



Tax Autumn at the University of Belgrade Faculty of Law

Brussels, 13 November 2025

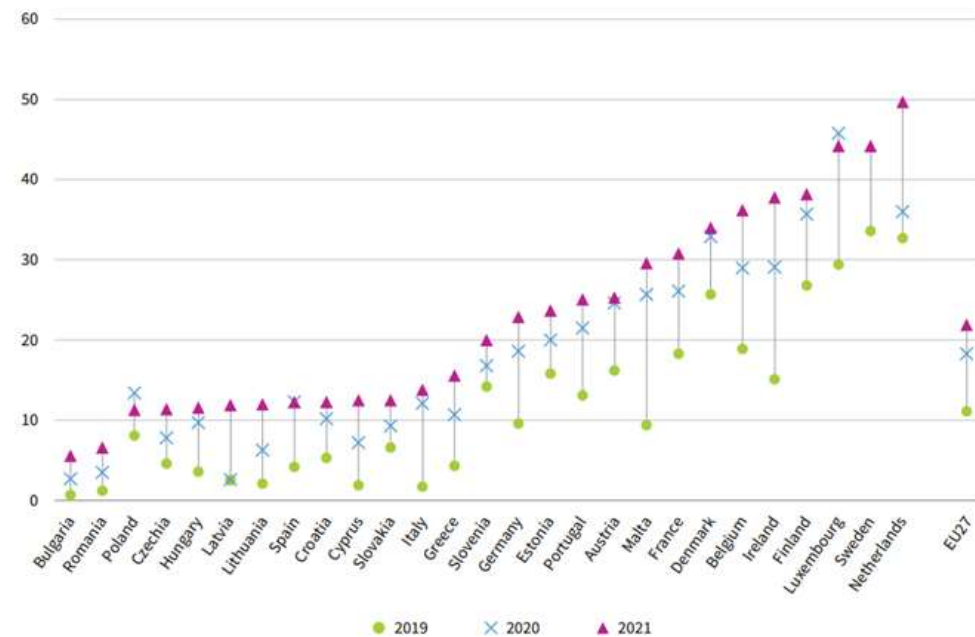
Albert RAEDLER, DG TAXUD D2

Cross-border Teleworking

Telework is firmly on the rise

- Eurofound data: 41.7 million people teleworked across the EU in 2021, double the number of 2019.
- Share of employees usually or occasionally working from home has increased from approx. 11% (in 2019) to approx. 22% (2021)

Figure 8: Share of employees working from home by country, 2019–2021, EU27 (%)



