



**FORUM_{FOR}
EXPATRIATE
MANAGEMENT**
CHAPTERS

AMSTERDAM CHAPTER MEETING

JUNE 8TH 2023

**ROSARIUM AMSTELPARK 1, EUROPABOULEVARD 1083 HZ
AMSTERDAM**



FORUM FOR
EXPATRIATE
MANAGEMENT

CHAPTERS

Forum for Expatriate Management

Chapter meeting of 8 June 2023

EU Regulation 883/2004

Coordination of social security systems, no harmonization

- To avoid double coverage or premium payments, or
- To avoid no coverage or premium payments

Rules are applicable to:

- EU Member States
- EEA Member States (Norway, Iceland, Liechtenstein)
- Switzerland

As of the moment the UK left the EU a trade agreement is applicable with its own specific rules

EU Regulation 883/2004

A cross border element is required for EU Regulation 883/2004 to be applicable → a link with at least 2 Member States is needed

This can be:

- Member State of residence
- Member State where the employer is located
- Member State where a person physically works
- Member State where a person is staying
- Etc.

EU Regulation 883/2004

A person can only be subject to social security in 1 Member State

Main rule: A person is subject to social security in the Member State where he physically works.

Exceptions are possible:

- Article 12: posting for a period of max 24 months
- Article 13: working in multiple Member States

And for special groups:

- Civil servants
- Seafarer
- Cockpit and Cabin crew

Working in multiple countries

Article 13: pursuit of activities in 2 or more Member States

Rules for employees and self employed persons

A person who performs 25% or more of his activities in his country of residence, is subject to social security in his country of residence (regardless of where his employer is located)

An employee who performs less than 25% of his activities in his country of residence, is subject to social security in the country where his employer is located

More detailed rules for situations where the employee has multiple employers

Working in multiple countries

No issues if the country of residence of the employee is the same as the country where his employer is located.

Possible switch of social security system if the country of residence of the employee is not the same as the country where the employer is located → if the employee works 25% or more from home, social security switches to country of residence employee

A switch of social security systems results in additional administrative work and possible higher costs for the employer. For this reason many employers tried to limit working from home by cross border commuters.

And then there was Covid.....

Covid and working from home

Covid forced people to work from home.

This required a relaxation of the rules on social security

Main groups affected:

- Cross border commuters
- Foreign local hires → many decided to temporarily return to their home country

The Administrative Commission of the EU advised Member States to implement a no-impact policy to avoid switches of social security systems due to working from home

After Covid

Result of this policy to work from home as much as possible during Covid:

- Employees would like to work from home more often
- Employers understanding more and more the benefits of working from home

Practical issue:

- If you allow 'regular' employees to work from home more, you cannot be more strict for your crossborder commuters → all employees should be treated equally

This resulted in the request of many employees and employers to expand/change the rules for working in multiple countries

After Covid – changes were needed

The no-impact policy could not stay in place now that Covid was no longer epidemic

Changing the tekst of the EU-Regulation would take to much time → The Administrative Commission created a so-called Ad Hoc group to find an easy to implement solution

Their plan was approved by the Administrative Commission and resulted in the so-called Framework Agreement for habitual cases of crossborder telework

Cross-border telework

Framework Agreement is based on art 16 of EU Regulation 883/2004

‘Cross-border telework’ is an activity which can be pursued from any location and could be performed at the employer’s premises or place of business and:

1. is carried out in a Member State or Member States other than the one in which the employer’s premises or the place of business are situated and
2. is based on **information technology** to remain connected to the employer’s or business’s working environment as well as stakeholders/clients in order to fulfil the employee’s tasks assigned by the employer or clients, in case of self-employed persons;

Framework agreement – persons covered

Person has its residence is in a **signatory State** and the registered office or place of business of the undertaking or employer is situated in **one other signatory State**.

This Framework Agreement covers 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
 - working more than 25% in country of residence, so between 25% and 50%
- who are employed by one or more undertakings or employers (hereinafter only referred to as ‘the employer’) which have their registered office or place of business in only one other signatory State
 - more employers: all employers need to be in one Member State

Framework agreement – persons not covered

The Framework Agreement shall **not** cover persons who:

- (i) habitually pursue an activity other than cross-border telework in the State of residence and/or
- (ii) habitually pursue an activity in a state other than those mentioned in paragraph 1 and/or (par 1: state of residence employee and state employer is situated)
- (iii) are self-employed.

