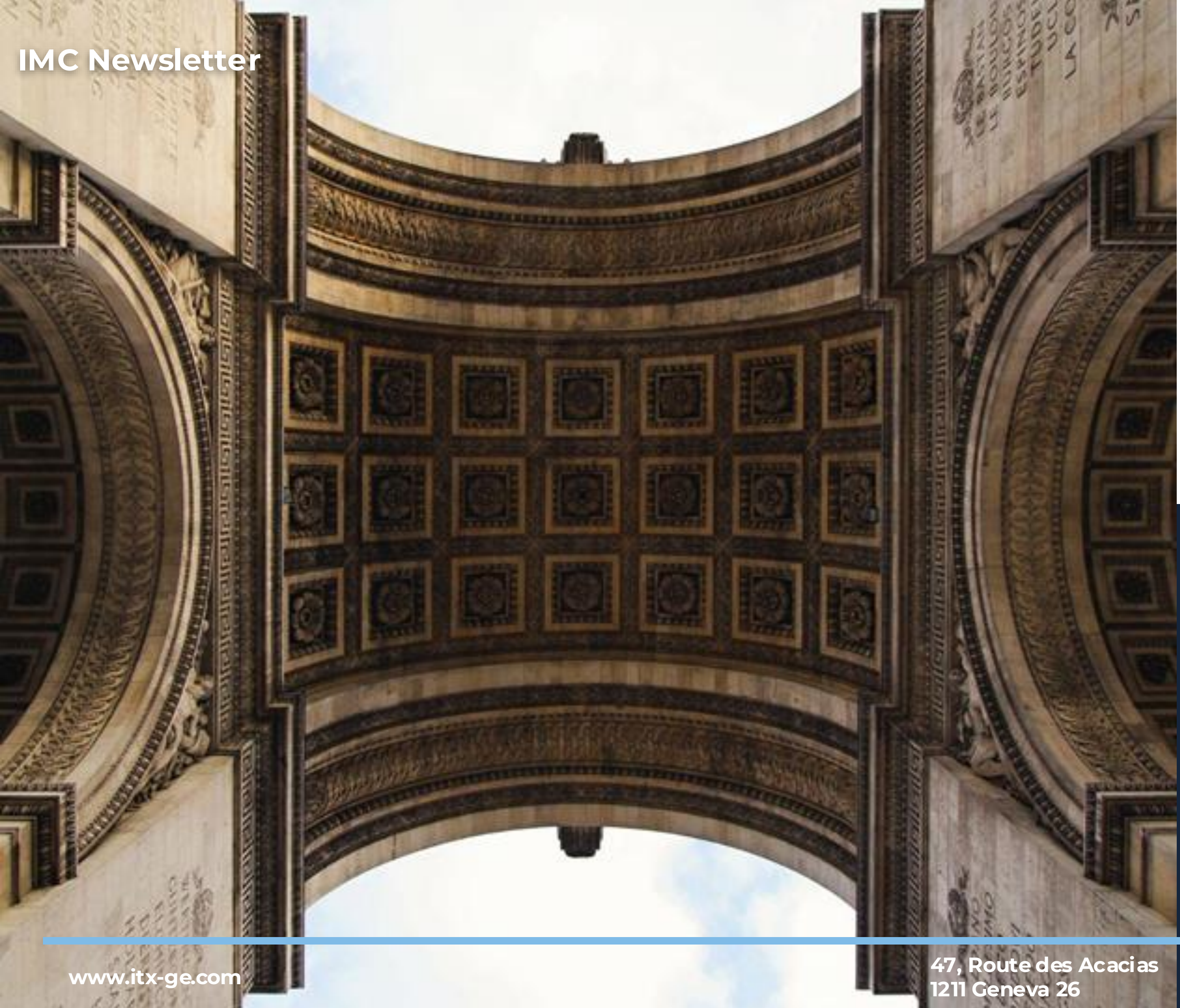

IMC Newsletter

INTERNATIONAL MOBILITY NEWSLETTER

HR UPDATES | BILATERAL SOCIAL SECURITY AGREEMENT | CORPORATE TAX

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Q4 2024

LEGISLATIVES UPDATES 2023/2024

HR Changes

- Adoption Leave
- New Data Protection Law
- New Rules for French Cross-Border Workers
- Reform of the Swiss pension system (OASI 1st pilar)
- Reform of the Swiss pension system (BVG 2nd pilar)

International Mobility

- Bilateral SS Agreement with Argentina signed
- India & EFTA Economic Partnership Agreement signed
- Publication of the study on the impact of the international sector in Geneva canton

