NEW EU RULES ON THE COORDINATION OF SOCIAL SECURITY: IMPLICATIONS FOR SECONDMENTS ABROAD

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EU Labor, Employment, and Workplace Safety

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The European Parliament has recently approved the proposed revision of Regulation (EC) No 883/2004 on the coordination of social security systems at the first-reading stage of the EU legislative procedure. The proposal introduces several significant changes for companies employing workers within the European Union. The main changes are summarized below.

The rule enabling employees and self-employed workers seconded to another member state for up to 24 months to remain subject to the social security legislation of their country of origin is maintained, provided that they do not replace another posted worker. However, the revised framework introduces an additional requirement: Before the secondment begins, the worker must have been subject to the social security legislation of the country of origin for at least three months prior to commencement secondment.

The revision also introduces an obligation to notify in advance the competent institution of the member state whose legislation applies and to also request a certificate of applicable legislation (known as a Portable Document A1 or PDA1). This obligation will not apply to activities having a duration of less than three consecutive working days within a 30-day period, nor to business trips, except in the construction sector, where stricter rules will continue to apply.

Furthermore, the criteria for identifying the social security legislation applicable to workers who carry out activities in two or more member states have also been clarified. For the purpose of determining the employer's actual place of business, account will be taken, among other factors, of where the undertaking's key decisions are made and where its central management functions are performed. Periods of employment and insurance completed in different member states must be aggregated for the purpose of recognizing entitlement to unemployment benefits. In addition, individuals moving to another EU country to seek employment will be able to continue receiving unemployment benefits from their country of origin for six months, with the possibility of an extension until the benefit is exhausted.

The firms' Labor, Employment, and Workplace Safety practice team remains available to assist clients in assessing the operational implications of the new rules and in implementing the related compliance measures.

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