



MY HR UPDATE

APRIL 2024

CONTENT

1| NEW DECLARATION PROCEDURES FOR PROFESSIONAL ACTIVITIES ABROAD
[PAGE 2](#)

2| CONTRIBUTION TO THE CHAMBER OF EMPLOYEES | [PAGE 5](#)

3| TERMS AND CONDITIONS FOR HIRING STUDENTS OR PUPILS | [PAGE 5](#)

4| GERMANY : APPLICATION OF THE 34-DAYS TAX TOLERANCE THRESHOLD | [PAGE 7](#)

5| LAST MILE FOR YOUR INFPC FILE | [PAGE 8](#)

APRIL 2024

1 NEW DECLARATION PROCEDURES FOR PROFESSIONAL ACTIVITIES ABROAD

Since April 2, 2024, new procedures have been in place for **declaring any international work activities of your employees**. The cross-border telework form that was applicable since July 1, 2023 following the framework agreement is therefore no longer applicable! From now on, when your employees are required to perform **part of their work from abroad, for whatever reason** (teleworking, business trips, training, secondment, multiple employment, etc.), a declaration procedure must be followed with the CCSS either on paper or via SECULine (DEMDET procedure). We explain everything to you !

The following two rules should be borne in mind to understand better what is entailed: the employees are generally **affiliated with the social security system of the country in which they carry out their professional activity**, and **they can only be subject to one national social security legislation** for the same period of work. So what happens when partial or temporary work is performed in another country? European regulations provide for exceptions whereby affiliation to Luxembourg social security can be maintained, but then the employer is required to complete certain formalities in order to obtain the **A1 certificate** attesting to the applicable social security regime for the worker.

Once your declaration has been analysed, if the conditions for maintaining affiliation with Luxembourg social security are met, the CCSS will issue this celebrated A1 certificate for activities carried out in the European Union, the European Economic Area, Switzerland, and the United Kingdom. For other countries, the certificate will pertain to the applicable legislation.

There are 3 main situations that require an A1 certificate :

- **Telework of non-resident employees:** **This situation constitutes** a scenario of simultaneous employment in several Member States.
- **Regular activities in two or more Member States:** This concerns persons who regularly carry out a professional activity in two or more Member States of the European Union (EU), the European Economic Area (EEA), Switzerland or the United Kingdom.
- **Secondment:** This concerns to employees who are sent by their employers to another Member State of the European Union, the European Economic Area, Switzerland, or the United Kingdom to carry out **temporarily** professional activities on behalf of the employer.

The activity abroad must be declared using various forms which can be found on the CCSS website under the "employers" section, then "private sector", and finally "activities abroad". In all cases, the declaration must be sent to the CCSS **before the start of the activity abroad!**

APRIL 2024

- **In case of secondment**

When dispatching an employee on secondment abroad, the employer should submit a declaration electronically via SECULine or complete the form "**Request for secondment to a Member State**" or "**Request for secondment to a third country**" (on paper).

The CCSS examines whether the request complies with Luxembourgish legislation and European regulations to determine if the employee's affiliation with social security in Luxembourg can be maintained for the duration of the secondment.

- **In the case of regular activities in two or more Member States**

In order to determine the applicable legislation, the employer must submit **without fail** an electronic declaration via SECULine to the CCSS or complete the form "**Exercising regular activities in two or more Member States (multiple activities)**" on paper.

This declaration form (in electronic or paper format) is henceforth the same for all employees, be they **residents or non-residents**. The procedure however applied following this declaration will be different.

For Luxembourg residents, the **applicable legislation will be determined by the CCSS**, which will decide whether or not the employee is covered by Luxembourg social security. If this is the case, the CCSS will issue an A1 certificate. Conversely, it is the competent authority in the foreign country that will take a position and issue the A1 certificate.

In order to obtain the A1 certificate, the employee who works in different countries of the European Economic Area, Switzerland, or the United Kingdom, must inform **the competent social security authority of his or her country of residence** in order to determine the applicable legislation. It is common practice for the employer to see to this formality.

