

Industrial relations

Telework in the EU: Regulatory frameworks and recent updates



Telework in the EU: Regulatory frameworks and recent updates



When citing this report, please use the following wording:

Eurofound (2022), *Telework in the EU: Regulatory frameworks and recent updates*, Publications Office of the European Union, Luxembourg.

Authors: Oscar Vargas Llave and Ricardo Rodríguez Contreras, Pablo Sanz de Miguel (Notus and Universidad Autònoma de Barcelona), Eckhard Voss and Christina Benning (wmp consult – Wilke Maack GmbH)

Research managers: Oscar Vargas Llave and Ricardo Rodríguez Contreras

Research project: Telework in the EU: Regulatory frameworks and prevalence

Contributor: Network of Eurofound Correspondents

Luxembourg: Publications Office of the European Union, 2022

Print: ISBN 978-92-897-2271-1 doi:10.2806/305800 TJ-07-22-792-EN-C

PDF: ISBN 978-92-897-2272-8 doi:10.2806/42974 TJ-07-22-792-EN-N

This report and any associated materials are available online at <http://eurofound.link/ef22032>

© European Foundation for the Improvement of Living and Working Conditions, 2022

Reproduction is authorised provided the source is acknowledged.

For any use or reproduction of photos or other material that is not under the Eurofound copyright, permission must be sought directly from the copyright holders.

Cover image: © Wattana/Adobe Stock

Any queries on copyright must be addressed in writing to: copyright@eurofound.europa.eu

Research carried out prior to the UK's withdrawal from the European Union on 31 January 2020, and published subsequently, may include data relating to the 28 EU Member States. Following this date, research only takes into account the 27 EU Member States (EU28 minus the UK), unless specified otherwise.

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency established in 1975. Its role is to provide knowledge in the area of social, employment and work-related policies according to Regulation (EU) 2019/127.

European Foundation for the Improvement of Living and Working Conditions

Telephone: (+353 1) 204 31 00

Email: information@eurofound.europa.eu

Web: www.eurofound.europa.eu

Contents

	Executive summary	1
	Introduction	3
	Report structure	4
1.	Exploring the definition and concept of telework	5
2.	Telework regulation across countries	7
3.	Changes in telework legislation during the pandemic	11
	Changes in telework legislation	11
	Changes in national-level collective agreements	14
	Conclusions	15
4.	National-level regulations on telework	17
	Statutory definitions of telework	17
	Telework regime	21
	Organisation of working time and the right to disconnect	24
	Occupational safety and health provisions	31
	Compensation for telework-related expenses	35
	Other topics	37
5.	Sectoral-level collective agreements	39
	Overview of collective agreements in Member States and sectors	39
	Content of telework provisions	42
6.	Company-level collective bargaining and other social dialogue initiatives	49
	Company-level collective bargaining	49
	Other social dialogue initiatives addressing telework	56
7.	Impact assessment of telework regulations and social partners' satisfaction	57
	Impact assessment of legal regulation	57
	Social partners' satisfaction with telework regulations	58
8.	Conclusion	61
	Impact of the pandemic on regulating telework	61
	Definitions of telework and telework arrangements	62
	Differences in provisions protecting employees	62
	Policy pointers	64
	References	65
	Annexes	67
	Annex 1: Overview of other social dialogue initiatives addressing telework	67
	Annex 2: Mapping key legislative provisions	69
	Annex 3: Mapping key provisions in national-level collective agreements	71
	Annex 4: Network of Eurofound Correspondents	72

Executive summary

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.

Introduction

The prevalence of telework in the EU27 was rather modest before the pandemic, with a slow growth trend. Remote work was mostly performed by a small percentage of highly skilled professionals and managers as an occasional or partial work pattern (Eurofound and ILO, 2017; Sostero et al, 2020). This situation changed dramatically with the outbreak of the COVID-19 pandemic, as telework became the norm for all jobs in which it was technically feasible (teleworkable jobs). During certain periods of the pandemic, around half of employees were working from home for at least part of their working time, of which nearly half had no former experience with this work arrangement (Eurofound, 2020a).

