



Posted workers within the EU/EEA and Switzerland

Reporting obligations

Increased controls in European countries have made A1 certificates a much-noticed and time-consuming issue in recent months.

In addition to clarifying the specifics of social security and tax law and the corresponding contractual provisions, the assignment of employees abroad also includes other (formal) aspects. In order to avoid wage dumping and discrimination against local employees, almost every country has its own registration procedure for foreign workers. Failure to comply with this procedure could result in severe penalties.

Definition of the term “posting”

A “posted-worker” is an individual who is sent by his employer to carry out his or her work in the territory of an EU / EEA Member State or Switzerland, other than the state in which he or she normally works, on a temporary basis. In contrast to EU mobile workers, posted workers only remain temporarily in the host Member State and do not integrate into its labour market.

Please note that it’s not only long-term stays, but, even very short meetings and half-day workshops that can be considered as posting. The corresponding European regulations do not provide for any minimal limits in this regard. Therefore, an application for an A1 certificate is necessary.

Produced by MGI member



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A1 certificate for posted workers

The A1 certificate confirms that if an employee is working temporarily in an EU Member / EEA State or Switzerland, other than the one in which they pay their social security contributions, only the corresponding regulations of the sending EU Member / EEA State or Switzerland apply, instead of the social security regulations of the host state.

Consequently, the A1 certificate indicates which state provides insurance to the holder to avoid additional social security contributions becoming due in the host state.

The A1 certificate will be issued upon application of the employee or his employer in accordance with Art. 12 EU-Regulation 883/04 confirming that the employee remains within the social security scheme of the sending state. Whenever possible, the application should be made before the work is due to be carried out in the other state. Please note that the A1 certificate will be issued for a duration of 24 months only.

Since 1 January 2019, A1 applications must be filed electronically to the responsible authority via a payroll program. In Germany, the statutory health insurance funds are responsible for compulsory



and voluntarily insured persons, while privately insured persons receive the certificate from their pension insurance institution or pension fund.

Revised EU posting workers directive

The revision of the Posting of Workers Directive 96/71/EC has added complexity on intra-European assignments. Registration obligations have been introduced in order to ensure compliance with work regulations in the country of assignment, in particular regarding remuneration and working conditions.

Consequently, all mandatory elements of remuneration "equal pay for equal work in the same place" shall be applied to posted workers. The Directive must be included in national laws by 30 July 2020. This has already been performed by many EU Member States.

The revised Directive includes the following obligations for employers:

- Timely registration of the employee to be posted to the competent authority in the host state. The registration must include, amongst other things, information regarding the company, employee and activity in the host state.
- Certain documents must be held ready in the host state, usually in the local language of the host state.
- Designation of a contact person in the host state.
- Please note that these registration obligations apply even in the case of short-term postings.

Consequences of infringements

In the event of (repeated) infringements of the EU Posting of Workers Directive, fines and refusal of access to the

foreign company or trade fair grounds may be imposed the same way as if an A1 certificate were not presented. In the worst-case scenario, the provision of services in the host state can be prohibited.

Recommended actions

Before posting workers, employers should verify whether the company is compliant with the requirements for postings. In particular, it must be ensured that the employees to be posted abroad are properly registered, all necessary documents are at hand for submission to the authorities and a valid A1 certificate is available. In addition, the posting agreement must meet the requirements of the respective host state regarding the minimum employment conditions.

We are happy to advise you on further issues in connection with the posting of employees and all related questions.

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