



SIIS

SOCIAL INFORMATION AND
INVESTIGATION SERVICE

Social Information and Investigation Service

Ernest Blérotstraat 1 1070 Brussels

Belgium

www.siod.belgie.be - www.sirs.belgique.be

EMPLOYMENT OBLIGATIONS IN BELGIUM (version 31/8/17)

Dear Madam

Dear Sir

As an employer you intend to send temporary staff to Belgium or as a self-employed you wish to fulfil an assignment in Belgium. This implies that you shall have to comply to certain legal obligations. Below you will find an overview of the main legal obligations.

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A) Obligations as an employer posting workers to Belgium

A general overview of the obligations can be found on the following websites:

- the portal of the federal authorities:
http://www.belgium.be/en/work/coming_to_work_in_belgium/
and http://www.belgium.be/en/work/posting_workers_to_belgium/
- the Limosa site : <http://www.limosabe.be/>
- and the Federal Public Service Employment, Labour and Social Dialogue:
<http://www.employment.belgium.be/defaultTab.aspx?id=6540>

The Belgian liaison office for posting workers to Belgium (Single Point Of Contact-SPOC)

The Belgian liaison office is the first point of contact for a foreign employer wishing to post workers to Belgium. Its task consists in providing information to employers and workers posted to Belgium on general issues in the field of labour law and to direct them, as appropriate, to the competent services.

Address coordinates of the Belgian liaison office:
FPS EMPLOYMENT, LABOUR AND SOCIAL DIALOGUE
Directorate General Individual Labour Relations
Ernest Blerotstraat 1
1070 Brussels
Phone: + 32 (0)2 233 48 22
Fax: + 32 (0)2 233 48 21
E-mail: iab@werk.belgie.be

1) Make a Limosa declaration before commencing the operations:

If you are a non-Belgian employer performing temporary or partial assignments in Belgium, you should notify electronically, before the beginning of the work, the presence in Belgium of your workers who are not established in Belgium in principle. Immediately after the notification, an acknowledgement L-1 will be delivered. This acknowledgement must be submitted to the Belgian user or client. For more information see

https://www.socialsecurity.be/foreign/en/employer_limosa/home.html _

and www.limosabe.be

2) Dispose of an A1 document:

A/ Posting

The European provisions in the field of social security stipulate that the Member State where the work is executed, is responsible for social security (= performances & contributions). An exception to this principle is

the posting of workers. When posting workers, the social security provisions of the Member State from which the worker is transmitted remain further applicable. However, in order to be allowed to post workers, you should comply as an employer to a certain number of conditions:

1. Normally perform substantial activities as an employer in the sending State, which will be assessed on the basis of the following criteria:

- The location of the registered office and headquarters of the company;
- The number of administrative employees working in the sending State;
- The place of recruitment of the posted workers;
- The place where most of the contracts with the clients are concluded;
- The legislation applicable to the contracts with the workers and the clients;
- The turnover achieved in the sending State.

2. The organic link between the employer and the worker must be maintained during the entire posting period;

3. The worker is not posted to replace another posted worker;

4. The planned employment duration in the other country must not exceed 24 months;

5. The worker must have been subjected to social security insurance during at least one month prior to the time of posting in the sending State.

A valid posting can be proven by means of the delivery of an A1 form. The A1 form proves that the posted worker pays social security contributions in the sending State.

You can obtain this form from the competent social security institution in your home State. You should make sure however that the posting form can be submitted at each inspection.

