussion

- **Thank you very much for your attention and participation!**

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