

ADVISORY DECISION No. 02/2025

of the Joint Administrative Committee established by Article 69 of the Convention on Social Security Coordination between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation

of 27 November 2025

concerning the interpretation of Article 14 of the 2021 Convention on Social Security between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation (“the Convention”) on the legislation applicable to detached workers and self-employed persons temporarily working outside the competent State,

THE JOINT ADMINISTRATIVE COMMITTEE,

Having regard to Article 69(2) and (3) of the Convention, under which the Joint Administrative Committee is responsible for monitoring, reviewing the interpretation, implementation and application of the Convention and may make recommendations and may adopt decisions in respect of all matters where the Convention so provides,

Having regard to Article 14 of the Convention,

Having regard to Articles 5, 6 and 13 to 19 of Annex 1 to the Convention,

Whereas:

- (1) Pursuant to Article 69(3) of the Convention, the Joint Administrative Committee has the power to adopt decisions in respect of all matters where the Convention so provides,
- (2) The provisions of Article 14 of the Convention, which provide for an exception to the general rule laid down in Article 13(3)(a) of the Convention aim, in particular, to facilitate the provision of services for the benefit of employers which send workers to the State other than that in which they are established.
- (3) The purpose of these provisions is to avoid, for workers, employers, and social security institutions, the administrative complications which would result from the application of the general rule laid down in Article 13(3)(a) of the Convention where the period of detachment is of short duration in the other State.
- (4) To this end, the first decisive condition for the application of Article 14(1) of the Convention is the existence of a direct relationship between the employer and the worker it engages.
- (5) The protection of the worker and the legal security to which the worker and the institution with which the worker is insured are entitled require full guarantees that the direct relationship be maintained throughout the period of temporary work activity in the other State (period of detachment).
- (6) The second decisive condition for application of Article 14(1) of the Convention is the existence of ties between the employer and the State in which it is established. The possibility of a period of detachment in the other State should therefore be confined solely to undertakings normally carrying on their business in the territory of the State whose legislation remains applicable to the detached worker; assuming therefore that the above provisions apply only to undertakings which ordinarily perform substantial activities in the territory of the State in which they are established.
- (7) Pursuant to Article 13(1)(b) and (3) of Annex 1 to the Convention, prior minimum periods for employed persons and self-employed persons should be agreed by the Joint Administrative Committee.

- (8) There can no longer be any guarantee of maintaining the direct relationship if the detached worker in the other State is made available to a third undertaking.
- (9) It is necessary to be able to carry out, throughout the period of detachment in the other State, all the checks, in particular with regard to the payment of contributions and the maintenance of the direct relationship, required to prevent wrongful use of the abovementioned provisions, and to ensure that administrative bodies, employers and workers are suitably informed.
- (10) The detached worker and the employer should be duly informed of the conditions under which the detached worker in the other State is allowed to remain subject to the legislation of the country from which they have been sent.
- (11) The duty of mutual information and cooperation is required by institutions and persons covered to ensure the correct implementation of the Convention.

HAS ADOPTED THIS ADVISORY DECISION:

Article 1

- 1. The provisions of Article 14(1) of the Convention should apply to a worker subject to the legislation of a State (sending State) by virtue of the pursuit of an activity in the employ of an employer and who is sent by that employer to the other State (State of employment) in order to perform work there for that employer.
- 2. The work should be regarded as being performed for the employer of the sending State if it has been established that this work is being performed for that employer and that there continues to exist a direct relationship between the worker and the employer that sent the worker.
- 3. In order to establish whether such a direct relationship continues to exist, assuming therefore that the worker continues to be under the authority of the employer which sent them, a number of elements have to be taken into account, including responsibility for recruitment, employment contract, remuneration (without prejudice to possible agreements between the employer in the sending State and the undertaking in the State of employment on the payment to the workers), dismissal, and the authority to determine the nature of the work.
- 4. For the application of Article 13(1)(b) of Annex 1 to the Convention, the Joint Administrative Committee has agreed that, as an indication, having been subject to the legislation of the State in which the employer is established for at least one month can be considered as meeting the prior minimum period of time. Shorter periods would require a case-by-case evaluation taking account of all the other factors involved.
- 5. In order, where necessary and in cases of doubt, to determine whether an employer ordinarily performs substantial activities in the territory of the State in which the employer is established, the competent institution in the latter is required to examine all the criteria characterising the activities carried on by that employer, including the place where the undertaking has its registered office and administration, the number of administrative staff working in the State in which it is established and in the other State, the place where detached workers are recruited and the place where the majority of contracts with clients are concluded, the law applicable to the contracts concluded by the undertaking with its workers, on the one hand, and with its clients, on the other hand, the turnover during an appropriately typical period in each State concerned and the number of contracts performed in the sending State. This is not an exhaustive list, as the criteria should be adapted to each specific case and take account of the nature of the activities carried out by the undertaking in the State in which it is established.

Article 2

- 1. '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:

- is carried out in the other State to which the employer's premises or the place of business is situated; and
- is based on information technology to remain connected to the employer's or business's working environment in order to fulfil the employee's tasks assigned by the employer or clients.

