



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Home Affairs FDHA  
**Federal Social Insurance Office FSIO**  
International Affairs

# **Social Security for Posted Workers**

## **CH - EU**

January 2019

## Who is the target audience?

### This practical guide is aimed at workers posted:

- between Switzerland and a Member State of the European Union (EU) insofar as the workers are Swiss nationals or have citizenship of an EU Member State.<sup>1</sup>

### The guide does not concern workers posted:

- between Switzerland and an EU Member State (with the exception of Estonia, Latvia, Lithuania, Malta, Poland and Romania<sup>2</sup>) insofar as they are neither a Swiss national nor have citizenship of an EU Member State. See guide "[Social Security for Posted Workers – Contracting States outside EU/EFTA](#)";
- between Switzerland and non-EU Member States with whom Switzerland has concluded a social security agreement.<sup>3</sup> See guide "[Social Security for Posted Workers – Contracting States outside EU/EFTA](#)";
- between Switzerland and an EFTA Member State.<sup>4</sup> See guide "[Social Security for Posted Workers – CH-EFTA](#)";
- between Switzerland and States with whom Switzerland has not concluded a social security agreement. See guide "[Social Security for Posted Workers – Non-contracting States](#)".

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<sup>1</sup> The EU Member States are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Spain, Slovakia, Slovenia, Sweden, and the United Kingdom.

<sup>2</sup> The guide "[Social Security for Posted Workers – Non-contracting States](#)" is aimed at all workers posted between Switzerland and Estonia, Latvia, Lithuania, Malta or Poland, who are neither a Swiss national nor have citizenship of an EU Member State.

<sup>3</sup> Switzerland has concluded social security agreements with the following non-EU/EFTA Member States: Australia, Canada (incl. Quebec), Chile, China, former Yugoslavia (Bosnia and Herzegovina), India, Israel, Japan, Macedonia, Montenegro, Philippines, Republic of San Marino, South Korea, Serbia, Turkey, Uruguay and the United States of America.

<sup>4</sup> The EFTA Member States are: Iceland, Liechtenstein, Norway and Switzerland.

## Introduction

Based on the Agreement between the Swiss Confederation, of the one part, and the European Community and its Member States, of the other, on the free movement of persons (Agreement on Free Movement), [Regulation \(EC\) No. 883/2004](#) applies to all social security matters which concern the relationship between Switzerland and the EU Member States. It replaces Regulation (EEC) No. 1408/71.

The purpose of Regulation (EC) No. 883/2004 is to coordinate European social security systems. It regulates, among other things, the temporary posting of workers abroad.

Postings authorised under Regulation (EEC) No. 1408/71 shall remain valid until the end of the permitted time period. It should be noted that the duration of postings permitted under the Regulation (EEC) No. 1408/71 will be counted when determining the maximum duration of a posting authorised under Regulation (EC) No. 883/2004.

## 1) Regulation (EC) No. 883/2004

### Material scope

The Regulation governs the following statutory social security schemes:

- sickness and maternity benefits;
- disability benefits;<sup>5</sup>
- old-age benefits;<sup>5</sup>
- survivors' benefits;<sup>5</sup>
- benefits in respect of accidents at work and occupational disease;
- unemployment benefits;
- family benefits.

However, the Regulation does not apply to private insurance plans or to coverage resulting from industrial agreements (collective labour agreements).

### Personal scope

Regulation (EC) No. 883/2004 protects individuals who are or were subject to the social security legislation of Switzerland or of an EU Member State, as well as (in relation to certain benefits) their family members.

The Regulation applies to Swiss nationals and citizens of an EU Member State.

Bilateral social security agreements also provide for the posting between Switzerland and certain EU Member States of workers who are neither a Swiss nor a national of an EU Member State (see page 2).

### Determination of the applicable legislation

To avoid gaps in insurance cover or the double payment of social security contributions, Regulation (EC) No. 883/2004 sets out which State's social security legislation applies to workers.