CAUTION: ask for the form in your home State in good time, it may take some time before it can be delivered. For more information see

EN: <http://ec.europa.eu/social/main.jsp?catId=857&langId=en&intPageId=972>

EN: <http://ec.europa.eu/social/main.jsp?langId=en&catId=868>

B/ Posting and simultaneous employment

EN: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:106:0005:0008:EN:PDF \(administrative commission\)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:106:0005:0008:EN:PDF (administrative commission))

EN: <http://ec.europa.eu/social/BlobServlet?docId=4944&langId=en>

A practical guide to the applicable legislation in the European Union, the European Economic Area and Switzerland (2013)

3) Commit to the core of Belgian wage and working conditions:

During the posting, as an employer you are required to comply to the rules applicable in Belgium for the protection of workers, including:

- The minimum wages: the gross wages of your worker may not be lower than the minimum wages applicable in Belgium in the sector. For this purpose, basically certain fixed indemnities intended as repayments or reimbursements of expenses actually incurred for accommodation, food and travel expenses may not be taken into account as minimum wages (Article 3, 7 of the Directive 96/71/EC). More information can be found on the links: <http://www.werk.belgie.be/defaultTab.aspx?id=38256> and https://www.minimumlonen.be/jc_overview.html
- The working hours: the maximum permitted number of working hours and the obligatory minimum rest breaks should be observed. There is a surcharge of 50% (or 100% on Sundays and holidays) to be paid upon the performance of overtime.
- Granting rest on the paid holidays applicable in Belgium and granting annual paid leave.

In some sectors contributions shall have to be paid to the welfare funds, for example in the building sector. For additional information see

NL: https://www.international.socialsecurity.be/working_in_belgium/nl/eerste-keer-hier.html#panel02Tab01

FR: https://www.international.socialsecurity.be/working_in_belgium/fr/premiere-visite.html

EN: https://www.international.socialsecurity.be/working_in_belgium/en/first-visit.html

DE: https://www.international.socialsecurity.be/working_in_belgium/de/erster-besuch.html

Additional information relating to the applicable labour law in the case of posting can be found on:

NL : <http://www.werk.belgie.be/defaultTab.aspx?id=6224>
FR : <http://www.emploi.belgique.be/defaultTab.aspx?id=6224>
EN : <http://www.employment.belgium.be/defaultTab.aspx?id=6224>

4) At the request of the labour inspection: being able to submit comparable wage documents

The foreign employer should be able to submit to the labour inspection services, at their request, a copy of the wage documents which are provided in the country where he is established and which are comparable to the pay slip and the individual account provided for by the Belgian legislation. Under these conditions an exemption can be granted for other social legislation documents according to the Belgian model (which shall no longer have to be kept). For additional information see:

NL: <http://www.werk.belgie.be/defaultTab.aspx?id=6196#AutoAncher4>
FR: <http://www.emploi.belgique.be/defaultTab.aspx?id=6196#AutoAncher4>
EN: <http://www.employment.belgium.be/defaultTab.aspx?id=6196>
DE : <http://www.beschaefteigung.belgien.be/home.aspx>

Prior to the employment in Belgium, the foreign employer must designate a liaison officer (via the Limosa declaration). This natural person can live in Belgium as well as abroad. His task is to ensure, on behalf of the foreign employer, the contact with the inspections in Belgium. The latter may contact the person concerned to provide or receive any document or advice relating to the employment of employees posted in Belgium.

What documents should the foreign employers submit to the inspection at the request of the inspection?

1° a copy of the employment contracts of posted workers;

2° the foreign currency information which serves as payment of the salary, the benefits in cash or in kind linked to the employment abroad, the terms of repatriation of the posted workers;

3° the working time summaries indicating the beginning, end and duration of the daily working time of posted workers;

4° the payment certificates of the wages of posted workers.

At the request of the inspection, foreign employers must provide a translation of these documents (NL, FR or English). The documents can be delivered on paper or in electronic form.

In addition, the social inspectors can contact the employer's contactor with all useful information about the nature of the work, the commercial contracts, the terms of employment, the billing, the company's activities, the original paychecks drawn up in the sending country, etc. The inspectors can retrieve information that allows to check whether the posting is legal, the company is not a mailbox company, etc. (general jurisdiction under the Social Criminal Code).