There are reasons to believe that a considerable proportion of employees will continue to telework after the pandemic. Eurofound's *Living, working and COVID-19* e-surveys in 2020 and 2021 showed that more than two-thirds of employees in the EU indicated a preference for working from home at least on a partial basis or in a hybrid manner after COVID-19 restrictions are fully lifted (Eurofound, 2020a, 2021). In addition, it has been estimated that more than a third of dependent employment in the EU27 could be carried out remotely (Sostero et al, 2020).

Apart from employees' attitudes, the increasing trend of telework, compared with the pre-pandemic period, is fostered to some extent by better adaptations to this work arrangement by employers and employees and the reduction of cultural, technological and social barriers to this arrangement (Eurofound, forthcoming).

Overall, telework has potential benefits for companies in terms of productivity and expanding possibilities for different ways of organising work, while for employees, telework has benefits in terms of flexibility, autonomy and work-life balance. However, in relation to working conditions, while telework has several advantages, research has also identified important drawbacks, which have to be considered. In the pre-pandemic period, Eurofound research already showed challenges that were likely to be experienced by employees working remotely (Eurofound and ILO, 2017; Eurofound, 2019, 2020b). The potential drawbacks of telework are mainly related to the pervasiveness of information and communications technology (ICT), leading to workers' extended availability and increased workload; blurring of boundaries between work and private life; isolation (Eurofound and ILO, 2017; Eurofound, 2021); and informal overtime or working outside regular working hours (Eurofound and ILO, 2017; Eurofound, 2020b).

More recently, in the pandemic context, Eurofound research has shown that some of these challenges remain or have been further exacerbated (Eurofound, forthcoming).

Before the pandemic, regulations on telework were put in place in some European countries (Eurofound, 2020c) and the European social partners adopted an EU Framework Agreement on Telework in 2002 and a European Framework Agreement on Digitalisation in 2020. These agreements aimed at clarifying rights, obligations and the protection of workers in telework arrangements. However, during the pandemic, the expansion of the scope of telework changed the world of work. Issues that previously affected a small proportion of workers have now expanded to at least one-third of the working population. In fact, the time spent teleworking has increased for most employees with teleworkable jobs. It is in this context that policymakers in some countries and at EU level have launched initiatives to modify existing policies or to adopt new regulations to address telework-related challenges.

This report analyses the regulation of telework in the 27 Member States and Norway. It identifies changes in regulations (legislation and collective agreements) that have taken place during the pandemic and to what extent the specific challenges have been addressed. Among others, the following aspects are considered: the telework regime, the organisation of working time and the right to disconnect, occupational safety and health (OSH) and the coverage of expenses experienced by employees while teleworking. All of these aspects are relevant for the protection of employees teleworking and the improvement of their working conditions. The report provides suggestions for improving regulation to ensure employees who telework are adequately protected.

The report is mainly based on the analysis of the contributions from the Network of Eurofound Correspondents who gathered information on telework legislation and collective agreements in all Member States and Norway. Furthermore, additional desk research was conducted to complement the national contributions and to frame the analysis in the context of existing EU regulation (mainly the EU Framework Agreement on Telework) and current policy and scientific debates related to telework.

In relation to collective bargaining, it should be noted that the analysis provides an overview of national settings and practices of collective bargaining on telework before and during the COVID-19 pandemic.

Report structure

The structure of this report is as follows:

- Chapter 1 includes definitions of telework based on a review of the most relevant concepts and terms developed and used in the scientific literature and EU regulation.
 - Chapter 2 analyses the different sources of telework regulations (legislation and collective bargaining) in each country. It also classifies European countries according to regulations based on statutory legislation, social dialogue and collective bargaining.
 - Chapter 3 identifies countries where there have been permanent changes to the national legislation and national-level collective agreements in telework, and presents the key dimensions addressed by these changes.
 - Chapter 4 describes the content of national statutory legislation on telework and national-level social partner agreements, focusing on several key dimensions relevant for employment and working conditions.
 - Chapter 5 examines existing collective agreements at sectoral level.
 - Chapter 6 outlines the outcomes of social dialogue at company level, such as work agreements between works councils and management and other types of agreements that are binding for the whole workforce. It also provides an overview of social dialogue initiatives that have not necessarily resulted in binding agreements.
 - Chapter 7 focuses on the studies carried out on the impact of regulations and the involvement and satisfaction of social partners with the regulatory framework on telework, including both legislative sources and collective bargaining provisions.
 - Chapter 8 highlights cross-country differences and similarities in telework legislation and the main patterns of change. It also identifies key policy gaps in relation to the challenges of telework, which are highlighted in empirical research.
- Finally, some policy pointers have been developed based on the findings of this report.

1 Exploring the definition and concept of telework

Different concepts of telework have been developed in the literature to reflect the impact of new information and communications technologies (ICT). This chapter sets out the main concepts developed in the scientific literature and demonstrates how they have evolved over recent decades, namely characterised by rapid and significant changes in technologies and work organisation practices.

‘Telework’ and ‘telecommuting’ were the main concepts developed and used in the 1980s and early 1990s, influenced by analysis by Jack Nilles (Nilles, 1975; Nilles, 1988) and Alvin Toffler (Toffler, 1980), as well as pioneer work arrangements promoted by California-based companies in the 1980s. At that time, telework was understood as home-based work carried out by a standard employee. The concept referred to remote but stationary work, because the first generation of ICT (personal computers and fixed telephones) did not allow further flexibility or mobility with respect to the place of work. More than three decades later, however, the spread of cheaper, smaller

and increasingly connected devices, such as smartphones and tablet computers, accompanied by the widespread distribution of the internet and the world wide web, has favoured a diversification in the way ICT-enabled work is performed and organised (Messenger and Gschwind, 2016). Therefore, the definition or understanding of telework as home-based work carried out by a standard employee on a regular basis falls short.

Nowadays, ‘telework’ is the most prevalent term used in empirical research in Europe, in European regulation and in national legislation for referring to work arrangements outside employers’ premises enabled by ICT.

Nevertheless, the term ‘telework’ can refer to a number of different concepts and varieties of working arrangements. Table 1 provides a sample of the different terms used in the literature, from the well-established concept of telework to the more recent concepts of ICT-based virtual work, mobile virtual work and hybrid work.

Table 1: Key terms and definitions

Concept	Definition	Source
Remote work	Remote work refers to any work carried out outside the employer’s premises regardless of the technology used.	ILO (2020)
Telework	Telework is any form of organising and/or performing work using information technology, in the context of an employment contract/relationship, in which work, which could also be performed at the employer’s premises, is carried out away from those premises on a regular basis.	EU Framework Agreement on Telework 2002
Part-time telecommuting	This work arrangement mixes remote-working days with office-based days and was first put in practice by Jack Nilles in the early 1970s in the USA.	Nilles (1975, 1988)
Telework and ICT-based mobile work (TICTM)	TICTM refers to the use of ICT – such as smartphones, tablets, laptops and desktop computers – for the purpose of working outside the employer’s premises. It comprises all forms of telework but tries to distinguish between working from home or a fixed place (telework) and ICT-based mobile work. The latter term is used in Germany to distinguish home-based telework from a more mobile form of work.	Eurofound and ILO (2017)
Smart work/agile work	Smart work refers to a flexible working system that allows workers to work in a convenient and efficient manner free from time and place constraints (any time, anywhere) using ICT on a network. A similar term, ‘agile work’, is used in Italy.	Lee (2016), based on South Korean policy documents for the activation of smart work Law No. 81/2017 (Italy)
Flexible working arrangements	Flexible working arrangements are alternative work options that allow work to be accomplished outside the traditional temporal and/or spatial boundaries of a standard workday.	Allen et al (2015)

Concept	Definition	Source
Virtual work	Virtual work is labour, whether paid or unpaid, that is carried out using a combination of digital and telecommunications technologies and/or produces content for digital media.	Webster and Randle (2016), Meil and Kirov (2017)
Mobile virtual work	Virtual work that is physically mobile is referred to as mobile virtual work.	Vartiainen (2006)
Hybrid work	This is a work arrangement in which work can be performed partly from the employer's premises and partly from home or other locations.	The term was recently popularised in the aftermath of the COVID-19 pandemic

Source: Authors

Four key dimensions can be identified from these concepts of telework that were formulated following the transformation of working practices as a result of the effects of ICT (Lee, 2016).