Framework agreement - Summary

Shortly said:

A person who:

- Works habitually in another State (one State) than where the employer is located
- Works via Information Technology
- Works more than 25% but less than 50% in State of residence
- Files a request together with his employer

Will be subject to social security in the State where the employer is located

Any changes to the situation should be notified to the authorities

Framework agreement

Member States already signed

At current date published on the website:

- Germany
- Switzerland
- Liechtenstein
- Czech Republic
- Austria
- The Netherlands
- Slovakia
- Belgium
- Luxembourg

Framework agreement

Member States with intention to sign

10 Member States have expressed their intention to sign

At this moment we know about 7 of these 10 Member States:

- Estonia
- Finland
- Hungary
- Ireland
- Lithuania
- Malta
- Norway

Framework agreement - Application

Filing an application:

- Not possible for a period before the Agreement came into force (1 July 2023 or a later date)
- No retroactive effect unless premiums have been paid in the State where the employer is located
- Retroactive effect will be for a maximum period of 3 months, but if the application is filed ultimately 30 June 2024 the retroactive effect can be a maximum of 12 months

Framework agreement - Application

Filing an application:

- A1 is granted for a period of 3 years and can be extended/renewed
- Even though it is an art 16 application only approval is needed from the State where the employer is located
- An application needs to be filed and an A1 needs to be granted in order to benefit from the Framework Agreement (opt-in)

Framework agreement

Information of SVB on procedures

- No applications can be filed before 1 July 2023
- Applications need to be filed per person (geen bulk aanvragen)
- Please wait with filing the application – SVB can not handle a massive load of applications in July and August – be aware that you can get retroactive effect until 1 July 2023 if the application is filed ultimately 30 June 2024
- Please remember that premium payments as if the A1 is granted will be required to obtain retroactive effect

Framework agreement

Information of SVB on procedures

- There will be special application forms for applications based on the Framework agreement, you will be directed to the correct form on the website via a wizard
- Applications need to be filed by employer and employee together
- An application where the employee does not fulfill all criteria of the Framework agreement will be treated as a 'regular' article 16 application which needs mutual consent of both States

Framework agreement

Information of SVB - Clarifications

- The employee can work at any place in his country of residence, it does not have to be from home
- Working via an IT-connection is required. Reading and reviewing on paper is also allowed. Meetings and other activities without an IT-connection are not allowed → watch out for 'second' jobs
- The employee needs to work habitually in his country of residence, not incidently
- The employee can work incidently in another country but not habitually
- The Framework Agreement is not for 'workations' → you can use art 12 (posting) for workations

Examples of the explanatory memorandum

Francis is teleworking from his residence Belgium 40% of his working time and is working 60% in the Netherlands at the premises [branch] of his employer which has its statutory seat in Germany.

As Francis works outside of the signatory State where the statutory seat [registered office or place of business] of his employer is situated the Framework Agreement does not apply.

Examples of the explanatory memorandum

Lena is teleworking from her residence in Italy for 40% of her working time and is working 60% of her working time in Austria at statutory seat of her employer.

Provided that both Italy and Austria are signatory States, the application of this Framework Agreement can be requested, resulting in the application of Austrian legislation.

Examples of the explanatory memorandum

Mark is working in France for a French employer since 2018. He has always worked 2 days from home in Germany and has been subject to the German scheme since 2018 (substantial activity). On 1 January 2025 his employer asks for a derogation under the Framework Agreement for the coming two years.

The Framework Agreement applies and therefore the agreement is considered pre-given allowing France to immediately issue the A1 certificate as competent Member State.

This example will only be the same in reality if France will sign the agreement. We don't know that at this moment. This will be the case for all examples with France.

Examples of the explanatory memorandum

Mark's colleague Steven is working in France for a French employer since 2018. He has always worked 2 days from home in Germany and has been subject to the German scheme since 2018 (substantial activity). On 1 January 2025 his employer asks for a derogation under the Framework Agreement a two-year period concerning the 1 October 2024 up to the 1 October 2026.

