

GMS Flash Alert



2020-480 | December 4, 2020

Belgium - Update on Impact of Changed Work Patterns Due to COVID-19 Crisis

In recognition of temporary changes to work patterns due to COVID-19, the federal government of Belgium has had a policy of disregarding situations in which frontier workers and multi-state workers increased the amount of time they work in their home country.¹ This policy is intended to prevent changes in the competent member state for social security coverage, and was scheduled to apply for the period 13 March through 31 December 2020. The policy has now been extended until 30 June 2021.² (For prior coverage, see GMS [Flash Alert 2020-124](#) (27 March 2020).)

WHY THIS MATTERS

The coordination of social security in the European Economic Area (EEA) and Switzerland is governed by Regulation (EC) 883/2004 on the coordination of social security systems.³

The stipulated “work state” principle, as well as the exceptions for posting and multi-state employment, continue to apply to the full extent during the COVID-19 crisis. The changed working pattern of the employed and self-employed persons must in principle be analysed in view of Regulation (EC) 883/2004.

A temporary but significant change in the worker’s working pattern due to COVID-19 measures put in place may have an impact on the applicable social security legislation in accordance with Regulation (EC) 883/2004.

The regulations include solutions to changed cross-border work scenarios (see GMS [Flash Alert 2020-068](#), 18 March 2020), thus employers and workers need to be aware of the impact of changed working patterns on their social security obligations and social benefits. Although the application and delivery of an A1 document for posting happens swiftly in many member states, the common agreement between two or more member states in the framework of article 16 of Regulation (EC) 883/04⁴ is generally a lengthy procedure, resulting in long-term uncertainty for the employer and the worker.

Context

The regulations for coordination of social security continue to apply and are not irrelevant or invalid during the COVID-19 outbreak in Europe.

The regulations include rules that determine which state will apply its national social security legislation to international mobile workers, such as cross-border commuters and multi-state workers. The default rule is that the social security legislation of the country where the work is performed will apply. However, an exception may be available to allow the worker to maintain coverage for social security in another member state. The most commonly-used exceptions apply to posted workers and to multi-state workers.

The COVID-19 measures have caused frontier workers' and multi-state workers' cross-border working patterns to change: they've increased the time spent working in their home countries – rather than the country of work or host country – and reduced their work travel. To prevent a change of the competent member state for social security coverage of the international mobile worker, Belgium's federal government began disregarding these temporary changes in an individual's cross-border working pattern at the outset of the COVID-19 outbreak. On 18 March 2020, the Belgian social security authorities initially confirmed their decision to "neutralise" the period of working in the country of residence by international mobile workers due to the COVID-19 crisis, as from 13 March 2020 until 31 December 2020.

The Belgian social security authorities have now extended this period until 30 June 2021. Please note that this date may be revised in accordance with the applicable COVID-19 measures.⁵

It is expected that other European countries will adopt a similar position; however this remains to be confirmed.

KPMG NOTE

This decision of the Belgian authorities is a unilateral decision and demonstrates their flexibility in appreciation of the working time spent by workers in the country of residence due to measures taken by the authorities and employers to prevent the spread of the COVID-19 virus. The other member states involved in a worker's particular employment and residence situation must also agree on this approach, which could finally result in a common agreement based on article 16 of Regulation (EC) 883/04.

FOOTNOTES:

1 Article 1, f) Regulation (EC) 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems.

2 Website of the National Social Security Office (in English), <https://campaigns.eranova.fgov.be/r-bd04aa5f1dbc824062f2d03f2721a62a4e589e5866fb5b52>.

3 Regulation (EC) 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems and Regulation No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.

FOOTNOTES (cont'd):

4 Article 16 of Regulation (EC) 883/04 stipulates that member states may by common agreement provide for exceptions to the work state principle, the posting provision and the conflict rules on multi-state employment in the interest of certain persons or categories of persons.

5 Website of the National Social Security Office (in English), <https://campaigns.eranova.fgov.be/r-bd04aa5f1dbc824062f2d03f2721a62a4e589e5866fb5b52>.

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional or one of the following professionals with the KPMG International member firm in Belgium:



Jeroen Vandenbossche
Tel. + 32 2708 4288
jvandenbossche@kpmg.com



Sania Khan Bhatti
Tel. +32 2708 3846
skhanbhatti@kpmg.com

The information contained in this newsletter was submitted by the KPMG International member firm in Belgium.

© 2020 KPMG Tax and Legal Advisers burg. CVBA/SCRL civile, is a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2020 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International. The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

KPMG LLP is the U.S. firm of the KPMG global organization of independent professional services firms providing Audit, Tax and Advisory services. The KPMG global organization operates in 147 countries and territories and has more than 219,000 people working in member firms around the world.

Each KPMG firm is a legally distinct and separate entity and describes itself as such. KPMG International Limited is a private English company limited by guarantee. KPMG International Limited and its related entities do not provide services to clients.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.