limosa

Mandatory declaration foreign employees and self-employed

EN FR NL DE

www.limosa.be

LIMOSA

Transcountry Information System for the benefit of Migration Research for the Social Affairs Administration

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The Limosa project

Free movement - current situation

- European Union
  - Principle
    - Free movement of services, persons
    - Free to establish oneself as a self-employed person
  - But:
    - Respect for terms and conditions of employment
    - Rules within the member states

- Conclusion: increasing fraud in the field
  - Various fraud mechanisms
  - Consequences:
    - Unfair competition
    - Exploitation of employees
    - Social dumping
    - Increasing pressure on Belgian solidarity mechanisms

Government initiative
Limosa Project

- Increase in free movement must go hand-in-hand with an efficient control: Council of Ministers of December 23, 2005
  - Assignment:
    - Implementing an electronic system for monitoring and control
    - For every form of foreign employment in Belgium
    - Name: "Limosa", symbol for migration

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Aims of the project

- Better monitoring and control of foreign activities
- Reliable statistical information
- Administrative simplification

Project with many partners

NOSS	Ministry of the Walloon Region
NISSE	Ministry of the Brussels-Capital Region
FPS Home Affairs ("Office des étrangers")	German-speaking Community
FPS Foreign Affairs	FPS Employment, Labour and Social Dialogue
FPS Economy	CBSS
Ministry of the Flemish Community	FPS Social Security

Informatics-technical support: Smals

3 stages

1. Generalised mandatory declaration
2. Registry
3. Unique portal

Step 1: Generalised mandatory declaration

- Scope:
  - A view on everybody working in Belgium
  - Not subject to Belgian social security system

- Who:
  - Foreign employees
  - Foreign self-employed persons
  - Foreign trainees

  ... who come to work in Belgium temporarily or partially

- Exceptions provided: sport events, business trips, congresses...

Step 2: Creation of one registry

- Central database for inspection services & governmental partners involved

- Consultation of data
  - Copy of posting forms
  - Declarations
  - Work permits and employment authorisations
  - Professional cards
  - Residence permits

Step 3: Unique electronic portal

- Unique access portal for the foreign company
- Single collection of data
- Multiple use of data
- Exchangeability of information

Mandatory declaration

European context

Preceding declaration is in line with EU principles of free movement

- European Court of Justice January 19, 2006 (case C-244/04) and September 21, 2006 (case C-168/04)
- Directives European Commission April 4, 2006 (COM(2006)159)

Comparison with other member states

- Declaration already in 13 member states: incl. France, Luxemburg and Germany
  - Complex administrative system:
    - Declaration via registered letter with receipt
    - Only in the language of the country
    - Additional substantiation
- Belgium:
  - April 2007: as first in Europe
    - Generalised mandatory declaration
    - Electronically
    - 4 languages: EN-FR-NL-DE

The mandatory declaration for foreign companies, organisations and self-employed persons

Who to declare

Employees

- Employed temporarily or partially in Belgium
- Non-Belgian employer

Who to declare

Self-employed persons

- Temporarily exercising a self-employed activity in Belgium
- Not staying permanently

Who to declare

Trainees

- Traineeship completely or partially in Belgium
- In the framework of a foreign study programme or vocational training

Who to declare

- Who, for example, not:
  - real salary split
  - French cross-border workers who permanently and completely work in Belgium
  - French employee who works partially in Belgium for a Belgian employer

Exceptions

- Exemptions (see later)
- No mandatory declaration for:
  - employees who live abroad and work only for a Belgian or foreign employer in Belgium and for an indefinite period (cross-border workers)
  - employees who normally work for a Belgian employer on the territory of different countries, such as sales representatives

When to declare

- Employees and self-employed persons:
  Prior to commencing employment
  in Belgium

- Trainees:
  Prior to commencing traineeship in Belgium

How to declare

- Electronically: web application at www.limosa.be
  - Secure access
  - Fast and simple
  - 24/24 – 7/7
  - NL – FR – EN - DE
  - Immediate issue of declaration certificate L-1
- Paper forms

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The content of the declaration

Declaration of a foreign employee/self-employed person

Basic data

Who is coming to work	the *identification data* of the employee or the self-employed person
When	the *date* on which the assignment in Belgium starts and ends
What	*types of services* that will be rendered in Belgium or the economic sector
Where	the *place* in Belgium where the services will actually be rendered
With whom	the *identification data* of the Belgian customer or principal

The content of the declaration

Declaration of a foreign employee

Additional data for the declaration of an **employee**

Who gives the assignment	the *identification data* of the employer
How long per week	the *weekly labour time* of the employee
When exactly	the employee's *time schedule*

The content of the declaration

Declaration of a foreign trainee

For trainees

Who is coming	the *identity of the apprentice*, such as his/her national identification number in his/her country of origin
Who is sending him/her	the *foreign institution* where the apprentice is doing his/her studies or vocational training
Where does the vocational training take place	the *Belgian institution* where the vocational training takes place
How long	the *period* of the work placement in Belgium

The declaration certificate (L-1)

Declaration Certificate

Preceding declaration
of a foreign employee

Time of the declaration: 08/02/2006 08:14
Declaration number: TIC00251
Posting period: 19/01/2007 - 04/02/2007