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<sup>5</sup> As far as Swiss legislation is concerned, the Regulation also applies to benefits provided by the compulsory occupational old-age, survivors' and invalidity benefit plan (BVG - LPP).

With few exceptions, every individual is subject to the social security legislation of only one Member State (Article 11, para. 1), as a general rule the one of their State of employment (Article 11, para. 3a).

One exception to this rule concerns posted workers who are sent to work in another Member State for a limited period of time (Article 12).

## **2) Posting**

“Posting” refers to the act of an employer sending an employee to work on its behalf in another State for a limited period of time. For self-employed workers, it implies that they move temporarily to another State in order to pursue a similar activity there.

Posted workers therefore remain subject to the social security legislation of the posting State (i.e. the sending country) for the period that they are posted abroad. This concerns all branches of social security.

A posting must satisfy the following conditions:

### **a. Temporary nature**

A posting is only permitted for a limited period of time. In principle, a worker should not be posted for more than 24 months.

If more than 24 months is required, the posting State and the State of employment (i.e. the country where the worker is posted) may conclude a special agreement and consent to an extension.

A temporary interruption of the worker’s activities (due to ill-health, holidays or if called back by the employer) is not regarded as an interruption to the posting.

### **b. Habitual and significant activities in the posting State**

The posting company must have ordinarily carried out substantial economic activities for a certain period of time in the country from which the worker is posted. A permanent establishment with not only administrative staff and annual reports detailing the company’s turnover achieved in the posting country, for example, are signs of this.

Self-employed persons wishing to avail of the posting arrangements must have already pursued substantial economic activities in the posting State for a certain period of time.

### **c. Prior social security cover in the posting State**

Immediately prior to their posting, workers must have been insured under the social security scheme of the posting State.

As a guide, workers who have been affiliated to the social security system of the posting State for at least one month prior to their posting are deemed to have satisfied the minimum period of prior insurance. For self-employed workers, this period is two months.

### **d. The posted worker is not sent to replace another posted worker**

An employer may not post a worker to replace another worker whose posting has come to an end.

#### **e. Nationality of the posted worker**

Concerning postings between Switzerland and EU Member States, provisions of Regulation (EC) No. 883/2004 apply exclusively to Swiss nationals and citizens of an EU Member State (see page 2 for information on posted workers of other nationalities).

#### **f. Direct relationship between posted worker and employer**

A direct relationship of subordination must exist between the posted worker and the employer for the entire duration of the posting. To qualify as a direct relationship, certain criteria must be stipulated in the employment contract. A direct relationship exists when the posted worker continues to be subject to the authority of the employer, and when the latter has sole power to terminate the contract of employment (dismissal), has responsibility for recruitment and retains the power to determine the general nature of the work that its employee will perform during the posting.

While posted employees must work in the interests and on behalf of their employer, their salary may be paid by a third party.

#### **g. Self-employed workers: pursuit of similar activities**

The nature of the activity that posted self-employed workers will temporarily pursue abroad must be similar (in the same sector) to the activity that they ordinarily pursue in the posting State.

### **3) Postings from Switzerland to an EU Member State**

#### **Certificate of posting**

An employer wishing to post an employee, or a self-employed worker who wishes to avail of posting arrangements, for a maximum period of 24 months must submit a request through a web application regarding applicable legislation made available by the competent Swiss AVS/AHV compensation fund. If posting requirements are met, the AVS/AHV compensation fund will issue an [attestation A1](#)<sup>6</sup> (previously an E 101 form) to the employer (who will forward it to the posted worker) or to the self-employed worker.