Corporate law

- Corporate Tax & OECD Minimum Tax Rate

HR CHANGES

Adoption Leave

Adoption leave has entered into force on January 1, 2023.
Duration : 2 weeks which may be taken within the first year of adoption

Eligibility requirements :

- **Child under 4 years old**
- **The adopter must be gainfully employed at the time of welcoming child**
- **Be compulsorily insured within the meaning of the LAVS during the 9 months preceding**
- **Have carried out a gainful activity for at least 5 years**

Adoption Allowance :

- **Up to 14 daily allowances (7 daily allowances are paid per week)**
- **Daily allowance : 80% of the average income from gainful employment before the start of entitlement to adoption allowance, up to a maximum of CHF 220 per day.**
- No allowance and no adoption leave in the event of adoption of the spouse's child.
- In the case of joint adoption, entitlement to the allowance is granted only once if both parents fulfil conditions.

Seconded employees could therefore be eligible (subject to mandatory rules applicable in host country)

The right to adoption leave is in addition to the vacation days granted by the Company or the employment contract.

These days of vacation cannot be reduced for the worker who takes adoption leave, as is the case for maternity/paternity leave.

New Swiss Data Privacy Act (nLPD)

The Federal Act on Data Protection (FADP) came into force in 1992 at a time when the Internet & digital tools were not yet being used, to protect fundamental rights of persons whose data are processed.

- **As per 1 September 2023,** the revised FADP **has come into effect.**
- **The basic principles of data protection remain unchanged**, i.e. compliance with the familiar processing principles, including transparency, purpose limitation and data security.
- **Many of the changes are in line with the European General Data Protection Regulation (EU GDPR).** These includes introduction of an obligation to report data losses and breaches of data security, expansion of information obligations (to be documented); changes to data exports, stricter sanctions compared to the current law. **However, there are some deviations from the GDPR, therefore your compliance documentation will need re-wording if applicable.**
- **Since the revised law does not provide for any transition periods**, **companies and employers shall comply**.
- **It is important to ensure that your organization complies with the applicable provisions**

New Rules For French Cross-Border Workers

Employers need to adjust to changes in employees' lifestyles and the growing trend of remote working from anywhere despite the associated legal and administrative constraints to be taken into account.

From a Tax perspective

- France and Switzerland have agreed on a **permanent Tax agreement on telework for cross border workers**.
- **From 1 January 2023, up to 40 % of the total working time** per calendar year **maybe performed** remotely without having an impact on employment income tax status for the employee.
- **Unfortunately, the rules on tax and social security are not yet harmonised**.

From a Social perspective

- **In terms of Social security**, the **flexible application of EU Regulation has been extended until 30 June 2023 only**. According to this practice, the competence in the field of social security remains unchanged, regardless of the part of the activity carried out remotely in the country of residence.
- **Switzerland & France have signed-up to the Teleworking Framework Agreement** based on Article 16 (1) of EU Regulation (EC) No. 883/2004 to regulate cases of regular cross-border remote workers, **that came into force on 1 July 2023**.
- Cross-border workers employed in a country that is a signatory to the Framework Agreement and living in another signatory country can remain affiliated to the social security of the country where their employer is based if their **remote working time rate does not exceed 49.9%**
- **Deadline of 30 June 2024 to apply for Teleworking A1 certificates**.

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Reform of Swiss pension system (OASI 1st pilar) came into force on 1 January 2024

On 1st January 2024, entry into force of the old age and survivors' insurance (OASI 21) reform, which provides for retirement for all at age 65.

- **This has brought the harmonisation of reference age for men and women at 65.**
- **Gradual implementation, by 3 months each year, so that the reference age of 65 will apply to all from 2028.**
- **Transitional measures for Women born between 1961 and 1969,** close to retirement (lifelong pension supplement in the absence of early retirement & lower reduction rates for early retirement).
- **Flexibility in retirement :** Pre-retirement from the age of 63 (62 for women of the transitional generation). Pension postponed until the age of 70. It is also possible to bring forward or defer only part of the pension**.**
- **This adjustment also affect insurance areas such as occupational pensions (2nd pillar).**

- **We recommend that employers check at an early stage what action needs to be taken in this regard.**
- **This includes, for example, a revision of the employee regulations, contractual documents, handbook or technical system adjustments in payroll processing, international insurances policies…**

Birth year	Reference retirement age
1961	64 and 3 months
1962	64 and 6 months
1963	64 and 9 months
1964	65

Reform of Swiss pension (BVG 2nd Pillar)

Rejection of the BVG pension reform (Federal Law on Occupational Retirement, Survivors' & Disability Pension Plans – 2nd pillar) under discussion for many years.

