

PINBOARD

JULY 2023

CONTENTS

1| THE ECONOMIC TAX CREDIT : FINALLY VOTED ! | [PAGE 2](#)

2| TOKEN AND TELEWORK DECLARATION FOR CROSS-BORDER EMPLOYEES | [PAGE 2](#)

3| GERMANY: 34-DAY TAX TOLERANCE THRESHOLD SOON ! | [PAGE 3](#)

4| WORK-LIFE BALANCE : TWO NEW EXTRAORDINARY LEAVES | [PAGE 3](#)

5| EXTENSION OF PATERNITY LEAVE | [PAGE 4](#)

6| MEAL VOUCHERS: POSSIBLE INCREASE IN FACE VALUE TO €15 AS OF 2024
[PAGE 5](#)

7| ENTRY INTO FORCE OF THE RIGHT TO DISCONNECT SINCE THE 4TH JULY | [PAGE 5](#)

8| PROTECTION OF WHISTLEBLOWERS : HAVE YOU SET UP YOUR INTERNAL
REPORTING CHANNEL? | [PAGE 7](#)

9| THIRD-COUNTRY NATIONALS WHO ARE FAMILY MEMBERS OF EU CITIZENS: END
OF TRANSITIONAL PERIOD FOR PAPER DOCUMENTS | [PAGE 8](#)

JULY 2023

1 THE ECONOMIC TAX CREDIT : FINALLY VOTED !

Following the tripartite agreement of 3 March 2023, the Luxembourg government has decided to introduce an Economic Tax Credit (in French "Crédit d'Impôt Conjoncture", CIC) from July 2023, retroactive to 1 January 2023.

This is intended to **compensate the deferred adjustment of the tax scale to January 2024** (linear adjustment to inflation of 2.5 index brackets). It is applicable for the 2023 tax year only.

The CIC is paid directly by the employer to the employee **through his payslip** (like the CIS and CISSM). The amount, supported by the tax administration, varies according to the employee's gross salary.

2 TOKEN AND TELEWORK DECLARATION FOR CROSS-BORDER EMPLOYEES

From 1 July 2023, any teleworking activity regularly carried out by an employee not resident in Luxembourg must be declared using an online form.

Here are some clarifications based on the latest information from the Centre Commun de la Sécurité Sociale (CCSS). First of all, regardless of the percentage of teleworking carried out (less than 25% or more than 25% up to a limit of 49%), as long as it is **regular**, a teleworking declaration must be made to the CCSS for each employee concerned.

Ainsi, on peut distinguer 2 cas :

- 1st case: teleworking accounts for **less than 25% of working time** from the country of residence

When your employees telework for **less than 25%**, they do not fall within the scope of the framework agreement. **Following the telework declaration, the CCSS will automatically contact the competent authority in his or her country of residence**, i.e. the URSSAF, the ONSS and the DVKA in France, Belgium and Germany respectively.

In response to this information, the social security authority in the country of residence will issue a **Decision on Applicable Legislation (DAL)**.

[contents](#)

JULY 2023

- 2nd case: teleworking represents more than 25% of working time from the country of residence

When your employees telework **more than 25% without exceeding 49% of their time**, they do not fall within the scope of the framework agreement. Therefore your employees can continue to benefit from Luxembourg social security, thus relieving you of having to pay higher foreign social security contributions than in Luxembourg.

3 GERMANY: 34-DAY TAX TOLERANCE THRESHOLD SOON !

In 2024, Belgian, French and German residents should all benefit from the same number of days for their tax tolerance threshold. So no more muddling through the different thresholds ...

On 6 th July, Germany and Luxembourg signed an amendment to their Double Taxation Treaty raising **the tax tolerance threshold from 19 to 34 days, as of 2024**. Each country must now transpose this amendment into its domestic law in order to make it effectively applicable.

Once transposed, all frontier workers should benefit from a 34-day tax tolerance threshold as of 2024.

As a reminder, the tax tolerance threshold covers teleworking, training abroad, client meetings, business travel... In short, all days worked outside Luxembourg territory !

4 WORK-LIFE BALANCE : TWO NEW EXTRAORDINARY LEAVES

On 12 July 2023, the Chamber of Deputies passed a bill to implement European Directive 2019/1158 on work-life balance. The bill introduces the caretaker's leave and provides the right to be absent from work for reasons of force majeure relating to urgent and unforeseen family reasons.

Two new forms of extraordinary leave have been introduced.

[contents](#)

JULY 2023

First of all, **one day's** leave will be granted within a 12-month period of employment for **force majeure for reasons to do with illness or accident of a family member or a person living in the same household as the employee** that make the immediate presence of the employee indispensable, **subject to a medical certificate**.

For its part, the second extraordinary leave will consist of **five days** over a 12-month period of employment to **provide personal care or assistance to a family member or a person living in the same household as the employee** who requires considerable care or assistance **for serious medical reasons duly certified by a doctor**.

Family members are defined here according to the bill as: daughter, son, father, mother, spouse and Civil Solidarity Pact partner.

5 EXTENSION OF PATERNITY LEAVE

The 10-day paternity leave will henceforth be granted to any person recognised as a second parent, as well as to self-employed workers.