1. **Technology:** The use of distinct concepts and definitions is related to different stages in the development of ICT over the last four decades, from personal computers and fixed telephones enabling regular and stationary home-based telework, to laptop computers and mobile phones enabling the 'mobile office' and, currently, new ICT (for example, smartphones and tablet computers) favouring the so-called virtual office (Messenger and Gschwind, 2016).
2. **Working time flexibility:** The adoption of new ICT for work purposes enables work to be reorganised by distinguishing between synchronous and asynchronous working processes and paves the way for implementing new working time arrangements in which workers have potentially more autonomy and fewer time and place constraints. Some terms and definitions (for example, 'smart work' and 'flexible working arrangements') explicitly refer to how ICT enables an increase in working time flexibility.
3. **Regularity:** Regularity is explicitly mentioned in the EU Framework Agreement on Telework. The term 'occasional telework', as well as other new terms, explicitly covers work arrangements in which work is performed outside the employer's premises without a regular pattern (flexible working arrangements, smart work and occasional ICT-based mobile work). The term 'hybrid work' is increasingly used to refer to work arrangements that combine, with a certain regularity, work at employers' premises and work from home or other locations. The term 'partial telework' (or 'part-time telework'), which existed before the pandemic, was also used to refer to this work arrangement.
4. **Workplace and mobility:** In addition to home-based stationary work, the adoption of new ICT has enabled work arrangements with a variety of feasible worksites (for example, home, hubs and

'third spaces' such as internet cafes, co-working spaces or hotels). Most of the current terms encompass new feasible worksites beyond workers' homes. With regard to the question of mobility, some terms (such as 'telework' in the EU Framework Agreement on Telework) only cover telework arrangements in a specific place (in which work can also be performed at the employer's premises), thereby excluding jobs in which mobility is required by the labour process (for example, mobile health workers or mobile sales persons). Other terms are more encompassing and also cover work carried out through ICT that can be physically mobile – thus including mobility required by the labour process (for example, mobile virtual work or telework and ICT-based mobile work (TICTM)).

In summary, despite the different terms used to highlight the various aspects (the technology used, frequency, place, mobility and flexibility) of working remotely with ICT, 'telework' is the term that has been most widely used, both before and during the COVID-19 pandemic, in the EU to refer to working remotely and, therefore, to working outside the employer's premises. However, different terms are also used to refer to the same overall working arrangement and therefore it is important to bear in mind that often terms do not refer to different arrangements, but simply emphasise a specific dimension of the telework arrangement. An example is the term 'hybrid work', which is used to refer to partial or part-time telework but can be used to refer to specific frequencies of telework – including 'regular home-based telework' (as used in the pre-pandemic research of Eurofound and ILO, 2017) and 'regular telework' (as defined in the EU Framework Agreement on Telework) – or can be used generically to mean 'telework generally'.

The term 'telework' is used in this report to refer in general to this work arrangement given it is the term most frequently used in the scientific literature and in the regulatory frameworks. It must be noted that, for this report, telework is considered equivalent to the term 'TICTM' used in previous Eurofound research (Eurofound and ILO, 2017; Eurofound, 2019, 2020b).

