

Telework in the EU: Regulatory frameworks and recent updates

Introduction

Following the COVID-19 pandemic, a considerable proportion of workers in the EU will continue to telework in some form, as both employers and employees have adapted to telework arrangements and cultural, technological and social barriers have been reduced. This report analyses the regulation of telework across the 27 Member States and Norway and identifies changes in regulations (legislation and collective agreements) since the beginning of the pandemic. It examines to what extent the many challenges of telework – such as access to telework, flexible working time, continuous availability/connectivity, social isolation, occupational and health risk prevention and the costs incurred by the employee – have been addressed.

The report is mainly based on the analysis of the contributions from the Network of Eurofound Correspondents. Additional desk research was conducted to provide supplementary information and to frame the analysis in the context of existing EU regulation (mainly the 2002 EU Framework Agreement on Telework) and current policy and scientific debates related to telework.

Policy context

Before the COVID-19 outbreak, most Member States had implemented national-level regulations following the adoption of the 2002 EU social partners' Framework Agreement on Telework. However, since the start of the pandemic in 2020, countries have either adopted new telework regulations or started debates on how to address the challenges posed by telework.

The European Parliament approved a resolution on the right to disconnect on 21 January 2021; the Council of the European Union published conclusions on telework on 3 June 2021, calling on the social partners to address the opportunities and risks of teleworking and to consider developing national action plans and strategies to include this issue in existing or future strategies. These initiatives

have steered social dialogue on telework and the right to disconnect at EU level.

Key findings

Regulations on telework vary across Member States, as they are strongly connected to industrial relations systems and workplace practices and culture. National-level regulations include specific statutory legislation, provisions in labour codes, legislation on health and safety (or other work environment-related topics) and regulations on telework through collective agreements. Some countries have very little regulation or have adopted softer initiatives.

New legislation has been adopted in Austria, Latvia, Portugal, Romania, Slovakia and Spain. These changes have focused mainly on the telework regime, which includes access to telework and information to be provided to the teleworker by the employer; new definitions; working time organisation and the right to disconnect; and compensation for costs. In Germany, Ireland and Luxembourg, legislative bills are under discussion. In Belgium, France and Luxembourg, binding national-level agreements on telework have been newly negotiated or updated. In Ireland, a code of practice has been approved. At company and sectoral levels, a considerable number of agreements on telework have been developed, particularly in those sectors that had agreements before the pandemic.

In terms of working arrangements, there are different ways of teleworking, including on an occasional basis. With the exception of Belgium, France, Italy and Luxembourg, national regulations do not explicitly address occasional telework.

Regarding a telework regime, access to telework tends to be covered in detail in agreements at company, rather than national, level. The right to request telework is established at national level only in France, Lithuania and Portugal, while legislation to this effect is being developed in Germany and Ireland.

In relation to the organisation of working time, some countries (mainly in central and eastern Europe) have a preference for continuing similar regulations on working time in telework as those in employers' premises. In other countries (mainly in southern and western Europe), flexibility in the organisation of working time is included in telework regulations. The number of national legislations that include the right to disconnect doubled during the pandemic, although there are differences across countries in terms of content, coverage, requirements and methods of implementation.

Teleworking arrangements present specific challenges for employers with regard to fulfilling legal occupational safety and health obligations; in particular, risk assessments of work environments may clash with employees' right to privacy at home.

There are differences across Member States regarding the regulation of coverage of expenses while teleworking at home (for example, communications, energy) and how expenses are compensated (directly by employers or through tax or social security contributions).

Finally, despite many debates, initiatives and changes to regulatory frameworks in a number of Member States, working conditions have not been adapted to reflect the new reality of teleworking as regulation (in several Member States) struggles to keep up with the pace of change.

Policy pointers

- The expansion of flexible working arrangements, including occasional and mobile telework, presents many opportunities for both employers and workers. Engaging in EU-level social dialogue is essential to find solutions to the challenges associated with these developments and determine if the 2002 EU Framework Agreement on Telework continues to meet the needs of businesses and workers.

- Shared standards are needed to protect teleworkers across the EU equally. While some common ground exists, for the most part national-level regulation on telework differs between Member States, with notable disparities in health and safety, working time, and the right to disconnect.
- In most countries, while national-level regulations on telework provide a generic framework, collective agreements and social dialogue are effective ways to protect workers at company level. Where no social dialogue exists, it can be difficult to implement national-level regulation at company level and to protect teleworkers. Capacity building for social dialogue should be further developed, and initiatives should support the adaptation and development of telework regulations at sectoral and company levels through collective bargaining.
- The shift to remote work will continue in the coming years because of further technological and societal changes. Developments in Member States need to be monitored by policymakers, including in relation to different types of telework arrangements, psychosocial risks, working time organisation, the right to request telework, the relationship between telework and gender equality, work-life balance and well-being in general.
- With the potential increase in the number of employees working remotely for a company outside their country of residence, the associated regulatory challenges will need to be addressed. Although resolving tax legislation and social security coordination issues may be complex, facilitating cross-border teleworking is fully aligned with EU policies on promoting cross-border labour mobility in the European single market.

Further information

The report *Telework in the EU: Regulatory frameworks and recent updates* is available at <http://eurofound.link/ef22032>

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