More specifically, on July 12, the Chamber of Deputies passed a bill introducing a number of changes to **paternity leave**:

- This extraordinary ten-day leave following the birth of a child can now also be taken by **self-employed workers**.
- Up to now, same-sex couples could take advantage of this leave only if they adopted a child. From now on, the **person recognised as the second birth parent** under the national legislation applicable by virtue of the child's place of residence or nationality can also benefit from this extraordinary ten-day leave.
- Please note that paternity leave is **granted per child**. A father of twins, for example, will be entitled to 20 days' paternity leave.
- The ten days of paternity leave can be **split into hours**, i.e. 80 hours of leave for a full-time employee.
- Finally, if the employee has not complied with the two-month period of notice, the employer can no longer reduce this leave to two days (as was previously authorised). In the absence of notification within the two-month period, leave must henceforth be **taken in a single period immediately after the birth** of the child, unless the employer and employee agree to a more flexible solution.

[contents](#)

JULY 2023

6 MEAL VOUCHERS: POSSIBLE INCREASE IN FACE VALUE TO €15 AS OF 2024

On 9 June 2023, the Luxembourgish government unveiled the new meal voucher scheme that will apply as of 1 January next year.

Here are the main changes announced.

First, the reform will increase the maximum exemption value of meal vouchers from €8 to €12.20. The employee's contribution of €2.80 will remain unchanged, so the maximum value of a meal voucher that employers will be able to offer will reach **€15**.

Second, the new scheme envisages setting the **maximum number of meal vouchers that can be used per day at 5**, bringing the maximum use to **€75 per day**.

Finally, meal vouchers will now be **digitalised**. Employees will receive a card that can be used in the same way as a bank card. This digitalisation of the meal voucher scheme will significantly reduce administrative costs for employers, in particular by eliminating the need for manual distribution of vouchers. It will also simplify day-to-day management for restaurateurs and retailers, in particular by speeding up collections.

7 ENTRY INTO FORCE OF THE RIGHT TO DISCONNECT SINCE THE 4TH JULY

*Although late in coming, Luxembourg has finally adopted a legal framework regulating employees' right to disconnect, applicable since **4th July 2023**.*

As a result, **employees with an employment contract, trainees, apprentices and pupils/students employed during the school holidays** who use **digital tools for professional purposes** now benefit from special protection.

From now on, every employer must put in place a **system tailored to the specific characteristics and problems linked to its company or branch of activity**, to ensure that **employees' right to disconnect outside working hours is respected**.

[contents](#)

In particular, a charter, internal rules or policy should define:

- the **practical arrangements and technical measures** for disconnecting from digital tools,
- **awareness-raising and training measures**,
- as well as **compensation arrangements** in the event of exceptional derogations from the right to disconnect.

This system of disconnection must be introduced either:

- by **collective agreement or subordinate agreement**,
- at **company level**, within the remit of the staff delegation if one exists, i.e.:
 - in a company with fewer than 150 employees at the time of the last elections : the staff delegation must be informed and consulted ;
 - in a company with at least 150 employees at the time of the last elections : the staff delegation has co-decision powers.
- and in the absence of a staff delegation, by **unilateral decision of the employer after informing the employees**.

An employer who fails to implement this disconnection scheme would be liable to an **administrative fine of between €251 and €25,000** imposed by the Director of the Inspectorate of Labour and Mines (ITM).

However, the article dealing with these penalties will only come into force in 3 years' time, as of 1st July 2026, which will give companies time to comply with their new obligations.

8 PROTECTION OF WHISTLEBLOWERS : HAVE YOU SET UP YOUR INTERNAL REPORTING CHANNEL?

Since 16 May 2023, Luxembourg has finally adopted a law protecting **whistleblowers**, that is to say people who report breaches of Union law, by introducing minimum rules and guarantees. This new law establishes a **right to alert**. To do this, the employer is required to set up **an internal channel**.

In reality, the law distinguishes **3 reporting channels** that the whistleblower can use : the internal channel, the external channel and public disclosure. According to the facts, the whistleblower can use the most appropriate one for the illegal situation he or she encounters.

In the first instance, and when it is **possible to remedy the breach effectively internally without the risk of retaliations**, the whistleblower is encouraged to use the **internal channel** because it is the least intrusive approach but also because it will in principle be easiest to resolve the problems internally.

All companies with at least 50 employees are required to set up an internal reporting channel.

- For entities with fewer than **50 employees**, the implementation of an internal channel is **optional**.
- For those with between **50 and 249 employees**, the law imposes this obligation as of **17 December 2023**.
- For entities with **250 or more** employees, this obligation applies at the latest 4 days after the publication of the law, i.e. since **21 May 2023**.

It should be noted that for the calculation of the threshold, reference is made to the rules applicable to staff delegations.

[contents](#)

JULY 2023

9 THIRD-COUNTRY NATIONALS WHO ARE FAMILY MEMBERS OF EU CITIZENS: END OF TRANSITIONAL PERIOD FOR PAPER DOCUMENTS

*Residence cards and permanent residence cards for third-country nationals who are family members of an EU citizen, issued in the form of a card printed on secure paper with a photo affixed before 1 June 2021, will cease to be valid on **3 August 2023**.*

Holders of such a card must therefore exchange it before August 3 in order to continue to have a valid residence document.

In order to enhance the security of the identity cards of EU citizens and residence documents issued to EU citizens and their family members exercising their right to free movement more secure, the format of residence documents for third-country nationals who are family members of an EU citizen has been adapted.

Consequently, residence permits and permanent residence cards have been issued in Luxembourg in the form of biometric smart cards since 1 June 2021. Cards issued before this date in the old format (secure printed paper with photo affixed) can still be used during a transitional phase, as long as they have not yet reached their expiry date. **This transitional phase will end on 3 August 2023, so that cards issued before June 2021 in the old format will cease to be valid on that date, even if they have an expiry date after 3 August 2023.**

It should be noted that all those concerned have been apprised by letter of the procedure to be followed.

[contents](#)

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