5) Apply for an employment authorization:

In some cases, a foreign employer shall have to apply for an employment authorization for his non-Belgian workers and the workers themselves shall need a work permit. The application must be made to the regions. For additional information see:

Flanders: <http://www.werk.be/online-diensten/werknemers-buitenlandse-nationaliteit>

Wallonia: <http://emploi.wallonie.be/home/travailleurs-etrangers/permis-de-travail.html>

Brussels Capital Region : http://werk-economie-emploi.brussels/nl_nl/home

German-speaking Community:

<http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-269/>

6) Apply for residence documents:

If **non-EU citizens** wish to come to Belgium to work, they will have to apply for a visa 'long stay' to the Belgian Embassy competent for their country of residence. Additional information about the procedure and the required documents can be found on our website:

NL: <https://dofi.ibz.be/sites/dvzoe/nl/Gidsvandeprocedures/Pages/InBelgie werken.aspx>

FR: <https://dofi.ibz.be/sites/dvzoe/FR/Guidedesprocedures/Pages/Travail.aspx>

EN: <https://dofi.ibz.be/sites/dvzoe/EN/Applicationguides/Pages/Working.aspx>

Should you require additional information you can always contact the info desk (infodesk@ibz.fgov.be – phone: 032 2 793.80.00).

If **EU-citizens** come to Belgium to work, they should report to the municipal administration of their temporary place of residence. This does not apply for those staying at a hotel, a youth hostel or a campsite. You will then receive an acknowledgment of receipt or an 'Annex 3ter'.

Article 41bis of the Act of 15 December 1980 on access to the territory, residence, establishment and removal of foreigners.

NL :

https://dofi.ibz.be/sites/dvzoe/NL/Gidsvandeprocedures/Pages/Recht_op_verblijf_-_3_maanden.aspx

FR: https://dofi.ibz.be/sites/dvzoe/FR/Guidedesprocedures/Pages/Le_droit_de_s_ejourner_-_de_3_mois.aspx

EN: https://dofi.ibz.be/sites/dvzoe/EN/Applicationguides/Pages/STAYING_less_than_3_months.aspx

7 Safety at the workplace:

The Act of 4 August 1996 concerning the well-being of the workers in the performance of their work and its implementing decrees apply to any employer occupying workers in Belgium. This act is the transposition into Belgian law of

the Framework Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work;

More information about well-being at work in the case of posting can be found at:

NL : <http://www.werk.belgie.be/defaultTab.aspx?id=38260>
FR : <http://www.emploi.belgique.be/defaultTab.aspx?id=38260>
EN : <http://www.employment.belgium.be/defaultTab.aspx?id=38260>
DE: <http://www.beswic.be/fr/legislation/belgische-geetzgebung>

8) Statement of work and attendance registration

A/ Statement of work:

If you contracted directly with the client (builder) for work in real estate on Belgian territory, you may be required to make a statement of work.

With this online service, contractors of certain works can make various declarations. These are the following reports:

- statement of work "30bis" that fall within the **real estate sector**. These works will be reported to the National Social Security Office (RSZ), the NAVB and the Federal Public Service Employment, Labour and Social Dialogue; and
- statement of work "30ter" belonging to the **Joint Committee for Monitoring and / or Oversight Services, and companies engaged in certain activities in the meat sector**. These works will be reported to the National Social Security Office (RSZ)

More information can be found on the link below: (choose your language)

https://www.socialsecurity.be/site_nl/employer/applis/ddt/index.htm

B/checkin@work or attendance registration

Through Checkin@work, **employers and contractors who work in real estate perform** a declaration of the people present on certain workplaces. The system records who is present at any time and place.

Checkin@work also provides a registration tool for **employees or self-employed subcontractors** themselves. They can log in to the system before arrival at the workplace.

The attendance registration is **mandatory** for places where work is performed whose total amount excluding VAT is equal to or higher than **500,000 euros**. You must register attendance once this amount is reached:

- either at the start of the work,
- either during work.

