

The background of the slide is a photograph of three people walking on a paved path in front of a modern building with large glass windows. On the left is a woman with short grey hair and glasses, wearing a white textured top and dark trousers, carrying a tan bag. In the center is a woman with long dark hair and glasses, wearing a black top and a grey skirt, holding a red tablet. On the right is a man with a beard, wearing a blue blazer and light blue shirt, carrying a brown bag. The image is partially covered by a white diagonal overlay in the bottom right corner.

**International
Mobility
Navigator**

**Key points of attention
for international employment**

Key points of attention for international employment

- Would you like to recruit employees **from abroad** for employment in Belgium?
- Do you have **Belgian employees working abroad**?
- Do you by any chance have an employee who lives abroad (just across the border) and wants to **work from home**?

Following the COVID pandemic, **significant challenges** have surfaced with regard to cross-border employment.

The employment environment of today is becoming increasingly **international**. Companies seeking to enter the international market also have to deal with **temporary and/or structural cross-border** employment of their employees.

As a company and employer, it is important to consider an '**international mobility plan**'. What steps should your company take in this regard? And more importantly, **what are the risks** associated with employment across national borders?

1. Labour law

Is your company looking to expand internationally? If so, chances are that you will hire foreign staff. But of course, you can also have employees work **abroad temporarily or structurally**.

In practice, we see that companies often choose to do this by applying **the labour legislation of the country** they are located in, but is this really **possible** and **desirable**?

Countries have developed their own **labour law rules** with a country specific view on **remuneration** and **employment**. The rules in the country where the employer is located often differ significantly from those in the country where the employee is working. That's why it is important to check whether it is possible to continue with the **applicable labour law**, and whether the **mandatory**

provisions of the labour law of the country of employment **apply**.

Normally, the principle of '**free choice**' applies, and you will jointly choose with the employee which labour law applies to the employment contract.

Please note: the choice should **never result** in the **employee losing the protection** that the employee would have enjoyed if such choice of law had not been made.

Fortunately, our experts are ready to advise you on **international employment contracts**, rules relating to **dismissal**, **minimum wage**, **working hours** and other **employment law agreements**.



2. Immigration formalities

*Do you want to employ employees **within or outside the borders of the EEA**?*

Keep in mind that migration formalities not only apply outside the EEA, but **strict notification formalities** often apply within the EEA as well.

Outbound employment

The documents and authorisations that you need depend on many factors. No special authorisations are normally required within the **European Economic Area (EEA)** and Switzerland. In principle, **free movement of workers** applies.

Employees operating outside the borders of the EEA do need specific documents, depending on the legislation of the country in question.

As a non-EU employee, can you travel to Belgium or is a Schengen Visa necessary?

This depends primarily on the nationality of the employee. When the Schengen visa is in place, the employee can travel to Belgium. But can the employee actually start working? Unfortunately, the answer is (usually) negative, but there are exceptions.

Inbound employment

To be able to work in Belgium, a work permit is generally required (Work Permit B or Single Permit). The employer must apply for this in advance with the Belgian government services. Otherwise, you will be employing them illegally.

In short: inform yourself thoroughly about the increasingly strict local registration formalities and obligations before employing someone abroad.



3. Social security

Which **social security system** applies and does it provide **sufficient social protection**? After all, not all social security systems are the same.

Social security is an important concern for the **employee** (social protection) and for the **employer** (wage costs).

The basic principle for employment within the EU is that **only one social security system shall apply** to the entire employment. A **European Regulation** sets the allocation rules of the applicable social security in the EU. In principle, the social security scheme of the working state is applicable, but exceptions are possible.

If you employ employees outside the European Union, it will be important to verify whether **a social security agreement** applies between the countries involved.

In any case, the necessary formalities need to be fulfilled, and these differ from situation to situation: A1, certificate of coverage, DOSZ (Overseas Social Security) notification, etc.

Implications on the employee's pension scheme

Employment abroad may also have an (adverse) effect on the employee's occupational **pension scheme**. Pension funds and group insurances do not always deal with international employment in the same way. It is also important to check that there are **no additional obligations** in the country of employment. Can't see the wood for the trees?



Discuss these topics with your employee prior to the start of the foreign employment **to avoid unnecessary questions** and hassles that may distract them from their assignment.



4. Tax matters

Where will the employee **pay tax**, and what **effect** will this have on **the gross-to-net salary** calculation? Is there a **risk of double taxation** in country of residence and country of work?

To avoid double taxation of your employees in case of international employment, **double tax treaties** have been concluded. This is because the tax implications of cross-border employment in relation to the employee **go beyond** the well-known '**183-day rule**'.

Even working less than 183 days across the border can result in taxation for the employee in the country of employment. This should be considered on a case-by-case basis.

This situation may occur if the employer is deemed to have a permanent establishment in the country of employment, or **when** there is a "material/economic" **employer relationship with** the company on whose behalf the work is performed **and that** also bears part of the salary cost.

5. Payroll administration

Is there an **obligation** to maintain **payroll records** in the other country of employment? Which authorities do you have to register with for this purpose?

Have you prepared your **international employment file** in detail? If your employee is not paid properly and on time, you will risk having problems with your employee. You may also be **violating foreign social security and tax rules** in case the social security/tax withholding are not managed correctly and in time.

Not only should your employees be able to rely on correct and punctual salary payments, but as an employer, clear reports are also important.



6. Corporate tax

Not every foreign project results in a **permanent establishment** with **tax implications** for your company. However, the possibility that the company is obligated to **file tax returns** and **other formalities** abroad cannot be ruled out.

As your company continues to grow, there may come a time when you decide to actually create a subsidiary. Even before taking that conscious decision, the company may face **taxation in the country of employment** due to the creation of a **permanent establishment**.

As a result, profits attributable to this permanent establishment may potentially be subject to **foreign corporate income tax**.

Even if the existence of a taxable permanent establishment is ruled out by the foreign tax authorities, it is important to check whether **a foreign establishment is already deemed to exist under internal tax laws**.

If so, this **does not have to lead to taxation** for the company, but there is a risk **of additional formalities and costs**.



Do you need help navigating through these key points for international employment?

Our International Mobility Services experts assist companies in understanding, managing, and mitigating the risks related to their workforce when working or traveling abroad for business.

Our services encompass a wide range of offerings, including advice and support with international assignment management, immigration, income tax, social security, labor law and payroll administration.

By providing efficient tools and expert guidance, we simplify business processes and decrease the time required for compliance, resulting in a smoother experience for the assignee and the employer.

Call on our International Mobility Experts for **tailor-made** and **pragmatic** advice.

E-mail: ims@bdo.be



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