#### **Extension of the term of posting**

Should a period of 24 months be insufficient, an employer may, in the interests of the posted worker, request an extension through a web application regarding applicable legislation made available by the competent Swiss AVS/AHV compensation fund. The FSIO will then negotiate a special agreement in accordance with Article 16 of Regulation (EC) No. 883/2004 with the competent authority in the State of temporary employment. If such a special agreement is reached, the FSIO issues the employer with a confirmation that the posted worker remains subject to the Swiss social security legislation for the duration of the extended period. The same procedure applies to self-employed workers.

If it can be reasonably anticipated from the beginning that the temporary posting duration will extend beyond 24 months, an employer may, in the interests of the posted worker, apply directly for a special agreement covering the whole duration of the posting.

According to current practice, a special agreement is only negotiated with the competent authority in the State of employment if the total posting period is no more than five or six years.

## **Obligation to inform and inspections**

Posted workers and their employer must inform the competent institutions in the posting State of any important changes that may occur while the worker is posted abroad.

The authorities may carry out inspections at any point to ensure compliance with the posting requirements, namely relating to the continued existence of the direct relationship between the employer and the posted employee.

## **Effects of the posting**

All rights and obligations of Swiss social security legislation shall remain applicable for the entire duration of the temporary posting abroad. This means that posted workers and their employer must continue to pay into the following Swiss social security schemes: old-age and survivors' insurance (AVS/AHV), invalidity insurance (AI/IV), income compensation allowances scheme (APG/EO), unemployment insurance (AC/ALV), occupational benefit plan (LPP/BVG), accident insurance (AA/UV) and family allowances (LAFam/FamZG). Self-employed workers also continue to pay into the applicable compulsory Swiss social security schemes.

Posted workers, and in principle accompanying family members, who are not in gainful employment, remain subject to the compulsory sickness insurance scheme (LAMal/KVG) in Switzerland (see section 4). They also continue to qualify for Swiss family allowances.

Posted workers are not obliged to pay contributions to the social security system in their State of temporary employment. As such, they do not qualify for any benefits administered by that State.

## **Continued insurance cover after completion of the posting**

After the posting abroad is completed, the worker concerned is subject to the social security legislation of the State of employment.

If the worker continues to work for an employer in Switzerland and is paid by this employer, he may continue Swiss old-age, survivors' and invalidity insurance, unemployment insurance and occupational benefit plan coverage.<sup>6</sup>

## **Accompanying family members who are not gainfully employed**

The Swiss old-age and invalidity insurance cover (AVS-AI/AHV-IV) of accompanying family members who are not in gainful employment is not affected by the posting provisions.

When a worker who is posted from Switzerland takes up domicile<sup>7</sup> in the State of employment and is accompanied by family members who are not in gainful employment, then the latter generally cease to be covered by the Swiss old-age and invalidity insurance schemes. However, the spouse of the posted worker may register with the AVS-AI/AHV-IV.

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<sup>6</sup> In order to remain covered by the Swiss AVS-AHV/AI-IV/APG-EO/AC-ALV schemes, the employee must have completed a continuous insurance period of at least five years. As regards continued insurance when working in an EU Member State, insurance periods acquired in an EU State are taken into account to determine the calculation of the minimum insurance period. The employer and the employee must submit a joint application to the competent compensation fund for continued insurance cover.

<sup>7</sup> see point 4, page 7, note 10, on the definition of domicile.

#### **4) Social security cover when posted from Switzerland to an EU Member State**

Workers who are posted from Switzerland and their surviving dependents are entitled to Swiss social security benefits in the event of occupational accident and disease, unemployment, old-age, death and disability. They also continue to qualify for Swiss family allowances.

Workers who are posted from Switzerland and accompanying family members who are not gainfully employed<sup>8</sup> continue to be affiliated to the Swiss compulsory health insurance (LAMal/KVG) and accident insurance schemes for the entire posting period.

##### **a. Health and maternity insurance cover when the posted worker continues to be domiciled in Switzerland**

As regards sickness and maternity, posted workers whose domicile<sup>9</sup> continues to be in Switzerland are entitled to all medically necessary care taking into account the nature of this care and the length of their stay in the State of employment. To this end posted workers apply to their sickness insurer in Switzerland for a European Health Insurance Card. The same applies to their family members who are accompanying them and who are not gainfully employed.

