

Information for the transport sector**on the presentation to the French inspection services of the form attesting to the social security legislation applicable to the worker (Art. L. 114-15-1 of the French Social Security Code)**

This document sets out to inform stakeholders in the international road and inland waterway transport sector about a legislative measure adopted by France and which has been in force since 1 April 2017, concerning the presentation to the French inspection services of forms attesting to the social security legislation applicable to persons working in France while belonging to another State's social security scheme (the A1 certificate for persons covered by Regulation (EC) No 883/2004 of 29 April 2004 or, where applicable, the SE form under the social security agreement between France and the State concerned).

Legal framework

The new measure comes within the context of European and international social security legislation:

- Regulation (EC) No 883/2004 of 29 April 2004 on the coordination of social security systems provides for the situations and conditions where a person who goes to pursue an activity in another Member State within the European Economic Area (EEA) or Switzerland can be subject to the legislation of another State. Otherwise, he/she shall be subject to the social security legislation of the Member State in which he/she pursues an activity.
- Pursuant to Article 15 of Regulation (EC) No 987/2009 of 16 September 2009, the employer (or the worker concerned) shall inform the social security body of the Member State whose legislation is applicable thereof and apply for the A1 (form attesting to the social security legislation applicable to the worker). The certificate confirms that contributions do not have to be paid in another State. This document may be requested during inspections conducted by the inspection services of the State where the work is being performed.
- Related provisions exist in social security agreements signed between France and certain States other than those belonging to the EEA or Switzerland.

Content:

- Workers performing salaried or self-employment in France while belonging to another State's social security system must have their certificate of applicable social security legislation, meaning their A1 form, available for inspection officials at their workplace, if said workers are subject to (EC) Regulation (EC) No 883/2004 (or the form under the applicable social security agreement).

- When requested, the following should be able to produce such form:
 - o For salaried workers, their employer,
 - o or the employer's representative in France,
 - o or the "prime contractor" stipulated in Article L. 8222-1 of the French Labour Code, i.e. the natural or legal person who entrusts performance of a transport service to a subcontractor.
- If the A1 form cannot be presented by any of the aforementioned persons during an inspection, the prime contractor shall be liable to a penalty amounting to €3,269 (in 2017) for each worker. This amount shall be doubled if a new violation occurs within a two-year period following notice of a penalty for a previous violation.

Questions & Answers:

➤ **Are posted workers concerned?**

The form must be supplied by all workers – whether employed or self-employed – if:

- They pursue a professional activity in France and,
- are subject to another State's social security scheme.

The situations in which workers can be affiliated to a social security scheme of one State while working in another State are provided by the aforementioned European and international legislation: Regulation (EC) No 883/2004 mainly provides for situations where an employed worker is being sent to another State to work on a temporary basis (the person is posted under Article 12 (1) of Regulation (EC) No 883/2004) or normally pursues an activity in two or more Member States (as provided for by Article 13 of said Regulation).

Whether the posted worker is to remain subject to the social security legislation of the home State is determined according to the provisions of the EC regulations (or according to an international social security agreement) rather than Directive 96/71/EC of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

➤ **Is the road transport sector concerned?**

The measure, like the European or international legislation on social security, applies to any activity pursued in France, particularly to the road transport sector.

➤ **Are all types of transport service concerned?**

The form must be produced by any person pursuing an activity in France while subject to another State's social security system whatever is the activity: international transport, cabotage as well as transit operations.

➤ **Who should hold the form?**

Form A1 on applicable social security legislation is a "portable document": it is generally issued to the worker who holds it. Moreover, since inspections are conducted at regular intervals, workers need to have the form with them at any time (it must be kept on the vehicle).

If this is not the case, the inspection services may request the form from the worker's employer (or, where applicable, the employer's representative in France) for salaried workers, or from the prime contractor located in France.

➤ **Can another document be supplied instead of the form?**

The A1 certificate on applicable social security legislation is the standard form issued by all social security bodies in States belonging to the European Economic Area (EEA) and Switzerland which proves the employee's social security position. The form confirms that the worker's circumstances have been examined by the competent body and that the conditions for affiliation (or continued affiliation) to the social security scheme of another State were deemed to be met at the time the certificate was issued.

However, Should the employer or the appropriate person not have been able to secure an A1 form prior to inspection, the law provides that proof of submission of an A1 form request to the competent institution shall be recognized, on condition that the form that is issued then be produced within a two-month period of time. In this event, no penalty shall be imposed on the prime contractor.

On the other hand, a European Health Insurance Card (EHIC) cannot replace the A1 form, as the EHIC only allows for the provision of necessary medical treatment in another State and does not state which social security legislation is applicable for the worker as determined by the competent social security body. The same goes for the S1 form (Certificate of entitlement to healthcare in the State of residence).

➤ **If you have any further queries, you can send an email to:**

DSS-coordination@sante.gouv.fr

Appendix: Article L.114-15-1 of the French Social Security Code

Art. L. 114-15-1.-Salaried or self-employed workers who perform work in France while belonging to another State's social security system or, failing that, their employer or their employer's representative in France, must supply the inspection officials referred to in article L. 8271-1-2 of the French labor code, article L. 243-7 of this code, and article L. 724-7 of the French rural and maritime fishing code, with the form on applicable social security legislation prescribed by the currently applicable European regulations and international agreements on the coordination of social security systems.

"During an inspection, failure to produce this document by the worker, the employer, or the employer's representative in France or the person referred to in the aforementioned article L. 8222-1 shall result in the imposition of a penalty.

"For each worker for whom it is imposed, the penalty referred to in the second paragraph of this article shall amount to the current monthly social security ceiling. This amount shall be doubled if a new violation occurs within a two-year period following notice of a penalty for a previous violation.

"The penalty is payable by the person referred to in the aforementioned article L. 8222-1.

"The penalty is not applicable if proof of submission of a request for the form referred to in the first paragraph of this article is provided at the time of inspection, and the form issued as a result of that request is produced within a two-month period following the inspection.

"The penalty shall be collected by the organizations in charge of collecting Social Security contributions, in accordance with the rules and under the guarantees and penalties applicable to the collection of these contributions."