Base Line Scenario

Member State R



Member State S

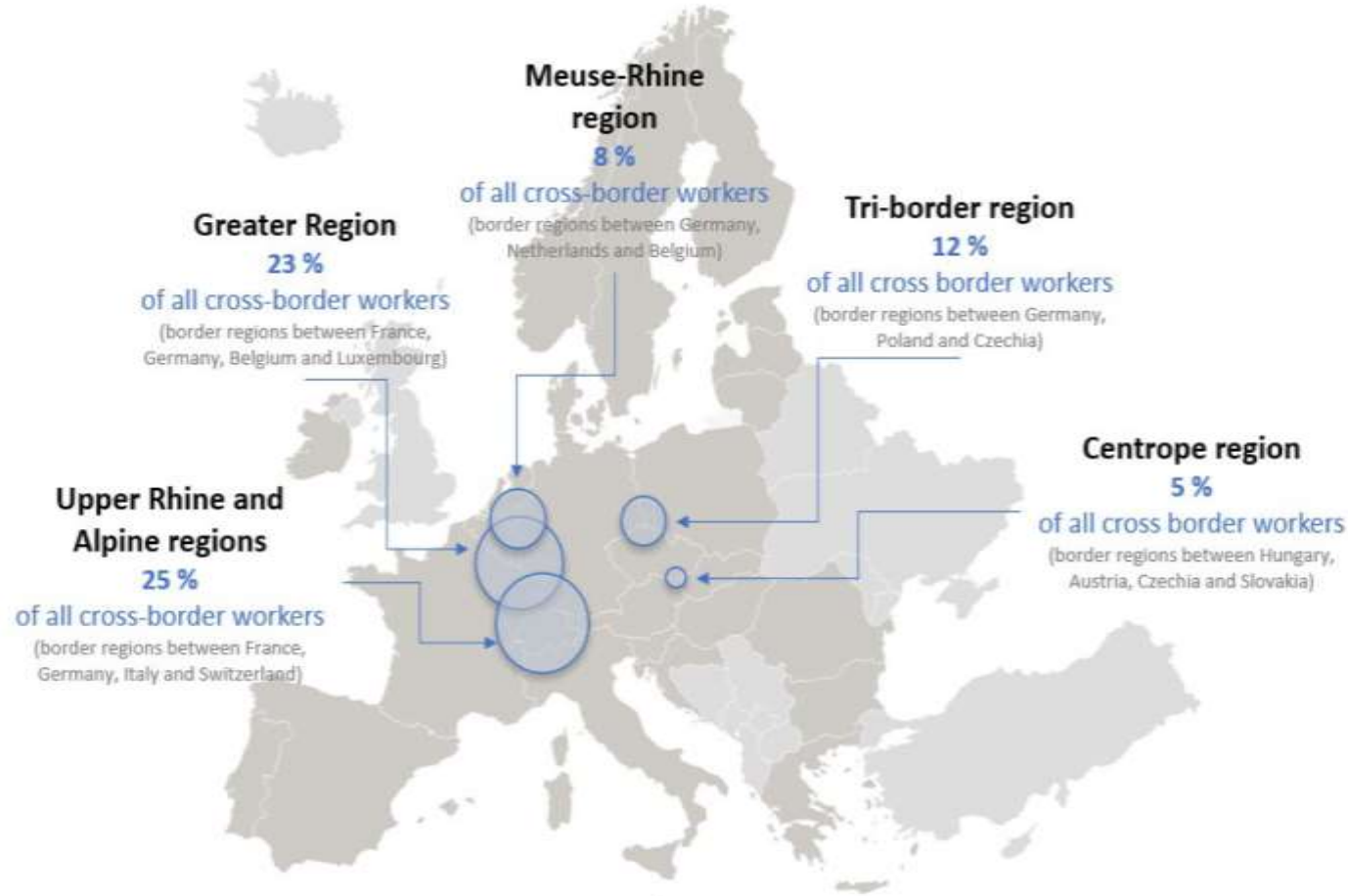


Commuting regularly /
irregularly

Cross-border workers: Who and where?

Main Member States of origin					Main Member States of destination		
Member State	To EU-27 (in '000)	To EFTA (in '000)	Total	% of workforce	Member State	Total (in '000)	% of workforce
FR	236	188	424	1,7%	DE	378	1%
DE	159	53	213	0,6%	CH	345	8%
PL	176	15	190	1,2%	LU	212	44%
BE	119		119	2,6%	AT	143	4%
RO	113		113	1,5%	NL	122	2%
HU	69	3	72	1,6%	BE	85	2%
CZ	64		64	1,3%			

Cross-border workers: Who and where?



How many cross-border teleworkers ?

- No statistics available – only estimations.
- The estimations are based:
 - on number of domestic regular and occasional teleworkers
 - on increase of teleworking during the COVID-19 pandemic
 - on the number of cross-border workers
- Estimations:
 - France MOT: for France: out of more than 400.000 cross-border workers, there are 125.000 regular or occasional teleworkers
 - Research Prof. de Wispelaere: in total 436.000 cross-border teleworkers in the European Union

Cross-Border Teleworking

- Multidimensional issue
 - **Taxation**
 - **Social Security law:** Can cross-border teleworking result in a change of the applicable social security system ?
 - **Labour Law:** which labour law is applicable? For example: which rules apply for working hours ? What are the consequences of work accidents in homeoffice ?

Principles of Taxation of Cross-Border Workers

- **Art. 15(1) OECD-MTC:**
“A resident of a Contracting State in respect of an employment shall only be taxable in that State unless the employment is exercised in the other Contracting State.”
- **Art. 15(2) OECD-MTC:** The right to levy the taxes reverts to the State of residence if the 3 cumulative conditions are fulfilled:

Taxing right with state of residence:	Taxing right with the state of source:
The employee is present in the state of source <u>not more</u> than 183 days, and	The employee is present in the source state for <u>more</u> than 183 days, or
the remuneration is paid by, or on behalf of, an employer who is <u>not resident</u> in the state of source, and	the remuneration is paid by, or on behalf, of an employer who is <u>resident</u> in the state of source, or
the remuneration is <u>not borne</u> by a permanent establishment which the employer has in the state of source.	the remuneration is <u>borne</u> by a permanent establishment, which the employer has in the other state

