



Social security: New rules related to employees working in two or more Member States for two or more employers

Brief reminder

Formerly, employees working normally in two or more Member States for two or more employers had to be registered with their country of residence even if they did not perform any activity in the latter.

New provisions

Regulation (EU) 465/2012¹ of 22 May 2012 (entered into force on 28 June 2012) amends notably article 13.1 of Regulation (EC) 883/2004 and article 14.5 of its implementing Regulation (EC) 987/09.

In case of several activities for different employers, it is now necessary to check if the employee performs or not a substantial activity in his/her country of residence.

1. Substantial activity in the country of residence

If an employee works for two or more employers, he/she is subject to the social security of his/her country of residence **provided that he/she performs a substantial activity in this country** (which was not a condition previously). An activity is considered “substantial” provided that this activity represents at least 25% of the working time and/or the remuneration of the employee concerned.

Example: An employee having his/her residence in Germany works for a French and a Belgian Company. He performs his/her professional activity up to two days per week in Germany (representing 40% of his/her working time).
In this case, he/she is subject to German social security.

¹ Regulation (EU) 465/2012 of the European Parliament and of the Council of 22 May 2012 amending Regulation (EC) 883/2004 on the coordination of social security systems and Regulation (EC) 987/2009 laying down the procedure for the implementing Regulation (EC) 883/2004.



2. No substantial activity in the country of residence

If an employee works for two or several employers **and does not perform a substantial activity in his/her country of residence**, the applicable social security legislation will be determined as follows:

- **An employee works for two or more employers located in the same Member State:** he/she is subject to the social security legislation of this Member State.

Example: An employee having his/her residence in Belgium works for two German Companies. He/She performs his/her professional activity only one day per week in Belgium (which represents 20% of his/her working time).
In this case, he/she is subject to German social security.

- **An employee works for two or more employers located in two Member States, one of which is the employee's country of residence:** he/she is subject to the social security legislation of this other Member State.

Example: An employee having his/her residence in France works for two different employers, one of which has its head office in France and the other one in Belgium. He/She performs his/her professional activity only one day per week in France (which represents 20% of his/her working time).
In this case, he/she is subject to Belgian social security.

- **An employee works for two or more employers and at least two of the employers are located in different Member States (other than the employee's country of residence):** he/she is subject to the social security legislation of the country of residence.

Example: An employee having his/her residence in Germany works for three different employers one of which is located in Germany, the second one in Belgium and the third one in the Netherlands. He/She performs his/her professional activity only one day per week in Germany (which represents 20% of his/her working time).
In this case, he/she is subject to German social security.



Practical issues

The different employers have to accomplish the registration formalities in the country where the legislation is applicable under the European Regulation and pay contributions foreseen by the legislation of this country.

The employee concerned will have to obtain an A1 certificate indicating the social security legislation under which he/she is registered according to European rules and confirming that he/she is not liable to contribute to social security systems of other States where he/she performs his/her activity. This certificate has to be applied in the State where he/she is registered and has a validity of twelve months. It is renewable upon request.

Transitional arrangements

The new rules entered into force on 28 June 2012.

However, a transitory period of a maximum of ten years applies (as from the date of entrance into force of the new Regulation). Employees concerned may either maintain the currently applicable legislation unless their situation changes or may explicitly opt for the immediate application of the new rules.

Applications filed on 29 September 2012 at the latest will take effect retroactively on 28 June 2012. Applications filed after 29 September 2012 will take effect the first day of the month following their filing.

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