2 Telework regulation across countries

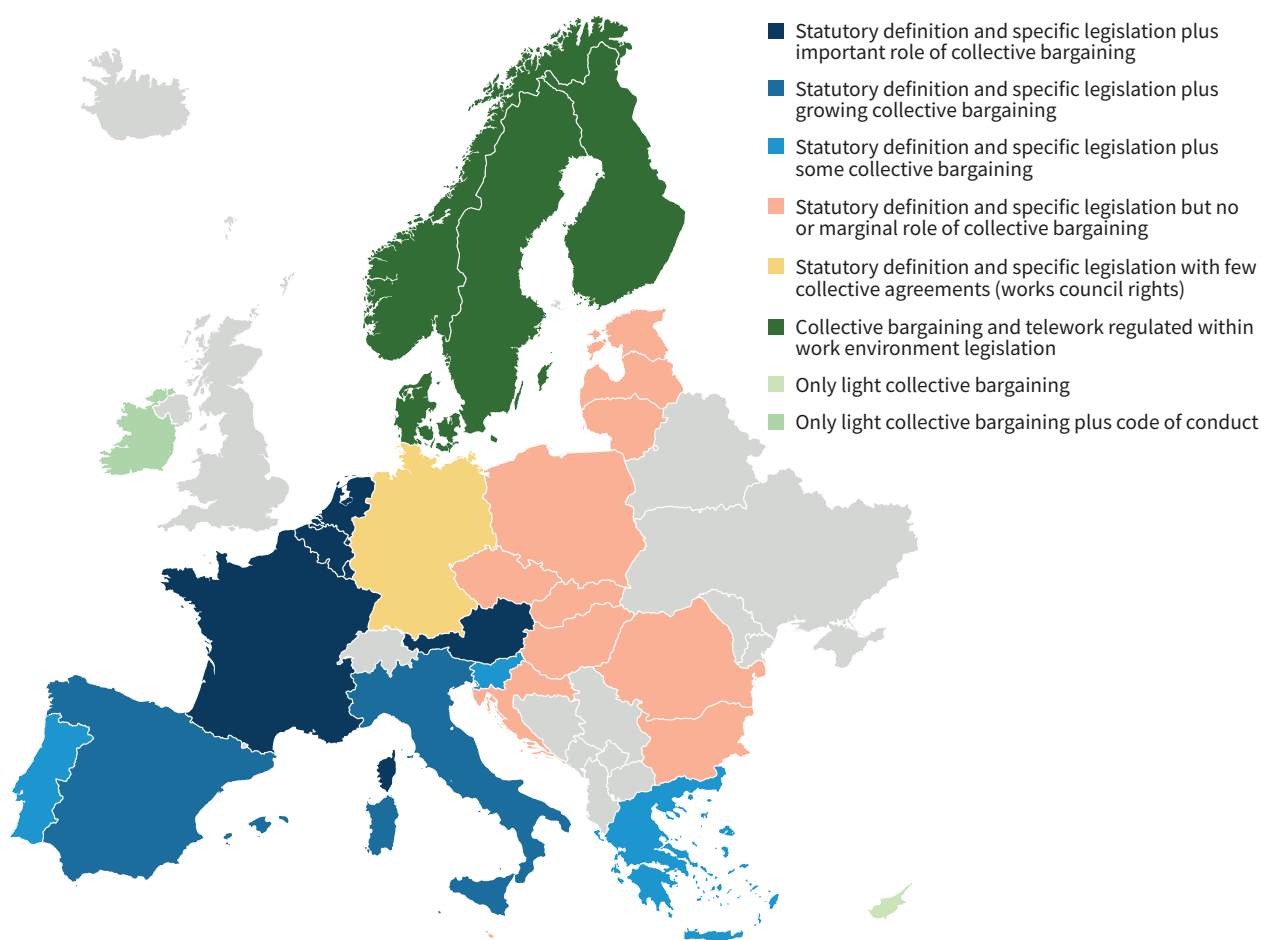
Most Member States had regulated telework before the pandemic and some have introduced changes or passed new regulations since the beginning of the pandemic. In this chapter, the focus is on identifying the differences in regulation between countries and classifying countries in relation to the way they regulate telework. This analysis sheds light on how much consideration is given to workers' views, the role of social dialogue and the extent to which workers are protected in each country.

