

**Framework Agreement on the application of Article 16 (1)  
of Regulation (EC) No 883/2004  
regarding habitual cross-border telework  
between Austria and the Czech Republic**

(1) *In view* of labour market trends, as a result of which work is increasingly performed at places outside the employer's premises or business place where the same work is normally carried out and as a result of which it can also be performed at other places, in particular at home, in the form of telework using electronic information and communication systems;

(2) *Bearing in mind* that in cross-border constellations such telework may, under the relevant EU law, mean that the legislation of the Member State of residence is applicable pursuant to Title II of Regulation (EC) No 883/2004, which is often not in the interest of the persons concerned;

(3) *Bearing in mind* that Article 16 of Regulation (EC) No 883/2004 provides for the option of derogations from the applicable legislation specified in this Regulation;

the competent authorities and/or the institutions designated by the two states, which for Austria is the Federal Ministry of Social Affairs, Health, Care and Consumer Protection and for the Czech Republic the Czech Social Security Administration (CSSA) conclude the following Framework Agreement based on Article 16 of Regulation (EC) No 883/2004:

**Article 1**

**Scope**

(1) For the purposes of this Framework Agreement, the term "habitual cross-border telework" means employment, which is carried out under the following conditions:

A person

- a) usually exercises the employment regularly and for the same employer, AND
- b) both in the state where the employer's premises or the business place are situated, where the same work is performed normally, as well as in his/her state of residence usually in the home environment, AND
- c) using information technology to remain connected to the employer's or business's working environment as well as to stakeholders/clients in order to fulfil his/her tasks assigned by the employer.

(2) This Framework Agreement applies to all persons falling under the scope of Regulation (EC) No 883/2004, including those persons who were included as a result of Regulation (EU) No 1231/2010, to the extent that they live in Austria or the Czech Republic and the premises of the employer or the business place, where the same work is performed normally, are situated in the other state.

(3) This Framework Agreement applies to persons to whom the legislation of the state of residence would be applicable as a result of habitual cross-border telework in application of Article 13 (1) of Regulation (EC) No 883/2004 in conjunction with Article 14 (8) and 14 (10) of Regulation (EC) No 987/2009.

(4) This Framework Agreement shall not apply to persons, who exercise an additional employed or self-employed activity or who are in a cross border situation to a third state, which is relevant for the determination of the applicable legislation under Title II of Regulation (EC) No 883/2004.

## **Article 2**

### ***Applicable legislation***

Upon request, a person who habitually carries out cross-border telework within the meaning of Article 1 of this Framework Agreement shall, in accordance with Article 16 of Regulation (EC) No 883/2004, be subject to the law of the State in which the employer has his registered office or the place of business where the work is otherwise carried out, provided that

- a) this is in their interest, AND
- b) the telework in the State of residence does not exceed 40% of the total employment.

## **Article 3**

### ***Procedure***

(1) If the prerequisites of Article 2 of this Framework Agreement are fulfilled, the employer can, in agreement with the employee concerned, apply for a derogation at the competent body of the state whose legislation is to be applicable. In Austria, the competent body is the Federation of Social Insurances. In the Czech Republic, the competent body is the Czech Social Security Administration. A derogation agreement may be applied for a maximum of two years at a time, with extensions possible upon a new request.

(2) The exchange of information concerning the individual cases under this agreement shall take place between the competent bodies via EESSI using LA\_BUC\_01.

(3) The competent institution whose legislation is applicable shall certify, by means of PD A1, that this legislation is applicable and for how long. PD A1 will be issued according to Article 16 of the Regulation No (EC) 883/2004.

## **Article 4**

### ***Transitional and Final Provisions***

(1) Pandemic-related special solutions in accordance with the rules laid down by the Administrative Commission for the coordination of social security systems (especially AC 74/20REV3 and AC 125/22REV3) are not affected by this Framework Agreement, as long as these solutions are declared as applicable by the Administrative Commission.

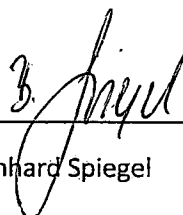
(2) This Framework Agreement does not preclude individual exceptions under Article 16 of Regulation (EC) No 883/2004 pursuant to the procedure set out in Regulations (EC) No 883/2004 and 987/2009 for cases other than those specified in Article 2 of this Framework Agreement.

(3) This Framework Agreement shall enter into force on the first day of the second calendar month following the month of signature. It is concluded for an indefinite period but may be terminated by either of the signatory parties by giving 3 months' written notice.

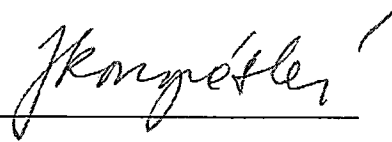
(4) The expiry of this Framework Agreement shall not affect the validity of the derogation agreements concluded on the basis of it as long as the prevailing facts do not change.

Done at Prague and Vienna, on.....*30. January 2023*

For the Federal Ministry of Social Affairs,  
Health, Care and Consumer Protection:

  
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Bernhard Spiegel

For the Czech Social Security Administration:

  
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Jitka Konopásková