Possible Tax Repercussions of Cross-border Teleworking

Cross-border teleworkers subject to taxation in the source state (the usual place of activity) and also subject to taxation in the state of residence on a pro-rata basis

<i>...for the employer</i>	<i>... for the employee</i>	<i>... for the tax administrations</i>
<ul style="list-style-type: none">• Apportionment of income in two jurisdictions• Levying of wage tax as withholding tax in state of activity	<ul style="list-style-type: none">• Additional compliance obligations (need to declare income in 2 MS)• Certain thresholds may no longer be reached (Schumacker-criteria)• Possible impact on overall income depending on difference in taxation in source and resident state	<ul style="list-style-type: none">• Apportionment results in assessing taxpayer in both states on largely the same issues (days spent in home office, auditing of wage tax requirements, disputes with taxpayer)

Teleworking in normal times - Derogations

De-minimis-thresholds agreed upon between certain Member States in DTCs

- a certain pre-defined number of days of absence from usual place of activity does not lead to an apportionment
- LU negotiated with neighboring Member States 34 days ...

Member States	De-minimis-rule in place	Treaty negotiations
DTC DE–LU	34 days	Previously 19 days, increase according to protocol signed in July 2023
DTC DE–BE	-	ongoing treaty negotiations
DTC DE–NL	-	Negotiations ended in April 2025, 34 days
DTC BE–LU	34 days	Increase from 24 days as of 1 January 2022
DTC FR–LU	34 days	Increase from 29 days as of 1 January 2023
DTC FR–CH	Up to 40 % of Working time	Introduced as of 1 January 2023

Teleworking in normal times - Derogations

Specific Cross-Border Commuter Provisions

- if certain requirements are fulfilled, in particular both place of activity and permanent home in border zone, then the state of residence maintains the taxing right
- Only few bilateral situations provide for such specific cross-border commuter provisions
- Teleworking sometimes without affecting the specific status (DE-FR), sometimes affecting (DE-AT – but amendment as of summer 2023).

Specific Cross-border Commuter Provisions

Member States	Definition frontier worker		Taxing Right	Homeoffice / Teleworking Covered	Compensation Regime
	Temporal	geographical			
DTC AT – DE	Yes	Yes	Residence state	Yes – update in August 2023	No
DTC AT – IT	No	Yes	Residence state	Yes, if carried out in border zone ?	No
DTC SE-DA	No	No	Source state	Less than 50 % homeoffice	Yes
Nordic Convention	No	Yes	Residence state		No
DTC DE-FR	Yes	Yes	Residence state	Yes - if carried out in border zone !	Yes
DTC FR-IT	No	Yes	Residence state	Yes, if carried out in border zone ?	No
DTC FR-ES	Yes	Yes	Residence state	Yes, if carried out in border zone ?	No
DTC PT-ES	Yes	No	Residence state	Yes, if carried out in border zone ?	No
DTC FR-CH	Depends on applicable Convention			Yes, up to 40 %	Yes

Cross-border Teleworking – Social Security Aspects

Brief Outline of Social Security Provisions

- *The EU Regulations on the coordination of social security systems (Regulations (EC) Nos 883/2004 and 987/2009): persons are subject to the legislation of **only one Member State***
- *For economically active persons, in principle, the **Member State in which they work** is competent*
- *Employed persons are subject to the legislation of their **Member State of residence** if they pursue a substantial part of their activity there*
- *A **share of 25 % or more of working time and/or remuneration over a period of 12 calendar months** is regarded as a substantial part of the activity*

Result: *de facto a cap of 25 % for teleworking to avoid repercussions in the field of social security*



Multilateral Framework Agreement

- Entry into force: 1 July 2023 for 5 years (possible extension for 5 more years)
- The agreement brings the usual threshold of less than 25% of telework in the MS of residence to less than 50% of the total working time.
- It covers employees (not self-employed) who are employed in 1 signatory state and telework in their state of residence which is also a signatory state.
- Individual requests from employers or person concerned to benefit from the application of the agreement are required.
- The procedure for the application is the same as for any other agreement under Article 16.
- Depository state: BE; signatories: 22 countries (19 Member States plus 3 EFTA countries): BE, CZ, DE, IE, ES, FR, HR, IT, LT, LU, MT, NL, AT, PL, PT, SI, SK, FI, SE, CH, LI, NO.

