

OUTLINE INTERNSHIPS IN CROSS-BORDER CONTEXT- INTERNSHIP IN A STATE WITH A BILATERAL SOCIAL SECURITY AGREEMENT

1. GENERAL INFORMATION

1.1. Social security agreements

Belgium has concluded a bilateral social security agreement with 25 countries. Of these, 15 provide for coordination rules for accidents at work.¹ In case of an internship in a company situated in a treaty country that does not provide for coverage for accidents at work, it is best to provide for additional coverage under private law.

The conventions that provide in a cover for accidents at work only apply to employees and persons treated as an equivalent to employees. All these conventions stipulate that the general rule is that the State where the work is carried out determines the applicable social security legislation.² However, each treaty has its own specificities.

1.2. Posting

The social security agreements provide for the possibility of posting. The rules on posting and the procedure to be followed are governed respectively by the provisions of the treaty concerned and the administrative arrangement that lays down the modalities of its application.

¹Albania, Algeria, Quebec, DR Congo, Israel, Kosovo, FYR Macedonia, Morocco, Moldova, Montenegro, San Marino, Serbia, Tunisia, Turkey, Bosnia and Herzegovina. The treaty with Congo only applies to seafarers so is not relevant in the context of the small statutes.

²This corresponds to the assignment rule set out in Article 11(3)(a) of Regulation 883/2004.

The rules on posting largely correspond to those of Regulation 833/2004, except for the principle of unity of legislation, the duration of posting (which may vary from 1 to 5 years),³the obligatory nature of the posting⁴ and the coordinated sectors.⁵The exact rules on posting will therefore depend on the third country where the traineeship takes place.

Through this link https://www.socialsecurity.be/CMS/nl/coming_to_belgium/FODSZ_Convention one can consult all social security agreements, including the applicable provisions on posting.

An application for posting should be sent to the competent social security institution. In Belgium, this is up to the NSSO https://www.socialsecurity.be/site_nl/employer/applics/gotot/index.htm. If the basic conditions are fulfilled, a certificate of the applicable legislation will be issued, "Certificate of Coverage", which proves that the concerned intern retains his/her usual social security regime of the sending state.

2. PRACTICAL APPLICATION

Always take two steps to determine which legislation should be applied effectively.

Step 1. Determine the applicable legislation:

- >is determined by using the assignment rules included in the treaty
- >in many treaties it is the legislation of the State where the traineeship takes place.

Step 2. The legislation applied:

- >consult the legislation of the competent state for the exact conditions of coverage for a work-related accident.

These two steps are only important if posting is not used.

³ In Algeria, posting is possible for 12 months for employees and persons considered as such according in article 4, paragraph 2 of the convention. Article 1 of the administrative arrangement of this Convention sets out the modalities of posting.

⁴ Unlike Regulation 833/2004, posting is not obligatory if posting conditions are fulfilled. If posting conditions are met, the parties can decide to cover the employee in the State of Employment (basic rule).

⁵ Unlike Regulation 833/2004, not all sectors of social security are coordinated. The extent of the sectoral coverage (branch of social security) will depend on the treaty concluded.

2.1.Foreign student is doing an internship in a company in Belgium.

<p><u>General rule:</u></p> <p>Application of the legislation of the State of Employment</p>	<p><u>Example.</u> A computer science student lives and studies in Algeria and comes for a two-week internship in a company (Orange) in Brussels.</p> <p>->Step 1: legislation of the State where the internship takes place = Belgium Law on accidents at work applies</p> <p>->Step 2: educational institution in Algeria concludes the work accident insurance with an insurance company in Belgium + make theDimona STG declaration with the NSSO</p> <p>-> Company in Belgium may only admit the internship if the educational institute in Algeria provides proof of insurance.</p>
<p><u>Exception rule:</u></p> <p>Posting -> Application of the legislation of the posting State</p> <p>For the exact posting conditions, please refer to the bilateral social security agreement.⁶</p>	<p><u>Example.</u> A computer science student who lives and studies in Algeria is posted for 2 months to a company (Orange) in Brussels by the educational institution in Algeria.</p> <p>->The Algerian social security legislation applies</p> <p>->Cover of the accident at work in Belgium according to the rules in force in Algeria</p> <p>->Algerian intern must present the certificate of posting to the company in Belgium prior to the internship</p> <p><u>NOTE:</u> If the Algerian intern is not considered an equivalent of an employee in Algeria, no certificate of posting will be issued. The trainee will be covered by the Law on accidents at work.</p>

⁶ In Algeria, a posting period of 12 months is provided for. In Albania, a posting period of 24 months is foreseen, etc.

2.2.A student at an educational institution in Belgium does an internship in a company in the contracting country.

<p><u>General rule:</u></p> <p>Application of the legislation of the State of Employment.</p>	<p><u>Example.</u> A medical student at the UA follows an internship for 2 months in a company (hospital in Oran) in Algeria.</p> <p>->Step 1: Legislation of the State where the internship takes place = Algeria The Algerian social security legislation applies</p> <p>-> Step 2: The intern benefits from an accident at work cover according to Algerian rules.</p> <p><u>NOTE:</u> If the Algerian legislation provides for limited cover for accidents at work, the Belgian educational institution may provide for additional cover under private law for the trainee.</p>
<p><u>Exception rule:</u></p> <p>Posting -> Application of the legislation of the posting country</p> <p>For the exact posting conditions, please refer to the bilateral social security agreement.</p>	<p><u>Example.</u> A medical student at the UA is posted by the UA during his 2-month internship in a company (hospital is in Oran) in Algeria.</p> <p>-> Law on accidents at work applies</p> <p>-> UA has to conclude the work accident insurance + make the Dimona STG declaration with the NSSO</p> <p>-> UA notifies the insurer of the "Certificate of Coverage"</p>