Medical care in the EU Member State where the posted worker is temporarily employed is granted in accordance with the legislation of that State. The costs of repatriation for medical reasons to Switzerland are generally not covered. Therefore, it may be appropriate to take out private supplementary insurance cover to this end.

##### **b. Health and maternity insurance cover when the posted worker takes up domicile in the State of employment**

When posted workers decide to take up domicile<sup>10</sup> in their State of employment, they should request a S1 form from their sickness insurer in Switzerland with regard to health and maternity insurance cover. This form allows them to register with the health insurance in their State of domicile and thus entitles them to all medical care provided for in the relevant national legislation. This means that they will be treated in the same way as individuals who are insured in the country concerned.

The same procedure applies to accompanying family members who are not in gainful employment.

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<sup>8</sup> Except for family members residing in Denmark, Spain, Hungary, Portugal, Sweden and in the UK.

<sup>9</sup> The place where the centre of a person's interests is located is deemed to be its domicile. Often posted workers must inform the Swiss municipality where they are domiciled of their departure abroad. However, this declaration does not automatically imply a change to the place where the centre of interests of this person is located. The general assumption is that the domicile of workers on short-term postings is not moved to their State of temporary employment.

## Sickness and maternity insurance cover when being posted from Switzerland to an EU Member State: an overview

Situation	Procedure	Insurance cover in the country of occupation
<p>Domicile in Switzerland</p> <p>Health insurance cover in Switzerland (LAMa/KVG)</p>	<p>Obtaining a European Health Insurance Card from the competent Swiss sickness insurer</p>	<p>Entitlement to all <i>medically necessary</i> benefits in the State of employment.</p>
<p>Domicile in the State of employment</p> <p>Health insurance cover in Switzerland (LAMa/KVG)</p>	<p>Request for a S1 form from the competent Swiss sickness insurer</p> <p>Submission of S1 form to the competent sickness insurance institution in the State of employment. Registration as person entitled to benefits</p>	<p>Entitlement to <i>all</i> medical benefits in the State of employment.</p>

### 5) Social security cover when being posted from an EU Member State to Switzerland

As a general rule, the above explanations apply equally to workers posted from an EU Member State to Switzerland. The procedural formalities are simply reversed.

The foreign employer or self-employed worker must request an A1 attestation from the competent institution in the given EU Member State. This institution shall issue the applicant with an A1 attestation. The applicant transmits a copy of it to the posted employee. A1 attestations must be kept at the disposal of the AVS/AHV compensation fund which would be competent if Swiss social security legislation were applicable.

Requested extensions in accordance with Article 16 of Regulation (EC) No. 883/2004 are to be submitted to the competent authority in the given EU Member State (cf. Annex). It will endeavour to conclude a special agreement with the Federal Social Insurance Office.

#### Consequences of the posting

All rights and obligations as set out in the social security legislation of the posting State remain applicable for the entire duration of the posting to Switzerland. This means that the posted workers and their employer are therefore exempt from paying contributions to the following compulsory Swiss social security schemes: old-age and survivors' insurance (AVS/AHV), invalidity insurance (AI/IV), income compensation allowances scheme (APG/EO), unemployment insurance (AC/ALV), occupational benefit plan (LPP/BVG), accident insurance (AA/UV) and family allowances (LAFam/FamZG).



Workers who are posted to Switzerland and accompanying family members who are not gainfully employed are exempt from the compulsory sickness insurance scheme in Switzerland (LAMal/KVG).

As a general rule, spouses and children aged 20 and over who accompany workers posted to Switzerland and who take up domicile<sup>10</sup> in Switzerland must contribute to the AVS-AI/AHV-IV schemes.