In EU countries, telework can be regulated through statutory legislation or by social dialogue and collective bargaining (Visser and Ramos Martin, 2008; Eurofound, 2010, 2020c). In terms of telework regulation, Member States can be categorised into two main groups, with some variations mostly related to the role of collective bargaining (Figure 1).

The majority of EU countries have statutory definitions and specific legislation on telework (Austria, Belgium, Bulgaria, Croatia, Czechia, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain). In most of these countries, statutory legislation is complemented by cross-sectoral, sectoral and/or company collective agreements, although to various degrees. In Croatia, Latvia and Poland, statutory legislation is the only source of regulation (developed through individual agreements between employers and employees). Within this group as a whole, clusters based on the role of collective bargaining are shown in Figure 1.

The remaining countries lack statutory definitions and specific legislation addressing telework or they have telework arrangements that are dealt with in various

Figure 1: Regulation of telework in EU countries and Norway



Source: Authors, based on national contributions by the Network of Eurofound Correspondents

Table 2: Telework regulation clusters

Cluster	Countries
1. Corporatist-framed governance	Belgium, France and Luxembourg
2. Multi-employer-framed governance	Austria and the Netherlands
3. Southern European cluster	Italy and Spain (3a) and Greece, Portugal and Slovenia (3b)
4. Voluntary associational governance	Denmark, Finland, Norway and Sweden
5. Market-oriented governance	Cyprus and Ireland
6. State-centred governance	Bulgaria, Czechia and Lithuania (6a) and Croatia, Estonia, Hungary, Latvia, Malta, Slovakia, Poland and Romania (6b)

Note: Germany is missing from the table, see Box 1 for further clarification.

Source: Authors, based on national contributions by the Network of Eurofound Correspondents and additional desk research

laws related to data protection, safety and health, or working time and general labour (Cyprus, Denmark, Finland, Ireland, Norway and Sweden). Among these countries, two main groups can be identified. In the Nordic countries, telework is mainly regulated through sectoral collective bargaining (Finland and Norway) or through sectoral and company collective agreements (Denmark and Sweden). In Cyprus and Ireland, only company collective agreements have been identified. In the case of Ireland, there is also a code of good practices that deals with the right to disconnect and provides guidance on remote work.

The comparison of telework regulations across European countries shows relevant cross-country differences, which partly reflect the diversity of industrial relations models defined in the literature (Visser, 2009; Eurofound, 2018; Sanz de Miguel et al, 2020). When comparing the relationship between regulations based on statutory legislation and regulations based on social dialogue and collective bargaining, six country clusters can be identified (Table 2).

Cluster 1 (Belgium, France and Luxembourg): These countries follow a corporatist-framed governance approach. In these three countries, the EU Framework Agreement on Telework was implemented through national cross-sectoral agreements that were extended to all employees through royal, ministerial or Grand-Ducal decrees, respectively, thus allowing for comprehensive coverage of sectors and companies (Eurofound, 2010). Currently, the defining feature of this cluster is that statutory legislation is combined with cross-sectoral national binding agreements (France) or is the result of national binding agreements that are translated into legislation (Belgium and Luxembourg). Moreover, statutory legislation leaves the implementation of several key aspects of telework regulation, including the right to disconnect, to collective bargaining or social dialogue at company level.

Cluster 2 (Austria and the Netherlands): In these two countries, statutory legislation on telework is very broad and multi-employer collective bargaining plays a prominent role, in a general industrial relations context characterised by high collective bargaining coverage rates and a high degree of centralisation and coordination. In the Netherlands, the national laws that include teleworking are the Flexible Work Act (*Wet flexibel werken*) and the Working Conditions Decree (*arbeidsomstandighedenbesluit*), which define rights that generally apply to all employees – they do not make a distinction between employees and teleworkers. In this context, there are at least 15 sectoral collective agreements regulating provisions of telework. In Austria, legal regulations for ‘home office work’ (which is the legal term used) came into effect on 1 April 2021 through amendments of different pieces of legislation (including the Employment Contract Law Amendment Act, the Labour Constitution Act, the Employee Liability Act and the Labour Inspectorate Act). This legislation is very broad and addresses specific aspects only in terms of the provision of infrastructure/reimbursement for the purchase of office furniture and questions of liability in the case of an accident. Accordingly, key aspects of the telework regulation are still left to social partners, who deal with them through sectoral and company collective agreements.

