

News Flash

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Social security and habitual cross-border telework in Slovakia: Changes as of July 1, 2023

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Ministry of Labour, Social affairs and Family of the Slovak Republic concluded the Framework Agreement related to the application of Article 16 of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework.

Based on this agreement it was stipulated the exemptions from the applicable legislation specified under the Art. 16 (1) of the Regulation (EC) No. 883/2004, which will be provided to the persons – employees with its residence in a signatory State in cases that the cross-border telework in the **State of residence is less than 50% of the total working time and the employee can be subject to the social security system in the other signatory State in which the employer has his registered office or place of business.** Also, in relation to Austria, with which the Framework Agreement was signed with effect from June 1, 2023, the multilateral Framework Agreement will apply.

Multilateral Framework Agreement

As of June 7, 2023, the Framework Agreement has been signed by several countries within the EU, such as Germany, Austria, the Slovak Republic, the Czech Republic, the Netherlands, Belgium, Luxembourg, Liechtenstein, Switzerland, Finland and Norway. It is likely that this list is not definitive and that other EU countries will be added. The Framework Agreement for the countries listed above is **effective from July 1, 2023.**

The Framework Agreement applies to employees who:

- are living in one signatory State,
- are employed by one or more companies or employers having their registered office or place of business in only one signatory State,
- perform work for that employer both in the State in which his premises or place of business where the same work is normally carried out and in the State of residence (telework),
- carry out work by means of information technology in order to maintain the employee's connection with the employer's working environment,
- perform a substantial part of the work in the State of residence, to the extent of 25 % and less than 50 % of the total working time.

The Framework Agreement does not apply to:

- employees who normally carry out activities other than cross-border teleworking in their country of residence,
- employees who habitually carry out other dependent activities in a State other than Slovakia and the employer's State of residence,
- self-employed persons.

Exemptions from the Framework Agreement

Under the framework agreement, an employee who has fulfilled the above conditions may apply, together with his employer, for a derogation under Article 16 (1) of Regulation 883/2004. In the case of an employer established in the territory of the Slovak Republic, the application must be submitted to the Ministry of Labour, Social Affairs and Family of the Slovak Republic. The application of the Slovak legislation in this case can be requested for **a maximum period of 3 years**, with the possibility of reapplying again.

Please find below presented example of basic scenario that employers should be aware of.

An example

Mr Peter is a programmer. He works in Slovakia and Austria for a company based in Slovakia. He is living in Austria, from where he performs telework (telework) for his Slovak employer 2 days a week (40%) and the remaining 3 days he works from the employer's office in Slovakia (60%).

As he lives in Austria and meets the requirement that a substantial part of the activity (more than 25% and less than 50%) is carried out in Austria, he is subject to Austrian social security legislation. However, if Mr. Peter wishes to be subject to Austrian social security legislation, he can apply for a exemption under Article 16(1) of Regulation 883/2004 in accordance with the Framework Agreement. In this case, he will submit an application on a structured form to the Ministry of Labour, Social Affairs and Family of the Slovak Republic.

Please note that the above-mentioned example is for discussion purposes only. As the rules are new and variations in the applicability may be experienced in each EU/EEA country a case-by-case assessment should always be made. If a specific commuter case falls outside the scope of the agreement, there are a variety of other solutions that can be looked further into.

In case you employ employees with such a cross-border situation, we will be happy to provide you with consultancy related to the determination of the relevant legislation for social security purposes.

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