## **6) Importance of the certificate of posting**

The certificate of posting (A1 attestation or equivalent FSIO certificate) confirms that the posted worker continues to be subject to the social security legislation of the posting State and is thus not subject to the provisions of social security legislation in the State of temporary employment.

The social security authorities of the State of temporary employment are bound by the certificate of posting insofar as it is not withdrawn or declared invalid by the competent institution in the posting State.

If the competent institution in the State of employment doubts the accuracy of the information provided on the certificate of posting, the issuing institution must carry out inspections and, if need be, withdraw the certificate.

Posted workers must be in possession of a certificate of posting for the entire duration of their temporary employment abroad. It is recommended that an application for such a certificate is submitted as early as possible.

## **7) Further information**

Further information is available on the FSIO website [www.bsv.admin.ch](http://www.bsv.admin.ch) (>Topics >International affairs).

This brochure provides only an overview. Only the relevant legal provisions and agreements shall apply for the assessment of individual cases.

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<sup>10</sup> see pt. 4, page 7, note 10 on the definition of domicile.

## Annex

Below is a list of the competent authorities in each EU Member State who are in charge of concluding special agreements pursuant to Article 16 of Regulation (EC) No. 883/2004.

### AT

Bundesministerium für Arbeit, Soziales  
und Konsumentenschutz  
Abteilung III/A/4  
Stubenring 1  
1010 Wien  
OSTERREICH  
[www.bmask.gv.at](http://www.bmask.gv.at)

### BG

National Revenue Agency  
52 Dondukov blv.  
1000 Sofia  
BULGARIA  
[www.nap.bg](http://www.nap.bg)

### CZ

Česka správa sociálního zabezpečení  
Křižova 25  
225 08 Praha 7  
CZECH REPUBLIC  
[www.cssz.cz](http://www.cssz.cz)

### DK

Udbetaling Danmark  
International Pension and  
Social Security  
Sortemosevej 34  
3450 Allerød  
DENMARK  
[www.udbetalingdanmark.dk](http://www.udbetalingdanmark.dk)

### ES

Tesorería General de la Seguridad  
Social  
C/ Astros, 5 y 7  
28007 Madrid  
ESPAÑA  
[www.seg-social.es](http://www.seg-social.es)

### BE

Service Public Sécurité Sociale  
DG Politique sociale  
Finance Tower  
Boulevard du Jardin Botanique 50 –  
Boîte 100  
1000 Bruxelles  
BELGIQUE  
[www.socialsecurity.be](http://www.socialsecurity.be)

### CY

Ministry of Labour and Social Insur-  
ance  
Department of Social Insurance  
Vyronos Avenue 7  
1465 Lefkosia (Nicosie)  
CYPRUS  
[www.mlsi.gov.cy](http://www.mlsi.gov.cy)

### DE

GKV-Spitzenverband  
Deutsche Verbindungsstelle  
Krankenversicherung - Ausland  
Postfach 20 04 64  
53134 Bonn  
DEUTSCHLAND  
[www.dvka.de](http://www.dvka.de)

### EE

Sotsiaalkindlustusamet  
Lembitu 12  
15092 Tallinn  
ESTONIA  
[www.ensib.ee](http://www.ensib.ee)

### FI

Eläketurvakeskus  
(Finnish Centre For Pensions)  
Legal Department  
00065 ELÄKETURVAKESKUS  
FINLAND  
[www.etk.fi](http://www.etk.fi)

**FR**

Centre des liaisons européennes et  
internationales de sécurité sociale  
11, rue de la Tour-des-Dames  
75436 Paris Cedex 09  
FRANCE  
[www.cleiss.fr](http://www.cleiss.fr)

**EL**

Ministry of Labour and Social Affairs  
General Secretariat for Social Security  
29 Stadiou Street  
101 10 Athens  
GREECE  
[www.ggka.gr](http://www.ggka.gr)

