

GMS Flash Alert

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European Union - Update on Teleworking Agreement for Social Security

On 1 July 2023, 18 European countries implemented the so-called Framework Agreement¹ for social security, providing an opportunity to employees teleworking from home in another country to work up to 49.9 percent of the time and still maintain coverage under the social security system in the country of the employer.²

Since July 2023, Slovenia and Italy³ joined the Framework Agreement, while the U.K. and Denmark⁴ declined to sign it.

WHY THIS MATTERS

The Framework Agreement for social security is a significant element employers should take into account when they are discussing policies and/or individual cases for more flexible working arrangements. The current legal threshold for when social security shifts from the country of the employer to the country of the employee's residence is 25 percent of working time spent in the country of the employee's residence.

The Framework Agreement provides an option to employers and employees who reside in different countries, by which an employee can telework up to 49.9 percent of his/her working time from home and remain covered by social security in the country of the employer. This means that employers and employees would not be liable to comply with the obligations for social security in the country of the employee's residence.

However, to make use of the Framework Agreement, an application for an A1 certificate for social security coverage must be filed in the country of the employer.

Key Points of Framework Agreement

The Framework Agreement applies to situations in which an employee works habitually in the country of his/her residence and the country of the employer. The country of the employer and the country of the employee must both be signatory states of the Framework Agreement.

The Framework Agreement is an option only for employees who telework in the country of residence, typically working from home. Telework refers to an activity which can be pursued from any location and could be performed at the employer's premises. Telework is based on, and supported by, information technology, and the employee remains connected to the relevant online working environment while he/she works in the country of residence.

This means that manual working tasks are not in the scope of the Framework Agreement.

Telework in the country of residence must range from 25 percent up to 49.9 percent of the working time in a period of 12 months.

Complex Cases

Cases in which an employee also works in a country (or countries) other than those of either the employer or the employee's residence – for example, in a case of business trips – must be individually assessed.

KPMG INSIGHTS

Now that a total 20 countries have signed the Framework Agreement, employers and employees have a wider geographical scope to consider in connection to social security when they are discussing flexible working arrangements.

It is our general experience that occasional business trips to countries that are not the country of the employer and the country of the employee's residence do not jeopardise the validity of an A1 certificate issued under the Framework Agreement. However, before drawing a conclusion about whether the employee's business travels might jeopardise the validity of the social security position under the Framework Agreement, one should seek legal assessment of the working situation.

The Framework Agreement is not aligned with any other rules for cross-border work, such as the rules for personal income tax, which can negatively impact the appeal of the Framework Agreement. This may offer some explanation as to why usage of the Framework Agreement thus far seems to be generally limited, contrary to what some local administrations expected prior to its implementation.

FOOTNOTES:

1 Full text of the Framework Agreement in cases of habitual cross-border telework, "[Framework Agreement on the application of Article 16 \(1\) of Regulation \(EC\) No. 883/2004 in cases of habitual cross-border telework](#)" (2023).

2 See [GMS Flash Alert 2023-143](#), 17 July 2023.

3 As indicated on the Belgian Federal Public Service for Social Security website (in English): "[Cross-border telework in the EU, the EEA and Switzerland: Framework agreement on cross-border telework](#)," which features the list of the signatory states of the Framework Agreement, as well as the date from which the Framework Agreement applies in each of the states concerned.

See the announcement on the website (in Italian) for the *Consiglio Provinciale di Padova* at: <http://www.consulentidellavoro.pd.it/telelavoro-transfrontalieri-entrato-in-vigore-laccordo-quadro/> .

Also see "Telelavoro transfrontaliero nell'UE, nel SEE e in Svizzera" on the website (in Italian) of ANPAL (*Agenzia Nazionale per le Politiche Attive del Lavoro*) at: <https://www.anpal.gov.it/-/telelavoro-transfrontaliero-nell-ue-nel-see-e-in-svizzera> .

4 See [GMS Flash Alert 2023-210](#), 13 November 2023.

Contact us

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