

# GMS Flash Alert

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## France - Social Security for Foreign Employers with Staff Working from Home

In a recent update to its COVID-19 health crisis frequently asked questions (“FAQ”), the French international social security liaison body (*le Centre des Liaisons Européennes et Internationales de Sécurité Sociale* or “CLEISS”) updated the responsibilities of foreign employers<sup>1</sup> with:

- employees who would, in normal circumstances, have been exercising their activity in a country outside of the scope of the European Union (EU) social security regulations (EU + U.K. + European Economic Area (EEA) + Switzerland) under a local employment contract, but have been prevented from travelling and have been able to continue working in France during the crisis for their foreign employer;
- employees who were hired by a foreign employer and should have started work outside of the EU zone but have been prevented from travelling and have been able to start working during the crisis on French territory for their foreign employer.

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### WHY THIS MATTERS

The CLEISS response makes it clear that employers must regularise the situation of their employees currently working in France, even if this is a *force majeure* situation. Failure to do so could catch the employer out in a non-compliance situation which could give rise to scrutiny by the authorities and potential fines.

Given the complexities of the rules and the unprecedented nature of this health emergency, employers are advised to seek assistance from their professional advisers to help them understand updated policies and expectations and meet their obligations, in particular any required payroll obligations.

## Context

With countries closing their borders during the COVID-19 health crisis, many questions have arisen concerning the application of social security rules, in particular in a cross-border context. The initial response of the French authorities was to deal with the impact of the health crisis from an EU zone perspective.

However, as time has passed and the opening up of borders and airports continues to remain elusive, the situation of employees working in France during the COVID-19 crisis has become more pressing and in need of being addressed.

## Where There Is a Bilateral Social Security Agreement in Place

Where a bilateral social security agreement is in place, CLEISS states that employers must regularise the situation of employees with the competent social security institution in the “normal” country of employment. In effect, such employees will be considered as seconded from a social security perspective to work on French territory in line with the provisions of the relevant bilateral agreement. New hires would need to be registered and contributions paid in the other country.

However, employers need to bear in mind that not all social security agreements include access to health care in their scope and some may require contributions to be paid in France.

For instance under the agreements with the United States, Japan, South Korea, or Brazil, secondees to France must be in possession of private insurance in order to remain in their home social security system. In the case of the France-India agreement, seconded employees from India to France must be affiliated with the French social security system for all risks (except for old age).

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## KPMG NOTE

The French authorities do foresee that there could be practical difficulties in implementing the prescribed solution (due to lack of response from the authorities in the normal work country or refusal to issue the required certificate or to register employees). In such cases, CLEISS states that it will take the matter up with the competent authority in the other country.

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## Cases Where There Is No Bilateral Social Security Agreement

In the absence of a bilateral social security agreement, employees will need to be affiliated to the system in France and French social security contributions will be paid to the National Centre for Foreign Firms (CNFE).

CLEISS notes that the special rules concerning returning expatriates being able to access health care in France only apply to “inactive” individuals, not to those who are working in France, albeit on a temporary basis.

## FOOTNOTE:

1 For further information (in French), see: <https://www.cleiss.fr/actu/2020/2003-covid-19-coordination.html> .

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## Contact us

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