2. The term "sent by that employer" in Article 14(1) of the Convention should also apply to those employees, who have the agreement of their employer, either formally or informally, to perform cross-border telework on behalf of their employer for all of their working time for a temporary period, which takes place on a one-off or ad-hoc basis and is not part of the habitual working pattern. The other conditions for a period of detachment laid down in Article 14 of the Convention and Article 13 of Annex 1 to the Convention need to be fulfilled in such situations.

Article 3

For the application of Article 13(3) of Annex 1 to the Convention, the fulfilment of the requirements in the State where the person is established is assessed on criteria such as having use of office space, paying taxes, having a professional card and a VAT number, or being registered with chambers of commerce or professional bodies. The Joint Administrative Committee has agreed that, as an indication, pursuing one's activity for at least two months can be considered as meeting the requirement referred to by the words '*for a minimum period of time before the date when they wish to take advantage of the provisions of that Article*'. Shorter periods would require a case-by-case evaluation taking account of all the other factors involved.

Article 4

1. Pursuant to the provisions of Article 1(1) of this Advisory Decision, Article 14(1) of the Convention should continue to apply to the detached worker, if the detached worker, sent by an undertaking in the sending State to an undertaking in the State of employment, is also sent to one or more other undertakings in the same State of employment, as long as the worker continues to carry out his work for the undertaking which sent that worker. This may be the case, in particular, if the undertaking sending the worker to a State in order to perform work there successively or simultaneously in two or more undertakings situated in the State of employment. The essential and decisive element is that the work continues to be carried out on behalf of the sending undertaking.
2. Brief interruption of the worker's activities with the undertaking in the State of employment, whatever the reason (holidays, illness, training at the sending undertaking...), should not constitute an interruption of the period of detachment within the meaning of Article 14(1) of the Convention.
3. Once a worker has ended a period of detachment, no fresh period of detachment for the same worker, the same undertakings in the other State can be authorised until at least two months have elapsed from the date of expiry of the previous period of detachment. Derogation from this principle is, however, permissible in specific circumstances.

Article 5

The provisions of Article 14(1) of the Convention should not apply, or should cease to apply, if the undertaking to which the worker has been sent places him at the disposal of another undertaking in that State.

Article 6

1. The competent institution of the State to whose legislation the person concerned remains subject pursuant to Article 14(1) of the Convention, in the cases provided for by this Decision, should duly inform the employer, and the worker concerned, of the conditions under which the detached worker may continue to be subject to its legislation. The employer should, therefore, be informed

of the possibility of checks throughout the period of detachment so as to ascertain that this period has not come to an end. Such checks may relate, in particular, to the payment of contributions and to the maintenance of the direct relationship.

2. The competent institution of the State in which the person concerned is established, to whose legislation the self-employed person remains subject pursuant to Article 14(2) of the Convention, should duly inform the self-employed person of the conditions under which the person concerned may continue to be subject to its legislation. The person concerned should be informed of the possibility of checks throughout the period during which they are active, so as to ascertain that the conditions applying to that activity have not changed. Such checks may relate, in particular, to the payment of contributions and the maintenance of the infrastructure needed to pursue their activity in the State in which they are established.
3. Moreover, the detached worker and their employer should inform the competent institution of the sending State of any change occurring during the period of detachment, in particular:
 - if the period of detachment applied for has in the end not taken place,
 - if the activity is interrupted in a case other than that provided for in Article 4(2) of this Advisory Decision,
 - if the detached worker has been assigned by their employer to another undertaking in the sending State, in particular in the event of merger or transfer of an undertaking.
4. The competent institution of the sending State should, where appropriate and upon request, provide the institution of the State of employment with the information referred to in paragraph 3 of this Article.
5. The competent institutions of the sending State and of the State of employment should cooperate in carrying out the abovementioned checks and where there is any doubt concerning the applicability of Article 14 of the Convention.

Article 7

The competent institutions should assess and monitor the situations covered by Article 14 of the Convention. In particular, the criteria used for assessing whether an employer normally carries out its activities in the territory of a State, whether a direct relationship exists between the undertaking and the worker, or whether a self-employed person maintains the infrastructure needed to pursue his activity in a State, must be applied consistently and evenly in the same or similar situations.

Article 8

The Joint Administrative Committee should encourage cooperation between the competent authorities and institutions in their States for the purpose of implementing Article 14 of the Convention as well as the exchange of information, experience and good practice when fixing and grading the criteria for assessing the situations of undertakings and workers, and in connection with the control measures put in place. To this end, it may draw up in stages, for the benefit of administrative authorities, undertakings, and workers, further guidance concerning detached workers and the pursuit by self-employed workers of a secondary activity outside the State in which they are established.

Article 9

This Advisory Decision shall enter into force on the date of its adoption.

Done at Bern and London, on 27 November 2025

For the Joint Administrative Committee

The Co-Chairs



Stephan Cueni



Mike Haslam