The Framework Agreement does not apply as the request concerns a past period and contributions have been paid in the German Scheme.

Examples of the explanatory memorandum

Helena is working in Luxemburg for a Luxembourgish employer since 2021. She has always worked 2 days from home in Belgium but has been subject to the Luxembourgish scheme since 2021 (Covid19/Transition). On 1 January 2025 her employer asks for a derogation under the FA going back to the 1 July 2023 as her employer has continued to pay social security contributions in Luxemburg.

The agreement does not apply to Helena as it is submitted after 30 June 2024 and it concerns a retroactive period for more than three months nor falls under the transitional provisions.



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CHAPTERS

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AMSTERDAM CONFERENCE

10 March 2023

Grand Anantara Krasnapolsky Hotel
Amsterdam, Netherlands

amsterdam.forum-expat-management.com



APAC SUMMIT & EMMAs

7 September 2023

Hotel Fort Canning
Singapore

apac.forum-expat-management.com



AMERICAS SUMMIT & EMMAs

3-4 May 2023

Davidson-Gundy Alumni Center, UTD
Dallas, Texas, USA

americas.forum-expat-management.com



EMEA SUMMIT & EMMAs

31 Oct – 1 Nov 2023

Royal Lancaster Hotel
London, UK

emea.forum-expat-management.com





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FEM UPDATES AND EVENTS

... AS WELL AS WORLDWIDE NETWORK OF CHAPTERS, OPEN TO FEM MEMBERS

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**Calendar will be published soon*

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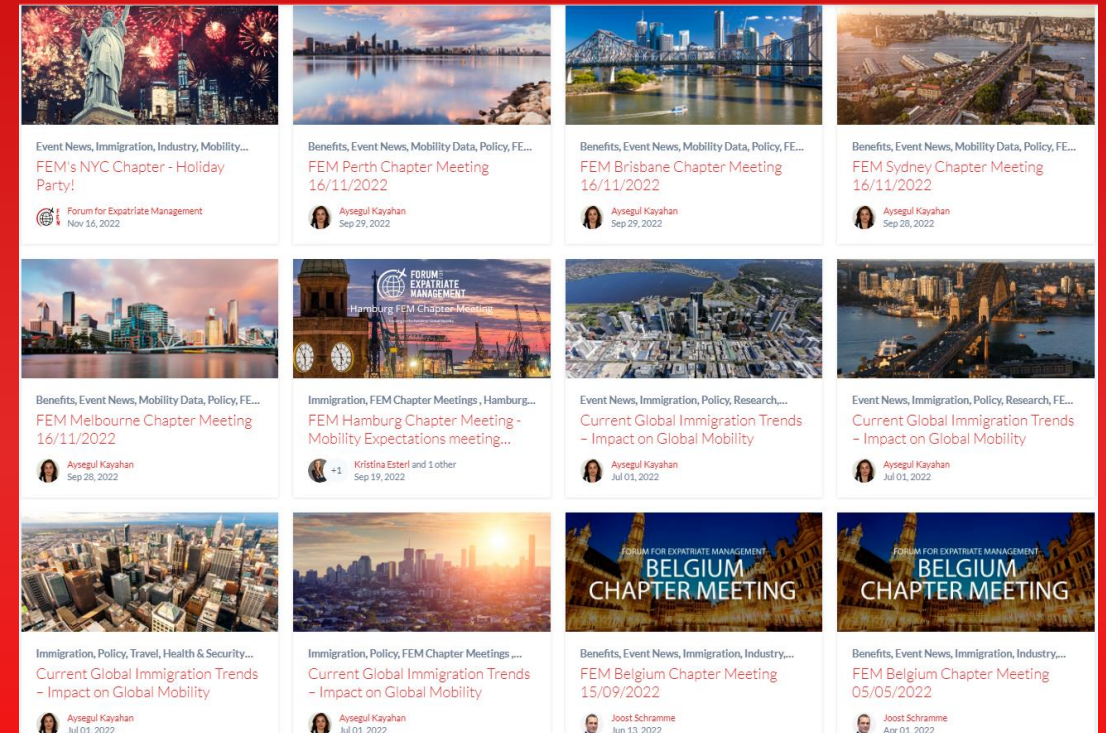
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