Scenario 1: 100% office work



	LU	DE
Working days	220	0
Salary apportionment	100%	0%
Taxation		
Social Security		



* Under an assumption that there are 220 working days per year

Scenario 1: 100% office work



	LU	DE
Working days	220	0
Salary apportionment	100%	0%
Taxation	100%	0%
Social Security	100%	0%



* Under an assumption that there are 220 working days per year

Scenario 2: 4 days home office / 1 day office



	LU	DE
Working days	44	176
Salary apportionment	20%	80%
Taxation		
Social Security		

* Under an assumption that there are 220 working days per year

Scenario 2: 4 days home office / 1 day office



	LU	DE
Working days	44	176
Salary apportionment	20%	80%
Taxation	20%	80%
Social Security	0%	100%



* Under an assumption that there are 220 working days per year

Cross-border Teleworking: Possible Actions

- Different considerations
 - Compliance & administrative burden
 - Legal certainty
 - Financial impact on workers (tax burden)
 - Budgetary impacts for MS

Cross-border Teleworking: Possible Actions

1. Setting or increasing a *de-minimis* limit

- Cross-border teleworking without tax repercussions within set limits; avoidance of apportionment of income
- Concept exists in practice. Number of days range from 19 – 34 days per year, but: number of days insufficient for 1 day/week cross-border teleworking
- Call of various institutions and fora for 48 and up to 96 days.
- New development in the DTC FR-CH providing for up to 40 % teleworking (corresponding to 2 days per week / 96 days per year for a full-time employment)
- The more days allowed, the more the residence state will forgo revenue !

Cross-border Teleworking: Possible Actions

2. Creating bilateral *one-stop-shops* for frontier workers and cross-border teleworkers

- Instead of sharing taxing rights, Member States share tax revenues
- Taxpayers only interact with one single tax administration
- One-stop-shop could be linked to either state of source or state of residence

Arguments for a one-stop-shop (OSS) in the source state	Arguments for a one-stop-shop (OSS) in the residence state
<ul style="list-style-type: none">• Similar tax treatment as colleague• More likely coordination between income tax and social security contributions• Levying of taxes on employment income easier for employer• Correlation of treatment between income tax and deduction of wage cost in source state	<ul style="list-style-type: none">• Similar tax treatment as neighbour• Tax revenue in Member State that finances a greater share of public expenditure• Taking into account the personal and family circumstances• Income tax based on worldwide income• Full one-stop-shop as taxpayer needs to interact with tax administration only in residence state

Offsetting Imbalances for OSS: Compensation Regimes

Impact on budget revenue of OSS and possible ways to offset imbalances:

- In a perfect world, there would be an even number of incoming and outgoing cross-border workers and therefore no revenue effect
- Imbalances could arise mainly from differences of incoming and outgoing cross-border workers.
- The imbalances which can occur in today's world could be offset by financial compensations to be agreed upon by Member States.

Result: reduction of administrative tax burden; cross-border tax compliance to be facilitated for taxpayer

Examples for OSS with Compensation Regimes

DTC	Location One-stop-shop	Compensation Regime
DTC DE-FR	State of residence	1,5 % of total gross remuneration to state of source
DTC DA-SE	State of source	Denmark reimburses to Sweden the municipal tax paid in Denmark of around 25 % to Sweden for citizens residing in Sweden and working in Denmark of at least 50 % of the working time for any given 3-month period.
DTC DE-CH	State of residence	The state of source levies a withholding tax in the amount of 4,5 % of gross salary, which then may be credited against the income tax charged in the state of residence
DTC AT-CH Until 2007	Art. 15 OECD-MTC	CH to pay a compensation of 3 % of Swiss tax revenue from employed activities. Should the relation of cross-border movement change substantially, the question of a bilateral compensation will be renegotiated.