More information can be found on the link below: (Choose your language)

https://www.socialsecurity.be/foreign/nl/employer_limosa/applics/checkinetwork/home.html

B) Obligations as a self-employed (without permanent establishment in Belgium)

1) Making a Limosa notification before the commencement of operations:

When you perform as a non-Belgian self-employed temporary or partial assignments in Belgium, you should first notify your presence electronically, reporting amongst others your identity data and the Belgian user. Immediately after your notification an acknowledgement L-1 will be issued. This acknowledgement should then be submitted to the Belgian client and to the inspection.

For additional information:

NL:

https://www.international.socialsecurity.be/working_in_belgium/nl/limosa.html

FR:

https://www.international.socialsecurity.be/working_in_belgium/fr/limosa.html

EN:

https://www.international.socialsecurity.be/working_in_belgium/en/limosa.html

DE:

https://www.international.socialsecurity.be/working_in_belgium/de/limosa.html

2) Hold an A1 document:

The European provisions in the field of social security stipulate that the Member State where the work is executed, is responsible for social security (= performances & contributions). An exception to this principle is the posting of workers. When posting workers, the social security provisions of the Member State from which the worker is transmitted remain further applicable. These are determined on the basis of the following criteria:

- Available office space in the sending State;
- Possession of a professional card in the sending State;
- Possession of a VAT number and the payment of taxes in the sending State;
- Registration with a chamber of commerce or a professional organization.

EN

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:106:0005:0008:EN:PDF>

NL: <http://ec.europa.eu/social/BlobServlet?docId=4944&langId=en>

This may be proven on the basis of an A1 form. This form can be obtained from the competent social security institution in your home country. You must make sure however that the posting form can be submitted at each inspection.

CAUTION: ask for the form in your home country in good time, it may take some time before it is delivered. For additional information see:

:

<http://ec.europa.eu/social/main.jsp?catId=857&langId=en&intPageId=972>

<http://ec.europa.eu/social/main.jsp?langId=en&catId=868>

(select your language)

3) Apply for residence documents:

A non-Belgian self-employed must apply for residence documents in the municipality where he resides if he comes to Belgium on order to pursue economic activities.

If **non-EU citizens** wish to come to Belgium to work, they must apply for a visa 'long stay' to the Belgian Embassy competent for their country of residence. Additional information about the procedure and required documents can be found on our website:

- NL: https://dofi.ibz.be/sites/dvzoe/NL/Gidsvandeprocedures/Pages/In_Belgie_werken.aspx
- FR: <https://dofi.ibz.be/sites/dvzoe/fr/Pages/home.aspx>
- EN: <https://dofi.ibz.be/sites/dvzoe/en/Pages/home.aspx>

Should you require additional information you can always contact the info desk (infodesk@ibz.fgov.be – phone: 032 2 793.80.00).

If EU citizens come to Belgium to work, they should report to the municipal authorities of their temporary place of residence. This does not apply for those staying at a hotel, a youth hostel or a campsite. You will receive an acknowledgment of receipt or an 'Annex 3ter'.

Article 41bis of the Act of 15 December 1980 on access to the territory, residence, establishment and removal of foreigners..

For more info:

NL :

[https://dofi.ibz.be/sites/dvzoe/NL/Gidsvandeprocedures/Pages/Recht op verblijf - 3 maanden.aspx](https://dofi.ibz.be/sites/dvzoe/NL/Gidsvandeprocedures/Pages/Recht_op_verblijf_-_3_maanden.aspx)

FR: [https://dofi.ibz.be/sites/dvzoe/FR/Guidedesprocedures/Pages/Le droit de s ejourner - de 3 mois.aspx](https://dofi.ibz.be/sites/dvzoe/FR/Guidedesprocedures/Pages/Le_droit_de_s_ejourner_-_de_3_mois.aspx)

EN: [https://dofi.ibz.be/sites/dvzoe/EN/Applicationguides/Pages/STAYING less than 3 months.aspx](https://dofi.ibz.be/sites/dvzoe/EN/Applicationguides/Pages/STAYING_less_than_3_months.aspx)

4) Provide proof of entrepreneurial skills:

A non-Belgian self-employed must prove basic knowledge of business management. Moreover for a large number of regulated professions, such as contractor in building, painting, electricity,... a proof of specific professional skills is also required. As from 1 January 2015 this authority has been transferred to the Regions.

