

# GMS Flash Alert

2023-078 | April 6, 2023



## Slovakia – New Bilateral Agreement with Austria on Tele-Work and Social Security

While the European Union (EU) is still waiting for the European Commission to publish a coordinated solution for cross-border remote work, Slovakia and Austria have concluded a framework agreement based on which teleworkers can work from their residence (home) country for up to 40 percent of their total employment and still maintain coverage under the social security system in the country of their employer.

The Ministry of Labour, Social Affairs and Family of the Slovak Republic (hereinafter, “the Ministry”) and the Federal Ministry for Social Affairs, Health, Care and Consumer Protection of the Republic of Austria signed the Framework Agreement on the application of Article 16 (1) of Regulation (EC) No. 883/2004 regarding habitual cross-border telework on 2 March 2023.<sup>1</sup> This Agreement will enter into force as of 1 June 2023.

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### WHY THIS MATTERS

As a result of the COVID-19 pandemic and the resulting restrictions on entry and cross-border travel, the EU Commission implemented a special regulation stating that a change in percentage of physically performed working time at one's overseas home (even up to 100 percent) will not impact the previous applicable social security legislation (“no-impact policy”).<sup>2</sup> This regulation will be in effect until 30 June 2023.

The cross-border working world has changed due to the COVID-19 pandemic. Working from home has become very attractive for employees and there are many who continue to telework, to one degree or another. The end of the no-impact policy can pose major challenges for employers and their employees from the tax and social security perspectives, amongst others. In light of this, however, the governments of Slovakia and Austria have stepped in to address these issues, and keep matters clear and simple regarding cross-border working between Slovakia and Austria and the liability of cross-border workers to social security.

## The Framework Agreement: Details and Practicalities

The Framework Agreement only applies between Slovakia and Austria.

The registered office of the employer where the work is normally performed must be in Slovakia or Austria and the residence of the employee in the other country.

“Habitual cross-border telework” means employment carried out under the following conditions:

- A person usually exercises the employment regularly and for the same employer,
- The employment is exercised by the employee both in the state where the employer’s business place is situated (where the same work is performed normally), as well as in his/her state of residence usually in the home environment, and
- The work is exercised using information technology to remain connected to the employer’s working environment to fulfil tasks assigned by the employer.

The individual must not exercise an additional employment or self-employment activity and no third-country element must be in the situation as well.

Upon request, a person who habitually carries out cross-border telework shall be subject to the law of the country in which the employer has its registered office / place of business where the work is otherwise carried out, provided that this is in their interest, and the telework in the country of residency does not exceed 40 percent of the total employment.

A certificate (A1 form) would be required to be obtained to confirm the application of the social security system of the country of employer.

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### KPMG INSIGHTS

There are many practical questions connected with the Framework Agreement. Based on conversations between professionals with KPMG in Slovakia and the representatives of the Ministry, we understand that the Ministry is working in earnest on providing more information and instructions during the upcoming months. Ministry officials informed us that the application for exception under Article 16 of the EC Regulation will still be required to be filed with the Ministry. But if the conditions of telework are confirmed via a specific questionnaire (to be issued by the Ministry), the time of obtaining the decision on granting the exception should be shortened significantly as the approval of the other country’s institution would not be required.

Austria recently signed similar framework agreements also with the Czech Republic and with Germany – these entered into force as of 1 March 2023. There is also a telework agreement signed between Germany and the Czech Republic (the subject of a different *GMS Flash Alert* ([2023-074](#), 4 April 2023)). On the Slovak side, the Ministry expects to negotiate framework agreements with other EU countries in the near future.

KPMG in Slovakia will endeavour to keep readers of *GMS Flash Alert* informed of further related developments.

In any event, we recommend checking the applicable social security laws for employees with cross-border activities between Slovakia and other member states as of 1 July 2023.

Should employers and their employees who are teleworking have questions about how the rules apply to them practically speaking and what steps they should take to mitigate any unnecessary tax consequences and be in

## KPMG INSIGHTS continued

compliance, they may wish to contact their qualified professional tax adviser or a member of the GMS / People Services team in Slovakia (see the Contacts section).

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### FOOTNOTES:

1 See (in German) "Grenzüberschreitende Telearbeit – Neue Rahmenvereinbarung mit der Slowakei." See: <https://www.sozialversicherung.at/cdscontent/?contentid=10007.891585&portal=svportal> .

2 For more on the EU and the “no impact” policy, see [GMS Flash Alert 2022-119](#), 17 June 2022.. Also, for prior coverage of the end of the “no impact” policy, see [GMS Flash Alert 2023-025](#), 31 January 2023.

Multi-State Worker rule according to article 13 Regulation (EC) 883/2004.

EUROPEAN COMMISSION, EMPL/1053-01/22 - EN AC 125/22REV3, Guidance Note on telework 13 May 2022, revised on: 7 June 2022, 14 June 2022, 14 November 2022.

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## Contact us

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