The new agreement between CH and FR

rules until 1/1/2023	
General Provision under Art. 17	Provisions as in OECD-MC and apportionment for home-office
Special Agreement with 8 Western Cantons from 1983	Special frontier worker rule: Taxation in state of residence with a 4,5 % withholding on gross salary in source state; 45 days of non-return.
Special Agreement with Geneva from 1973	No frontier worker rule, general provisions apply. Geneva agreed to pay a compensation of 3,5 % of gross salaries to France.
rules as of 1/1/2023	
General Provision under Art. 17	Up to 40 % teleworking without apportionment. State of source pays the state of residence a percentage of tax corresponding to the percentage of home office.
Special Agreement with 8 Western Cantons from 1983	Taxation in state of residence with a 4,5 % withholding on gross salary; 45 days of non-return <u>and</u> up to 40 % teleworking.
Special Agreement with Geneva from 1973	General provisions apply, i.e. up to 40 % teleworking without apportionment. 3,5 % compensation continues to apply (but possibly compensation by CH Confederation to Geneva).

BE PRES Task Force Cross-border Teleworking

- BE PRES held 3 meetings of a Task Force on Cross-border Teleworking with appr. 15 Member States and EFTA countries (and UK)
- Meetings on wages and Salaries, PE-Issue and evidence.
- Very good analysis of problem and presentation of potential solutions to issue
- Wrapping-Up within the framework of an informal HLWP mid May in Brussels.
- Results: not all Member States concerned / interested, no one size fits all, each frontier region is different, Member States hesitant to accept EU influence in DTC; further need to coordinate
- Next steps: continuing to coordinate, to promote mutual learning and mutual understanding and to share best practices.

Does Homeoffice create a PE?

Home Office and Creation of PE: Outcome of the WPIV meeting

- Working Party IV meeting of 28 October 2022: detailed questionnaire on the issue of PE and home office. Main findings were as follows:
- A few Member States took the following opposite positions:
 - that either home office cannot constitute a permanent establishment (“not at the disposal”), or
 - that home office can actually be considered “at the disposal”; hence constituting a permanent establishment.
- The bulk of Member States stated that this would need to be seen based on a case-by-case analysis, taking into account all elements.

Home Office and Creation of PE: Feedback from business

According to Business community there seem to be the following trends:

- The unresolved PE-issue and resulting uncertainty is most pressing issue with regard to cross-border teleworking for global business community.
- facts and circumstances are prevailing (i.e. case-by-case analysis).
- Common understanding that a home office is considered to be at the disposal of the foreign employer if the home office:
 - (i) is used on a continuous basis for carrying on business activities for the foreign employer and
 - (ii) the employee is contractually or de facto obliged to use his or her home office. The latter condition seems to be assumed fulfilled if the foreign employer does not provide for the possibility to use an office in the home office state.

Home Office and Creation of PE – Current state of the file

- OECD to deal with issue as part of its work programme. First framing meeting in February 2024; 2nd meeting in September 2024.
- Member States dealing with issue uni- and also bilaterally: November 2023: Agreement between BE and NL:
 - 50 % or less teleworking in Member State of residence: generally no PE
 - Structural and compulsory teleworking in Member State of residence: presumption of PE, unless activities of a preparatory or auxiliary character.
- Work at OECD: decision to update Commentary to the OECD-MTC:
 - 3 meetings in April, May and June with OECD WP1 finalising text in June.
 - Text to be approved by Plenary before end 2025
 - A PE possible, if more than 50 % teleworking and a commercial reason.

Full Remote Working and visits to HQ

- No establishment of employer in state of residence
- Visits to Headquarter trigger apportionment
- De-minimis-limits to avoid heavy compliance burden ?



Mission to headquarter



THANK YOU FOR YOUR ATTENTION !

Keep in touch



ec.europa.eu/taxation_customs/



[@EU_Taxud](https://twitter.com/EU_Taxud)



ec.europa.eu/



[@EU_Commission](https://twitter.com/EU_Commission)



[europeancommission](https://www.instagram.com/europeancommission)



[@EuropeanCommission](https://www.medium.com/@EuropeanCommission)



[@EuropeanCommission](https://www.facebook.com/EuropeanCommission)



[EUTube](https://www.youtube.com/EUTube)



[European Commission](https://www.linkedin.com/company/EuropeanCommission)



[EU Spotify](https://www.spotify.com/eu)

Thank you



© European Union 2020

Unless otherwise noted the reuse of this presentation is authorised under the [CC BY 4.0](https://creativecommons.org/licenses/by/4.0/) license. For any use or reproduction of elements that are not owned by the EU, permission may need to be sought directly from the respective right holders.

Slide xx: **element concerned**, source: e.g. [Fotolia.com](https://www.fotolia.com/); Slide xx: **element concerned**, source: e.g. [iStock.com](https://www.istock.com/)