If no steps are taken by the employer and the non-resident employee, the CCSS will notify the authority of the employee's country of residence when it becomes aware of the cross-border activity of the employee via one of the two practical procedures mentioned above (paper or electronic declaration via SECULine).

It is **always** up to the authority of the Member State of residence to determine the applicable legislation and to inform the CCSS. Here once again, if Luxembourgish legislation is designated as being applicable, the CCSS will issue an A1 certificate. Conversely, the competent authority of the foreign country will issue this document.

content

- **In the case of teleworking**

In such a case, the same form must be completed as for multiple activities. Here once again, the **competent social security authority of the employee's country of residence will determine the applicable legislation** and inform the CCSS.

As indicated in the introduction, **this new declaration procedure has replaced the current online declaration form** for cross-border teleworking which has been in force as of July 2023. The challenge for non-resident employees will therefore be to request, through this new procedure, that the framework agreement be applied so as to be able to telework up to 49% of their professional activity while remaining under social security in Luxembourg.

Once you have selected the correct form to complete, you will need to fill in various information, including:

- The employer's and employee's identification data: This includes the name, address, and social security number of both the employer and the employee.
- The start date and end date of the foreseeable period of secondment, telework, or multiple activities

For multiple activities and telework, you will also need to specify:

- In the context of **telework**, whether the activity is all or partly telework and whether the employee wishes to benefit from the framework agreement.
- The **percentage of activity in each country concerned** and not only in the country of residence (including Luxembourg, if applicable), specifically **distinguishing between the percentage of telework and the percentage of non-telework activity**. The sum of all percentages indicated in the fields of the table must be **equal to 100%** (Luxembourg and other Member State(s)).
- Whether the employee carries out **another professional activity** (self-employed or on behalf of another employer) and specify the country(ies) of activity and its nature.

APRIL 2024

2 CONTRIBUTION TO THE CHAMBER OF EMPLOYEES

As every year, employers will be required to pay the contribution to the Chamber of Employees. This contribution will be claimed from the employers by the statement of account sent in July by the Centre Commun de la Sécurité Sociale [Joint Social Security Centre].

This contribution, which has long been set at €31, is now **€35 per employee**. This amount was deducted from the employees' net salary during the March payroll.

It should be noted that this contribution is payable **only once for each employee**. In the case of multiple employers, the contribution for the Chamber of Employees is payable by the employer with whom the employee works the longest. In the event of equal working hours, the oldest membership determines which employer is responsible for collecting the contribution.

In May, the Joint Social Security Centre will send a statement to all employers listing the employees for whom they must pay contributions for the Chamber of Employees and the amount of the contribution. Any adjustments concerning the affiliation of these employees can therefore still be made before the invoice is sent in July.

3 TERMS AND CONDITIONS FOR HIRING STUDENTS OR PUPILS

With the summer vacations just around the corner, some of you are probably already thinking about **hiring pupils or students** to replace staff on leave. There are a number of formalities to be complied with.

The contract by and between the employer and the student must be concluded **in writing, at the latest when the student starts work**.

In the absence of a written contract, the employment shall be deemed to be under an open-ended contract of employment; proof to the contrary is not possible. It is therefore not possible to hire a student verbally.

The student contract must be drawn up in 3 original counterparts:

- one for the student
- one for the employer
- one for the Inspection du travail et des mines (ITM) [Inspectorate of Labour and Mines]: the contract and a copy of the identity card must be sent to the ITM within 7 days of the start of the contract by ordinary mail or via MyGuichet.lu.

content

APRIL 2024

The period of employment may not exceed **2 months or 346 hours** per calendar year, regardless of whether it involves one or more contracts with one or more employers.

It is therefore possible to conclude one or more part-time student contracts for a period of employment of more than 2 months during one or more school holidays, provided that they do not exceed 2 times 173 hours (= 346 hours) per calendar year.