Employee

Identification

Name	Heinz	**First name**	Franz
Identification Belgian Social Security	09110210306		

Company

Identification

Identification no.	1234567-89	**Name**	Popov Plumbing

Address

Street	os. Stalowe		
No.	12	**PO Box**	
Postal code	30-059	**Municipality**	Kraków
Country	Poland		

Belgian client

Identification

Identification no.	BE0.234.567.890	**Name**	Solid Construct NV

Address

Street	Wetstraat		
No.	87	**PO Box**	
Postal code	1000	**Municipality**	Brussels
Country	Belgium		

Place of employment in Belgium

Construction site

Name	Solid		
Street	Brederodestraat		
No.	27	**PO Box**	
Postal code	2000	**Municipality**	Antwerp

Limosa Contact Center: +32 2 788 51 57 | Monday to Friday| www.limosa.be
Limosa | PO Box 224 | B-1050 Brussels | Belgium

This form merely provides proof that a Limosa declaration has been made; it does not satisfy other obligations in respect to the provision of services and/or employment in Belgium.

Validity

Normal declaration

- Determined by the duration of the assignment reported in the declaration
- No maximum validity

Declaration of regular activities

(see later)

- Valid for maximum 12 months
- Renewable with max. 12 months

Validity

If the assignment takes longer than originally declared

- New declaration

If the assignment does not take place

- Cancellation (Not yet possible in the first version)

Advantages for foreign companies

Administrative simplification:

- Exemption from drawing up certain Belgian documents, such as:
  - Labour Regulations
  - Personnel register
  - Control documents for part-time workers
- Comparable legal documents from the country of origin, such as:
  - Individual earnings record
  - Pay slip

Declaration of regular activities

- For work situations, partially in Belgium (regularly and substantially) and partially in other countries e.g. sales representative, self-employed consultant...
- A declaration for (max) a year, always renewable
- No declaration of Belgian principal, work place and time schedule
- Not possible for construction & interim

Exemptions

Because of the short duration of activities

- International transport
  - Cabotage excepted
- Scientific congresses
  - Max. 5 days/month
- Meetings in closed circle (employees) - self-employed business people
  - Max. 5 days/month

Exemptions

Because of the short duration of activities

- Installation/assembly of goods delivered by the foreign company
  - Qualified employees / self-employed persons
  - Max. 8 days
- Urgent repair or maintenance by the foreign company
  - Goods supplied by the foreign company
  - Max. 5 days/month

Exemptions

Because of the type of activities

- Sports people
  - For the duration of international sport competitions
  - Max. 3 months/year
  - Also for referees, coaches...

- Artists
  - For performances
  - Max. 21 days/quarter
  - Also for assistants

Exemptions

Because of the type of activities

- Scientists/researchers
  - From a foreign university or scientific institution
  - Participation in a scientific programme of a host university or scient. institution
  - Max. 3 months/year
- Government personnel (statutory or contractual)
- Staff from institutions with headquarter agreements
- Diplomats

Exemptions

Because of the type of activities

- Trainees
  - Trainees-students
    - Obligatory traineeship in the framework of study/vocational training
  - Self-employed trainees
    - Traineeship as part of their studies
    - Traineeship as part of an exchange programme
  - Exempt for the duration of the traineeship

The role of the Belgian client or principal

Control obligation

- **not** for private individuals
- prior to the start of the activities
  - Is everybody who works for/with him in the possession of a declaration certificate L-1?
  - If not: declaration
    - ☺ Abolition of obligation of checking E101 form & declaration to the social inspection

How to declare

- Electronically: web application at www.socialsecurity.be
  - Secure access
  - Fast and simple
  - 24/24 – 7/7
  - NL – FR – DE
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Generalised mandatory declaration

Declaration of missing declaration certificate

Data to be declared by the Belgian client or principal

Who	the *identification data* of the Belgian client or principal
Where	the *place* in Belgium where the activities will actually be performed
Who is coming to work	the *identification data* of the employee, self-employed person or trainee
Which foreign company	the *identification data* of the foreign employer or institution (where the trainee is doing his studies or vocational training)

General modalities

Sanctions in case of non-compliance

- For the foreign employer:
  - Imprisonment (8 days to 1 year)
  - Fine (from € 500 to € 2,500)
  - Administrative fine (from € 1,875 to € 6,205)
- For the foreign self-employed person:
  - Imprisonment (8 days to 1 year)
  - Fine (from € 500 to € 2,500)
- For the Belgian client:
  - Fine (from € 250 to € 2,500)
  - Administrative fine (from € 125 to € 1,250)

Transitional provisions

Effective from April 1, 2007

- Transitional period until September 30, 2007 for activities started before April 1, 2007
- By subsequent contracts:
  declaration as of first subsequent contract

More information

www.socialsecurity.be

www.limosa.be

The Limosa Contact Center

- provides you with information on Limosa and the mandatory declaration;
- where necessary, assists you with the declaration.

How to contact the Center:

- telephone: +32 2 788.51.57
- Fax: +32 2 788 51 58 (from April 1, 2007)
- E-mail: limosa@eranova.fgov.be
- postal address: P.O. Box 224, 1050 Brussels, Belgium

Opening hours:

- Monday to Friday
- Non-stop from 7.00 am to 8.00 pm (Central European Time)

Languages: Dutch, French, German, English

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Questions?