This reform was in connection with the OASI 21 reform, which has now come into force.

- **In March 2023, Parliament approved the BVG 21 reform**
- **However, it has just been rejected by referendum, on 22 September 2024** (large majority 67% of the votes).

- **The rejected reform contained 5 important measures that would have strengthen the financing of the 2nd pillar and maintain the overall level of pensions.**
- **In addition, it would have improved cover for people working part-time and low incomes** (part-time employees, or people with several employers, including women).

Planned changes / BVG reform & referendum impact

Element	Without reform	With reform
Conversion rate	6.8 percent	6.0 percent
Entry threshold	CHF 22,050	CHF 19,845
Coordination deduction	CHF 25,725	20 percent of the annual salary subject to OASI contributions
Retirement credit rates	25–34 years: 7 percent 35–44 years: 10 percent 45–54 years: 15 percent 55–65 years (women up to 64, as of 2024): 18 percent	25–45 years: 9 percent 45–65 years: 14 percent
Pension supplements	none	Pension supplements for retired in the first 15 years after the reform comes into force (transitional generation)

INTERNATIONAL MOBILITY

New bilateral Social Security agreement with Argentina signed

- **A bilateral social security agreement between Switzerland & Argentina has been signed in Buenos Aires on 27 May 2024**
- **The agreement is not yet in force**, but should be in 2025 following approval by the parliaments of the two countries
- **It regulates relations between Switzerland and Argentina in the field of social security and coordinates the social security systems** of the two contracting states in the areas of old age, death and disability, and regulates in particular the payment of pensions abroad.
- **The agreement corresponds to the social security agreements already concluded by Switzerland, and is in line with international standards** for the coordination of social security systems.

The agreement guarantees insured persons equality of treatment and easier access to benefits, and allows the payment of pensions abroad.

Finally, it avoids double payment of social contributions by facilitating the secondment of employees. Like all SS agreements concluded by Switzerland, it should apply regardless of the nationality to determine applicable scheme.

India & EFTA Economic Partnership Agreement signed on 10 March 2024

- **The agreement has been signed on 10 March 2024** after 16 years of negotiations **and should be effective from 2025,** by when it is expected to be adopted by the parliaments of the respective countries
- For Switzerland particularly, **the agreement offers easier access to one of the world's fastest-growing markets**. The agreement is **also advantageous for Indian exporters**, particularly those in the organic chemicals, pharmaceuticals, and food processing industries, targeting the EFTA and Swiss markets.

[Consult the study (French)]

[Consult the context and key figures (English)]

Publication of the study on the impact of the international sector in Geneva canton

- **This study analyses the public and private international sector from several perspectives:** economic and fiscal impact, housing, mobility and the environment.

- The **Fédération des Entreprises Romandes** Genève, the **Groupement des Entreprises Multinationales**, the **Fondation pour Genève**, the **Swiss Confederation**, the **Republic and Canton of Geneva**, **the City of Geneva** , were proud to present the results of this analysis in March 2024**.**

- **The study confirms the attractiveness of Geneva.**

"In a world seeking a secure, stable hub open to dialogue and built on the values of peace, **Geneva stands as a vital platform for discussing global issues and working towards solutions"**

TAX

OECD Minimum taxation introduced in Switzerland

- The **project of the OECD is a major reform of the international tax system**, which is part of a global approach **to reduce tax competition**. In particular it **introduces a 15% minimum tax for international companies** with a turnover of more than 750 million.
- After public consultation in June 2023, **Switzerland has introduced OECD minimum taxation on 1 January 2024.**
- **If an affected entity does not reach the required minimum tax rate of 15 percent in Switzerland, the amount is 'supplemented' by the Swiss top-up tax.**
- **The cantons are responsible for assessing Swiss top-up tax.** If several cantons are involved, the canton with the most economically significant entity takes the lead.
- **Attractive taxation is key to ensure that companies and jobs remain in Switzerland.** It is essential to promote a balanced tax system that does not adversely affect economic activity.
- **Cantons are revising their tax laws in an effort to remain attractive for businesses going forward. Cantons embrace different strategies to lessen impact of global minimum tax**

<u>Geneva Canton</u> raised its effective corporate tax rate (including federal taxes) from 14 percent to 14.7 % and eliminated municipal business tax in exchange

<u>Zurich Canton</u> effective corporate tax rate is already higher than the minimum rate of 15%, the Canton intends to cut its cantonal corporate tax rate within a wider framework.

INTERNATIONAL MOBILITY CONSULTING NEWSLETTER

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