

GMS Flash Alert



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Denmark - EU Social Security Framework Agreement on Telework Declined

On 30 October 2023, the Danish Ministry of Employment announced that Denmark will not sign the social security Framework Agreement on cross-border telework.¹

As a result, the current 25-percent rule (in Article 13 of Regulation (EC) No 883/2004) will continue to apply to all employees who reside in another European Union (EU) member state and work from home for a Danish employer, or if the employee resides in Denmark and works for a foreign employer. Further, the Danish government has announced that it will not enter into individual agreements on Danish social security according to Article 16, where the work-time in the home country exceeds 25 percent.

WHY THIS MATTERS

This decision means that teleworkers in another EU member state and Denmark-based teleworkers will not be subject to the same flexible, advantageous rules that many EU nationals will enjoy if their governments are party to the agreement – with one caveat being the EU Guidance Note on telework applicable from 1 July 2023 (described below). The EU and most of its member states are seeking to adapt to this new “work from anywhere world” by adopting the Framework Agreement.

Background

The Framework Agreement on cross-border telework was put forward for each EU/EEA member state, Switzerland, and the U.K. to sign and ratify by 1 July 2023. The agreed scope of the Framework Agreement allows for the employee to work up to 49.9 percent of the working time from home, whereas the rule in Article 13 of Regulation (EC) No 883/2004 only allows 24.9 percent work time from home on a more permanent basis.

Denmark has now decided not to sign the agreement.

Why?

After careful consideration, the Danish government concluded that the existing 25-percent rule is effective and points to the potential for broader interpretation of the relevant provisions in the basic regulation, with reference to the Guidance Note on telework (see below). In addition, Denmark already has an agreement with Sweden that allows up to 50 percent of work from one's residence when working cross border between Denmark and Sweden.

On a Positive Note

The Danish Social Security Authority follows the EU Guidance Note on telework applicable from 1 July 2023 [Note of 21 June 2023 (AC 137/23)], which allows for a broader interpretation of the existing rules both in relation to Article 12 (assignment) and Article 13 (multistate work) of Regulation (EC) No 883/2004.

The broader interpretation according to the EU Guidance Note on telework provides an opportunity for employees and employers to enter into an agreement that the employee works remotely from another member state for a limited period, whether from his or her home or from another member state.

KPMG INSIGHTS

KPMG in Denmark recommends that an A1 certificate be applied for, with reference to the EU Guidance Note.

If the employee wants a more permanent teleworking arrangement from home, this can be achieved through various options, within the existing Article 13 regulation, either with one day per week from home, or with some flexibility around intervals of work from home or variety in office hours. Both the employer and employee must always ensure that the employee's work in the country of residence remains below 25 percent for a continuous period of 12 months so that the employee remains covered by the rules on social security in the country of the employer.

An A1 certificate should always be obtained when the employee and employer agree to telework in another member state.

(For related coverage, see [GMS Flash Alert 2023-149](#), 24 July 2023.)

For additional information or assistance, please contact Christina Brink or Maria Louise Berggren Pihl from the team in KPMG Acor Tax in Denmark.

FOOTNOTE:

1 According to an official with the Danish Ministry of Employment in a 30 October 2023 telephone call with the author. The information communicated is non-private, non-confidential and is in the public domain; however, there is currently no information provided through official channels.

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Contact us

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