The remuneration of the pupil or student may not be less than 80% of the social minimum wage. In the index 921.40 the pupil/student is entitled to the minimum amounts shown in the table below, graduated on account of age.

Pupils and students salaries (index 944.43)		
	monthly rate	hourly rate
18 years completed	€ 2.056,74	€ 11,8887
17 years completed	€ 1.645,39	€ 9,5109
15 & 16 years completed	€ 1.542,56	€ 8,9165

The employer is required to make a declaration of entry to the Joint Social Security Centre (Centre commun de la sécurité sociale). Conversely, only the **employer's contribution for insurance against accidents at work will be due.**

The student's remuneration is therefore not subject to health insurance, pension insurance or dependency insurance. For the employer, the total cost of a student's salary will consequently be limited to the gross salary plus the accident insurance contribution.

Furthermore, the student is **exempt from tax** as long as the hourly wage does **not exceed €16/hour**. The gross salary paid to the student will therefore be identical to the net salary. The employer will have to apply to the Luxembourg Inland Revenue (Administration des contributions directes) for this however. This application must be lodged once a year for all students, so it is not nominative. It is therefore advisable for the employer to file this application when hiring the first student of the calendar year.

content

4 GERMANY : APPLICATION OF THE 34-DAYS TAX TOLERANCE THRESHOLD

Germany and Luxembourg have signed a new treaty against double taxation treaty under the terms of which German tax residents can now work for up to 34 days (compared with 19 previously) outside Luxembourg while remaining fully taxed in Luxembourg. This new agreement entered into force on 1 January 2024. But how does it work?

From 1 January 2024, tax resident employees in Germany will benefit from a **tax tolerance threshold of 34 days**, like their Belgian and French neighbours.

However, these 3 countries apply different rules.

In circular L.G.-Conv. D.I. no. 71 of 18 March 2024, the Luxembourg tax authorities clarified the provisions of the new amendment to the double taxation treaty between Germany and Luxembourg.

A number of key points emerged, including :

- The 34-day tax threshold is **not prorated**: a part-time employee or one who starts/ends an employment contract during the year can therefore benefit from the full 34-day tax tolerance threshold;
- Germany specifies that a working **period of 30 minutes outside Luxembourg is tolerated** before a day is deducted from the 34-days threshold;
- **Passive on-call duties** (time during which the employee is not at the disposal of his employer or present at his place of work and awaiting possible intervention) must be deducted from the tolerance threshold, even if the employee is not called to intervene.

These arrangements should therefore be taken into account when implementing the company's rules on working outside Luxembourg, particularly in the context of teleworking.

APRIL 2024

5 LAST MILE FOR YOUR INFPC FILE

As you know, each year employers can benefit from financial aid for the training costs invested in the previous year. To do so, it is imperative to submit your INFPC file before 31 May!

Employers can benefit from **financial aid of 15% of the cost invested in training their employees in 2023**.

The main costs eligible for reimbursement are:

- The salaries of participants and in-house trainers
- The costs of external training organisations
- Travel, accommodation and catering costs relating to training

The investment in training is capped according to the size of the company:

- 20% of the payroll for companies with 1 to 9 employees
- 3% of the payroll for companies with 10 to 249 employees
- 2% of the payroll for companies with more than 249 employees

This means that for a company with 5 employees, a reimbursement of up to 15% of the 20% of your payroll invested in training is possible, or for a company with 100 employees, a reimbursement of up to 15% of the 3% of your payroll invested in training.

The aid is increased by 20% for employees trained without a diploma and with less than 10 years' seniority, or if they are over 45 years old.

In order to obtain this reimbursement, a specific file must be compiled and documented, including invoices, signed attendance lists, employee data and payroll.

This year, the usual deadline applies. An application for co-financing must therefore be submitted to the National Institute for the Development of Continuing Vocational Training (INFPC) by **31 May 2024 at the latest**.

content