Co-ordinates of the competent instances:

Flanders

Agentschap Ondernemen

Koning Albert II-laan 35 bus 12
1030 Brussels

Phone: 0800 20 555

<http://www.vlaanderenonderneemt.be/start/welke-ondernemersvaardigheden-moet-u-bewijzen>

Brussels

Brussels Economy and Employment

Dienst Economie

Kruidtuinlaan, 20
1035 Brussels

Phone.: 02 800 35 93

Phone: 02 800 33 61

<http://werk-economie-emploi.brussels/nl> Be/home (select your language)

Wallonia

Service public de Wallonie

Place Joséphine-Charlotte 2
5100 Namur (Jambes)

<http://emploi.wallonie.be/home/travailleurs-etrangers/carte-professionnelle.html>

Foreign companies in the European Economic Area do not have to prove their entrepreneurial skills according to Article 5 of Directive 2005/36 of the European Parliament and the Council of 7 September 2005, if temporary and occasional work is executed without establishment in Belgium and if they:

- 1) are legally established in their country of origin to exercise the same profession;
and
- 2) have pursued that profession for at least 2 years during the ten years preceding the operations.
The condition requiring a two years' pursuit of the profession shall be void if the profession is regulated in the country of origin.

5) Hold a professional card:

A **non-EU self-employed person** who wishes to pursue a professional activity in Belgium must usually have a professional card. As from 1 January 2015 this authority has been transferred to the Regions.

Flanders

<http://www.vlaanderen.be/nl/ondernemen/vergunningen-en-regelgeving/beroepskaart-voor-vreemdelingen>

Brussels

<http://werk-economie-emploi.brussels/nl/Be/carte-professionnelle-pour-ressortissants-etrangers>
(select your language)

Wallonia

<http://emploi.wallonie.be/home/travailleurs-etrangers/carte-professionnelle.html>
Duitstalig België
<http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-4759/>

8) Statement of work and attendance registration

A/ Statement of work:

If you contracted directly with the client (builder) for work in real estate on Belgian territory, you may be required to make a statement of work.

With this online service, contractors of certain works can make various declarations. These are the following reports:

- statement of work "30bis" that fall within the **real estate sector**. These works will be reported to the National Social Security Office (RSZ), the NAVB and the Federal Public Service Employment, Labour and Social Dialogue; and
- statement of work "30ter" belonging to the **Joint Committee for Monitoring and / or Oversight Services, and companies engaged in certain activities in the meat sector**. These works will be reported to the National Social Security Office (RSZ)

More information can be found on the link below: (choose your language)

https://www.socialsecurity.be/site_nl/employer/applics/ddt/index.htm

B/checkin@work or attendance registration

Through Checkin@work, **employers and contractors who work in real estate perform** a declaration of the people present on certain workplaces. The system records who is present at any time and place.

Checkin@work also provides a registration tool for **employees or self-employed subcontractors** themselves. They can log in to the system before arrival at the workplace.

The attendance registration is **mandatory** for places where work is performed whose total amount excluding VAT is equal to or higher than **500,000 euros**. You must register attendance once this amount is reached:

- either at the start of the work,
- either during work.