Cluster 3 (Italy and Spain, cluster 3a and Greece, Portugal and Slovenia, cluster 3b): Before the pandemic, collective bargaining on telework played a relatively marginal role in these countries. In Greece, Italy and Spain, the EU Framework Agreement on Telework was implemented through cross-sectoral non-binding agreements. These kinds of agreements provide only non-binding recommendations and guidelines for lower level collective bargaining. Therefore, they have been labelled as ‘agreements to agree’ (Visser and Ramos Martin, 2008) and are considered a softer form of regulation than sectoral or

company collective agreements (Eurofound, 2010). Indeed, only a few sectoral and company collective agreements regulate telework in Italy and Spain, while, in Greece, there are no sectoral collective agreements dealing with this topic. In Portugal and Slovenia, the EU Framework Agreement on Telework was implemented through labour code reforms, and very few sectoral and company collective agreements deal with telework (Sanz de Miguel, 2020).

Since the outbreak of the COVID-19 pandemic, social dialogue and collective bargaining has gained more relevance in some of these countries. In Spain, new statutory legislation was agreed with the social partners. Moreover, new sectoral and company agreements have regulated telework in diverse sectors. Italy currently has the highest number of sectoral collective agreements, according to information provided by national contributions.

Portugal and Slovenia report a number of sectoral agreements. In Greece, there are no sectoral agreements in force, but a new national general collective agreement was being negotiated in Q2 2022, and the General Confederation of Greek Workers (GSEE) was requesting the transition to a regulated telework regime, including an updated definition of telework, enhanced protection of teleworkers through collective employment agreements and the right to disconnect.

In summary, in this cluster, Italy and Spain (cluster 3a) registered a stronger role of collective bargaining than Portugal and Slovenia. In the latter countries, collective bargaining is more developed than in Greece, where sectoral- and company-level agreements on telework are underdeveloped (cluster 3b).

Cluster 4 (Nordic countries which follow a voluntary associational governance model): In these countries, telework has been addressed through different laws addressing the work environment (for example, the Occupational Safety and Health Act in Denmark and Sweden, and data protection legislation in Sweden.¹ In the case of Finland, telework is regulated only indirectly through statutory legislation, as part of general labour law. In general, the content of the legislation on telework is scarce in these countries and regulates only a few aspects of this work arrangement. However, collective bargaining and informal agreements based on trust play an important role.

In the Nordic countries (mainly Denmark and Sweden), some sectoral collective agreements were already being used to regulate telework before the enactment of the EU Framework Agreement on Telework (Prosser, 2012). Since 2002, in Denmark, Finland and Sweden the EU Framework Agreement on Telework has been implemented through national framework agreements, which provide general guidelines and recommendations, and through sectoral collective agreements (Visser and Ramos Martin, 2008; Eurofound, 2010). Nevertheless, a relevant aspect of the regulation of telework in the Nordic countries is that occasional telework, which accounts for the highest proportion of telework arrangements (Eurofound and ILO, 2017; Sostero et al, 2020), is mainly implemented through individual and informal agreements.

Cluster 5 (Cyprus and Ireland, which follow a market-oriented governance approach): In Cyprus, there are no regulations at any level. This means that telework is regulated only through unilateral employer decisions, individual agreements or other types of individual voice mechanisms. Similarly, in Ireland, there is no specific regulation on telework, although the government is planning to develop legislation in 2022. By Q2 2022, all that existed in Ireland was a statutory code of practice for employers and employees on the right to disconnect, which was enacted in 2021 along with guidance on remote work.

