

## Point of attention on the posting of workers to France

The French authorities have been increasingly more “active” recently in terms of administrative checks of workers posted to its territory. The formalities to be seen to by the Luxembourgish employer are consequently unavoidable.

By way of reminder, posting entails that an employer sends one or more employees abroad temporarily to perform work on that territory under a provision of service between the employer and a company or a customer.

Under certain conditions, the benefit of Luxembourgish social security is maintained during the posting if the foreseeable period of this work does not exceed 24 months. In concrete terms, the Luxembourgish employer will have to request an A1 form for each posted worker from the Social Security Office (known by the French initials CCSS). This form will attest to compliance with the applicable legislation on social security.

As of 1 April 2017, workers carrying out an occupational activity in France whilst remaining under Luxembourgish social security must keep the A1 form at the disposal of the inspection services at the place where the work is performed.

This document can be produced:

- by the worker;
- if the worker is a salaried employee, by his employer or by the latter’s representative in France,
- by the principal established in France for whose benefit the service is provided.

If the A1 form cannot be produced during a check, the principal established in France is liable for a flat-rate penalty of €3,269, doubled in case of repeat offence within 2 years.

In the event where the A1 form has not been obtained by the employer or the person concerned before the check, the law provides that the filing of an application for the form with the competent institution will be taken into account, provided that the form issued is then produced within two months. In such a case, the penalty is not applicable to principals.

Conversely, the Luxembourgish employer who dispatches workers on French territory must fulfil certain formalities subject to being sanctioned.

Thus, he must provide, prior to the start of his intervention in France, a declaration of posting to the labour inspectorate in France. Since October 2016, this declaration must be completed without fail and sent electronically via the ad hoc “tele-service SIPSI” platform.

Other obligations are incumbent upon the Luxembourgish employer, such as the obligation to appoint a representative in France and to place certain documents at the disposal of the French authorities.

Non-compliance with these obligations by the Luxembourgish employer may be punished by an administrative fine of €2,000 maximum per dispatched worker.

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