More information can be found on the link below: (Choose your language)

https://www.socialsecurity.be/foreign/nl/employer_limosa/applics/checkin@work/home.html

C) Obligations as an agency

1) For their workers posted to Belgium, foreign employment agencies must comply with the same obligations as the employers posting workers to Belgium (see point A)

2) Obtain prior approval as an employment agency:

The provision (lending) of personnel is basically prohibited, except by a recognized agency. The activity of an agency in Belgium also requires prior approval by the competent authorities (Walloon Region, Brussels Capital Region, Flemish Community, German Community) depending on the region where the worker is employed. For additional information see:

Flanders:

<http://www.werk.be/online-diensten/bureaus-private-arbeidsbemiddeling/erkenning-van-uitzendbureaus>

Wallonia:

<http://emploi.wallonie.be/home/emploi/agences-de-placement.html>

Brussels Capital Region:

<http://www.werk-economie-emploi.irisnet.be/agences-d-emploi-privees>

German-speaking community:

http://www.ostbelgienlive.be/desktopdefault.aspx/tabid-274/5241_read-34546/

D) Tax obligations

Belgium has concluded treaties with several countries regulating the applicable taxation rules. These treaties can be consulted on www.fisconet.fgov.be.

For additional information on your specific situation, please contact the:

FPS Finance

General Administration of Taxation

International – Belintax

North Galaxy Tower A – 15

Koning Albert II –laan 33 box 26

1030 Brussels

Phone 0032 257 634 70 or belintax@minfin.fed.be

E) Labour inspection and sanctions

1. Various social inspection services, including the regional competent social services, supervise the implementation of the social legislation for which they have been declared competent by the legislator.

For additional information regarding their coordinates, powers, means of action, see: <http://www.siod.belgie.be/siodsirs/default.aspx?id=19872>

Non-compliance with the obligations set out in sections A, B and C can be sanctioned with criminal penalties, which, depending on the gravity of the infringement, can amount to 48,000 euros per worker involved.

If there is no criminal prosecution, administrative fines can be imposed

1. .

2. Sanction levels and amounts

3. are mentioned in the Social Criminal Code of 2 June, 2010, Articles 101, 102 and Article 52 of the Act of 5 March 1952 concerning the surcharges on criminal fines.

| Sanction level | Prison sentence | Criminal fine [2] | Administrative fine [3] |
|----------------|---|---|--|
| Level 1 | | | € 80 to € 800 |
| Level 2 | | either a criminal fine of € 400 to € 4,000 | either an administrative fine of € 200 to € 2,000 |
| Level 3 | | either a criminal fine of € 800 to € 8,000 | either an administrative fine of € 400 to € 4,000 |
| Level 4 | either a prison sentence of 6 months to 3 years | and/or a criminal fine of € 4,800 to € 48,000 | either an administrative fine of € 2,400 to € 24,000 |

For a number of infringements, the fine is multiplied by the number of employees involved in the infringement.

For the Flemish Region, the sanctions and amounts are mentioned in the Decree of 23/12/2016.

4. Non-compliance with certain obligations can also have other consequences. For some of which your client, the Belgian user, may equally be liable.

- the prohibited "provision" of staff. For additional information see:

NL: <http://www.werk.belgie.be/defaultTab.aspx?id=3470>

FR: <http://www.emploi.belgique.be/defaultTab.aspx?id=3470>

DE : <http://www.beschaefitigung.belgien.be/home.aspx>

- -the joint liability for wages. For more information see:

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- NL: <http://www.werk.belgie.be/defaultTab.aspx?id=442#AutoAncher4>

FR: <http://www.emploi.belgique.be/defaultTab.aspx?id=442>

DE: <http://www.beschaefitigung.belgien.be/defaultTab.aspx?id=39003>

- -penalties for illegal employment of foreign workers from outside the EEA:

http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=nl&la=N&table_name=wet&cn=2013021113

- http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=2013021113&table_name=loi false self-employed. For additional information see:
- NL: <http://www.werk.belgie.be/defaultTab.aspx?id=42058>
- FR: <http://www.emploi.belgique.be/defaultTab.aspx?id=42058>

5. The Labour inspection maintains close contacts with its foreign counterparts, as well for the verification of the A1 documents through SPOCs as for other information through IMI, the official communication platform of the European Commission for competent supervising authorities: http://ec.europa.eu/internal_market/imi-net/index_en.html (select your language)

The exchange of information allows us to collect evidential material related to violations committed by foreign companies in Belgium as well as information regarding their status and activities in their countries of origin.