**IE**

Department of Social Protection  
International Postings  
Cork Road  
Waterford  
IRELAND  
[www.welfare.ie](http://www.welfare.ie)

**LT**

Valstybinio socialinio draudimo fondo  
valdybos Užsienio išmokų tarnyba  
Foreign Benefits Office of the State  
Social Insurance Fund Board  
Kalvarijų g. 147  
08221 Vilnius  
LITHUANIA  
[www.sodra.lt](http://www.sodra.lt)

**LV**

Valsts socialas apdrošināšanas  
agentūra  
Lacplesā 70a  
1011 Riga  
LATVIA  
[www.vsaa.lv](http://www.vsaa.lv)

**UK**

NIC&EO  
HM Revenue and Customs  
PT Operations North East England  
BX9 1AN  
ENGLAND  
[www.gov.uk](http://www.gov.uk)

**HU**

Országos Egészségbiztosítási Penz-  
tar (OEP)  
Váci ut 73  
H-1139 Budapest  
HUNGARY  
[www.oep.hu](http://www.oep.hu)

**IT**

Istituto Nazionale della Previdenza  
Sociale (I.N.P.S.)  
Direzione Regionale Lombardia  
Via M. Gonzaga, 6  
20123 Milano  
ITALIA  
[www.inps.it](http://www.inps.it)

**LU**

Ministère de la sécurité sociale  
26, rue Zithe  
2763 Luxembourg  
LUXEMBOURG  
[www.etat.lu/MSS](http://www.etat.lu/MSS)

**MT**

Dipartiment tas-Sigurta' Socjali  
38, Trip I-Ordinanza  
Valletta CMR 02  
MALTA  
[www.socialsecurity.gov.mt](http://www.socialsecurity.gov.mt)

**NL**

Sociale Verzekeringsbank  
Kantoor Verzekeringen  
Afd. Internationale Detachering  
Van Heuven Goedhartlaan 1  
Postbus 357  
1180 AJ Amstelveen  
NETHERLANDS  
[www.svb.nl](http://www.svb.nl)

**PT**

Instituto da Seguranca Social, I.P.  
Departamento de Identificacao,  
Qualificacao e Contribuicoes  
Unidade de Instrumentos  
Internacionais  
Avenida da Republica, no 4, 5o andar  
1069-062 Lisboa  
PORTUGAL  
[www.seq-social.pt](http://www.seq-social.pt)

**SE**

Forsakringskassan  
Box 1164  
621 22 Visby  
SWEDEN  
[www.forsakringskassan.se](http://www.forsakringskassan.se)

**SK**

Ministerstvo prace, socialnych veci a  
rodiny Slovenskej republiky  
Špitalska 4-6  
816 43 Bratislava  
SLOVAKIA  
[www.employment.gov.sk](http://www.employment.gov.sk)

**PL**

Zakład Ubezpieczeń Społecznych  
Oddział w Kielcach  
Wydział Ubezpieczeń i Składek - 1  
ul. Piotrkowska 27  
25-510 Kielce  
POLAND  
[www.zus.pl](http://www.zus.pl)

**RO**

Casa Națională de Pensii Publice  
(CNPP)  
Str. Latină nr. 8, sector 2  
Cod poștal 020793  
București  
ROMANIA  
[www.cnpp.ro](http://www.cnpp.ro)

**SI**

Ministrstvo za delo, družino in  
socialne zadeve  
Direktorat za delovna razmerja in  
pravice iz dela  
Sektor za pokojnine in pravice iz dela  
Kotnikova ulica 5  
1000 Ljubljana  
SLOVENIA  
[www.mddsz.gov.si](http://www.mddsz.gov.si)

**HR**

Hrvatski zavod za mirovinsko osig-  
uranje  
Područna služba u Zagrebu  
A. Mihanovića 3  
10 000 Zagreb  
CROATIA  
[www.mirovinsko.hr](http://www.mirovinsko.hr)