

OUTLINE FOR INTERNSHIPS IN A CROSS-BORDER CONTEXT - INTERSHIP IN A STATE THAT DOES NOT FALL WITHIN THE SCOPE OF REGULATION 883/2004 AND DOES NOT FALL WITHIN THE SCOPE OF A SOCIAL SECURITY AGREEMENT

1. GENERAL INFORMATION

1.1. General rule

In the absence of supranational rules (EU), bi/multilateral coordination, the national social security system of the State of employment applies in principle. However, there are third countries where social security coverage is only available if the intern lives there.

The foreign intern falls under the Belgian social security scheme if 2 cumulative conditions are met on the basis of article 3 of the NSSO law: (1) being employed in Belgium (2) by an employer established in Belgium or being attached to an operating centre established in Belgium.

1.2. Posting

If the planned duration of the internship is not longer than 6 months ¹ the Belgian intern (assimilated to an employee) remains compulsorily subject to the Belgian social security legislation insofar as they do not participate in the voluntary overseas social security system², without having to apply for a certificate of posting. If the employer so wishes, an application can still be submitted to the NSSO, which will then issue a K 138-ter certificate as proof of posting through the social security portal site https://www.socialsecurity.be/site_nl/employer/applics/gotot/index.htm

However, this certificate does not exclude participation in the social security legislation of the State of employment. After all, there is no agreement in this respect. It is therefore possible that both the Belgian social security legislation and the social security legislation of the third country will apply.

The period of 6 months may be extended by a new period of 6 months, provided that the NSSO's International Relations Department is informed of this extension before the expiry of the first period (via the first line of information "Front Office": 02 509 59 59 -). 02 509 59 59 - contact@rsz.fgov.be) or through the social security portal site https://www.socialsecurity.be/site_nl/employer/applics/gotot/index.htm

¹With regard to the six-month period, it should be clarified that all postings without an interruption of at least two months are added together to arrive at the maximum period of two times six months. As soon as there is an interruption of at least two months, the counter is set to zero.

² Law of 17 July 1963 on the overseas social security and Royal Decree of 15 April 1965

If the duration of the employment abroad is not determined, or is immediately determined to be more than 6 months, the Belgian social security legislation will no longer apply. If they wish, they can participate in the voluntary overseas social security system.³

In the opposite case, a third country can also post a trainee to follow a training period in a company in Belgium if the posting rules provided for in the regulations of the third country are met. In that case, the intern will only remain subject to the social security legislation of the third country if this law provides so and the Law on accidents at work of 10 April 1971 does not apply (so no coverage is possible). In this case the NSSO can write a letter confirming that article 3 of the NSSO law is not applicable.

2.PRACTICAL APPLICATION

2.1. Foreign student is following 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 history student lives and studies in China and comes for a two-week internship in a company (the Royal Library of Belgium) in Brussels.</p> <p>->The law on accidents at work of 10 April 1971 applies if two cumulative conditions are fulfilled on the basis of Article 3 of the NSSO law: being employed in Belgium by an employer established in Belgium or being attached to an operating centre established in Belgium.</p> <p>->If the two cumulative conditions are not met, the law on accidents at work of 10 April 1971 does not apply.</p>
<p><u>Exception rule:</u></p> <p>Posting</p>	<p><u>Example.</u> A history student who lives and studies in China is posted by his "employer" in China for the duration of his internship in a company (the Royal Library of Belgium) in Brussels.</p> <p>->The Chinese social security legislation only applies if this legislation provides for it</p> <p>->Coverage of the work related accident in Belgium according to the applicable legislation in China if this legislation provides it, otherwise no cover for accidents at work.</p> <p>->Chinese student must provide proof of posting to the company in Belgium prior to the internship</p>

³ This situation, which is assimilated to a "posting" on the basis of Belgian law, is not objectionable, binding on the other countries (no coordination or designation of the competent country) so that the country of employment can demand coverage even if the Belgian rule remains applicable with the risk of double coverage.

2.2. Student at an educational institution in Belgium is doing a traineeship in an enterprise in a third country

<p><u>General rule:</u></p> <p>Application of the legislation of the State of Employment</p>	<p><u>Example.</u> A law student at the VUB is going to do a 9-month internship in a company (technology company Tencent) in China.</p> <p>->The Chinese social security legislation applies ->Coverage of the work related accident in China according to the applicable rules in China</p> <p><u>NOTE:</u> It is possible that the Chinese regulations for coverage for accidents at work is too limited. In that case, it is best to provide additional cover for the trainee under private law.</p>
<p><u>Exception rule:</u></p> <p>Posting</p>	<p><u>Example.</u> A law student at the VUB is going to do an 6-month internship in a company (technology company Tencent) in China. The traineeship is extended by 2 months. The VUB has requested a posting from the NSSO for the traineeship of 6 months and an extension of the posting for 2 months.</p> <p>1. The traineeship of 6 months</p> <p>->The Law on accidents at work of 10 April 1971 is applicable ->VUB must conclude the work related accident insurance declaration dimona STG with the NSSO</p> <p>2. The extension of the traineeship by 2 months</p> <p>->The Law on accidents at work of 10 April 1971 is applicable -> VUB must take out the work accident insurance declaration dimona STG with the NSSO</p> <p><u>NOTE:</u> However, participation in the social security system of the working country is still possible as there is no agreement.</p>