Right to disconnect: Exploring company practices

Introduction
Digital technologies have made it possible for many workers to carry out their work at any time and anywhere, with consequent advantages and disadvantages. Potential advantages include greater autonomy, better work–life balance, improved productivity and environmental benefits. However, the constant connection enabled by information and communications technology (ICT)-based mobile devices can pose risks to health and well-being, as well as causing work–life balance conflict linked to longer working hours and the blurring of boundaries between work and private life.

To address this issue, there have been calls for a ‘right to disconnect’, not least in the context of the substantial increase in teleworking during the COVID-19 pandemic. Eurofound defines this as the right for workers ‘to be able to disengage from work and refrain from engaging in work-related electronic communications, such as emails or other messages, during non-work hours’ (European Industrial Relations Dictionary). Based on case studies of sectoral- and company-level texts incorporating the right to disconnect, this study assesses the implementation of the right to disconnect and the evidence around its impact on workers’ health, well-being and work–life balance.

Policy context
At present, there is no EU legislation specifically addressing the right to disconnect, although a number of legal texts touch on related issues, for example the Working Time Directive, the Framework Directive on Safety and Health at Work, the Work–Life Balance Directive and the Directive on Transparent and Predictable Working Conditions. In addition, the European cross-industry social partners have concluded autonomous framework agreements on telework (2002) and digitalisation (2020), which contain relevant provisions to be implemented in accordance with the ‘procedures and practices’ specific to each Member State.

In January 2021, the European Parliament adopted a resolution calling on the European Commission to propose legislation on the right to disconnect. This would allow workers to disconnect from work and refrain from engaging in work-related electronic communication, such as emailing or other forms of messaging, outside working hours without facing adverse consequences.

At Member State level, as of August 2021, just six countries have a right to disconnect on the statute books: Belgium, France, Greece, Italy, Slovakia and Spain.* Legislative initiatives are in place and policy debates are taking place in a number of other countries. Both national legislation and EU-level initiatives emphasise the important role of social partners in shaping processes, hence ensuring that workers are able to disconnect outside agreed working hours while taking into account the practical realities of different sectors, occupations and companies.

Key findings
- Despite a number of court cases in which workers have challenged demands from employers to remain connected and perform work outside agreed hours, the increasing use of ICT-based mobile devices for work purposes has led to increases in connection, availability and working hours, with associated negative implications for workers’ physical and mental health and well-being. This gives rise to the question as to whether existing legislation remains fit for purpose.

* Changes to the Greek and Slovakian labour codes were adopted while this report was being finalised, so this legislation is not covered here in detail.
The experiences of countries that have introduced the right to disconnect show that the number of collective agreements covering this issue at sectoral and company levels has increased both during the discussion and preparation phase of legislation and following its adoption. A legislative approach requiring social partner action could therefore boost collective bargaining activity on this issue without interfering with the ability of employer and worker representatives to shape the operationalisation of the right to disconnect.

A ‘soft’ approach to implementation is generally favoured over a ‘hard’ approach. Hard approaches rely on stopping work-related communication during certain periods and therefore take the decision on whether or not to disconnect out of workers’ hands. Soft approaches are based on workers and managers taking responsibility for ensuring that the ability to work remotely does not lead to overconnection and an associated extension of working hours. Key implementation measures include awareness raising of the risks of constant connection, training and the management of out-of-hours communication (such as through regular reminders that messages do not require an answer outside of working hours).

Only a few of the texts incorporating the right to disconnect explicitly address the potential causes of overconnection, such as workload, lack of training, and unsuitable management and workplace practices.

The assessment by social partners that have implemented the right to disconnect at company level shows that both employer and worker representatives consider that the operationalisation of the right to disconnect has contributed to changes in company culture. It has made it possible to extend ICT-enabled flexible working while contributing to a recognition that this should not go hand in hand with an expectation of constant connection.

Shortcomings in provisions on monitoring and evaluation mean that direct, objective evidence of the impact of the right to disconnect on employee health and well-being, work–life balance, gender equality and company performance is lacking.

**Policy pointers**

- Evidence relating to the impact of teleworking on working hours, work–life balance and health and well-being suggests that improvements in enforcement are required in relation to existing legislation. The impact of EU regulations that are still in the process of transposition and implementation, including on work–life balance and transparent and predictable working conditions, and of the European social partner framework agreement on digitalisation will also need to be assessed to establish whether or not the EU legislative acquis is fit for purpose in the context of the changing world of work.

- An approach based solely on implementation by the social partners is contingent on the strength of industrial relations traditions and social partner capacity – and this is not guaranteed in all countries. Such an approach should therefore be coupled with further capacity building. In countries with weaker industrial relations traditions and in situations where no agreement can be reached between social partners, legislation could provide a ‘fall-back’ option, ensuring that minimum standards are met.

- High-level buy-in and regular reinforcement of the message on the importance of the right to disconnect are crucial and could be combined with the development of key performance indicators linked to its observance at management and company levels.

- The treatment of additional working hours beyond those stipulated in legislation, collective agreements and individual contracts as a result of ‘out-of-hours connection’ should be dealt with in line with relevant provisions in legislation and collective agreements.

- It is beneficial for agreements and other texts addressing the right to disconnect to pay attention to assessments of factors that may contribute to the ‘perceived’ need for constant connection. This should include workload, lack of training and work processes that may contribute to overconnection.

- Texts dealing with the right to disconnect should stipulate indicators for the monitoring and evaluation of the implementation of the right to disconnect and ensure bipartite follow-up and reviews of its impact and the potential need for revisions.

- More quantitative and qualitative research – including large-scale surveys of employees and employers – is required to assess the impact of the right to disconnect on employee well-being, health and work–life balance, as well as productivity and gender equality.

**Further information**

The report Right to disconnect: Exploring company practices is available at http://eurofound.link/ef21049

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