

April 2021

Change & Recovery

Is your business going global without you realising it?



ADELINA IFTIME-BLAGEAN
Counsel, Wolf Theiss

Employee mobility rising due to remote work

Beyond simply working from home, employees are now crossing borders while working remotely. As a result, companies face new opportunities and challenges. Now that verifying employees' whereabouts is often difficult in practice, tax and compliance risks could be lurking.

Origins: the concept of a global workforce

In the golden era of globalisation and with the fast pace of technological change, the concept of the "global workforce" emerged. Based on an international pool of workers accessible to companies from anywhere, employers could overcome geographical borders and select employees who could work remotely for them (often indirectly).

When it first started in the late 1970s, the global workforce movement was possible due to the rise of multinational corporations which changed the way companies traditionally strategized and covered personnel needs. As barriers such as local law restrictions influenced their decisions, employers thoroughly assessed various workarounds and options allowing them to be part of this globalization trend. This meant that the option of going global initially belonged to employers.

At present, we have learned that this global phenomenon will likely develop a new dimension, **as employees' choices may now become a determining factor in the next stage of the global workforce.**



ANDREEA STAN
Senior Associate, Wolf Theiss

Globalisation during Covid-19: a hypermobile workforce

We all know that the Covid-19 virus dramatically changed the paradigms of how we live and work. It literally affected every element of life: restaurant and hotels were disrupted, school classes became virtual and people who could work from home were asked to do so while others were placed in furlough or even made redundant.

Amid the Covid-19 pandemic and with restrictions on movement in place, people intentionally moved to other locations to be with their families, to escape the narrowness of their homes, or to make sure their children are cared for during working hours. Suddenly, work from home (WFH) became remote work (i.e. working from various locations, not necessarily from one's home) and sometimes with an international twist: people moving to other countries. But how does this intersect with restrictions in national legislation?

WFH / Telework / Remote work

In most European countries, remote work in the broadest sense requires written consent for implementation. In Romania for example, under normal circumstances both WFH and Telework (analysis of these two options may be accessed [here](#)) may be implemented only by way of an addendum to the employment contract, which must be properly registered with the relevant registries.

In terms of the workplace, while WFH only allows for working from the employee's home (domicile or residence), in theory Telework allows working from any location, provided that the exact locations are included in the employment documents. But is this always achievable?

Starting with the outbreak of the Covid-19 pandemic, in both our personal and professional life, we see a trend in people's increasing appetite for working and living abroad. At the same time, given the classic difficulties in giving or obtaining consent in a legally-valid format (so as to value a change to the employment contract), as well as considering the privacy restrictions to monitor employees, **it rarely happens that employers know or can verify at a large scale the actual whereabouts of their employees.**

Positive outlook: globalisation of the workforce supports productivity

There is a saying in HR that happy employees are more productive, and numerous studies over the years confirm this. When their home life is balanced and they reach a certain level of comfort, employees tend to work more efficiently. Even though the pandemic took a toll on most of us, as WFH/Telework spread, both employees and employers discovered its underlying benefits. In principle, **employees had more autonomy** in determining their working schedule and balancing their home life with their work life, while **employers' costs decreased**.

Therefore, allowing employees to work remotely (not only from the comforts of their homes) can improve their living conditions and it can leave them more engaged and committed to the company.

Risks and challenges

With people working abroad on a continuous/long-term basis, employers should assess both potential changes in the taxation of employees' salaries and in the social contributions regime, but also, depending on the exact type of work tasks and various other factual circumstances, the potential growing risk of a permanent establishment of the employer in the country where the employees are actually working from (with the consequence that the employer will pay corporate income tax in the foreign countries for the corporate income/profits generated by their employees in those foreign countries). **All of these may trigger additional tax costs, burdens and possibly even sanctions.**

Conclusions

With the above in mind, we believe that a business might be going global without its management even realising it. While the globalisation of production may decrease in the post Covid-19 era, the globalisation of services and the workforce will certainly accelerate, supported by growth in telecom technology and innovation. **We believe this is an unavoidable trend that should be embraced and supported by legislation, with a view to validate the legal status and facilitate the tax burden for all involved parties.**

We also see this trend being acknowledged by the European authorities, especially the European Labour Authority whose mission is to streamline workforce mobility within EU borders.

About **WOLF THEISS**

Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With 340 lawyers in 13 countries, over 80% of the firm's work involves cross-border representation of international clients. Combining expertise in law and business, Wolf Theiss develops innovative solutions that integrate legal, financial and business know-how.

This memorandum has been prepared solely for the purpose of general information and is not a substitute for legal advice.

Therefore, WOLF THEISS accepts no responsibility if – in reliance on the information contained in this memorandum – you act, or fail to act, in any particular way.

If you would like to know more about the topics covered in this memorandum or our services in general, please get in touch with your usual WOLF THEISS contact or with:

Wolf Theiss
Schubertring 6
AT – 1010 Vienna

www.wolftheiss.com