Cluster 6 (eastern European countries, Bulgaria, Czechia and Lithuania, cluster 6a and Croatia, Estonia, Hungary, Latvia, Malta, Slovakia, Poland and Romania, cluster 6b): These countries are characterised by having a state-centred governance model whereby telework is mainly regulated through statutory legislation. Collective bargaining plays only a marginal role in the regulation of telework due to the high degree of decentralisation and low collective bargaining coverage (Eurofound, 2018; Sanz de Miguel et al, 2020). With some minor exceptions (Bulgaria, Czechia and Lithuania, cluster 6a), there is no sectoral collective bargaining in this cluster and only very few companies address telework through single-employer bargaining. In Estonia, social partners concluded a national cross-sectoral agreement in 2017. However, this agreement provides only non-binding guidelines and has not been implemented through sectoral or company collective bargaining.

¹ In Sweden, there have also been non-binding policy recommendations on telework in the context of the COVID-19 pandemic.

Box 1: Germany: An elusive case

Germany is difficult to classify, as highlighted in studies that have developed industrial relations model typologies (Eurofound, 2018).

In Germany, statutory legislation, which implemented the EU Framework Agreement on Telework, only covers home-based telework and, in several cases, this is the only general legislation that applies.

In terms of industrial relations, it appears that only few sectoral collective agreements regulate telework and more flexible forms of mobile work, contrasting with those countries in clusters 2 (multi-employer-framed governance) and 4 (voluntary associational governance).

This apparent gap is, however, compensated for by the far-reaching rights of works councils at enterprise, company and group levels. In the case of telework and other changes in work organisation, works councils have not only information and consultation rights, but also the right of co-determination on several aspects that are very relevant for telework, such as working time, changes to work organisation and digital surveillance. Co-determined conditions of telework are often recorded in company-level workplace agreements (*Betriebs-/Dienstvereinbarungen*). As regards mobile work, the co-determination rights of works councils were strengthened during the COVID-19 pandemic by a new act, the Works Council Modernisation Act (*Betriebsrätemodernisierungsgesetz*), that entered into force in June 2021. The act gave works councils the right to co-determine the structuring of mobile work performed by means of ICT, for example concerning the introduction and use of technical devices that can monitor the behaviour or performance of employees; the commencement and termination of daily working hours, including breaks; and the distribution of working hours among the days of the week. However, the act does not cover the decision on whether or not mobile work is introduced.

Based on this classification, and before considering the content of the regulations in each Member State and other aspects related to the national institutional settings and political context, it can be concluded that there are differences in relation to the role of legislation and the role of social partners in each cluster. These differences also have an impact on the coverage of provisions and the protection of workers.

For example, in **cluster 1**, the strong role of social partners is likely to have a positive impact on the inclusion of provisions which aim at a high level of protection of employees, while in **cluster 6**, where social partners play a weak role, it is expected that telework regulations might not include such a high level of protection.

Notably, in countries with a small number of collective agreements and without national-level legislation, there will be groups of employees not protected because there is no regulation protecting them in relation to telework (for example, in **cluster 5**).

Finally, a strong role of collective bargaining at sectoral and/or local level might have a positive effect on the adaptation of telework regulations to specific activities and companies. Therefore, in **clusters 1, 2, 3a and 4**, institutional characteristics mean they are better prepared for tailoring telework regulations to the reality of sectors and companies, whereas in **cluster 6**, where collective bargaining is rather weak, this might be more difficult and, therefore, less effective.

3 Changes in telework legislation during the pandemic

During the COVID-19 pandemic, governments adopted a variety of temporary measures to foster telework as a preventive measure in order to contain the spread of the virus (Eurofound, 2020d). This chapter will focus on these new telework regulations and their potential impact on employees' teleworking conditions.

Changes in telework legislation

New legislative initiatives

Since the beginning of the COVID-19 pandemic, permanent legislative initiatives on telework have been passed in Austria, Greece, Latvia, Portugal, Romania, Slovakia and Spain (Table 3). In all of these countries, the main driver of the reforms has been the

unprecedented increase of telework and the expectation that the pandemic will accelerate pre-existing trends towards the digitalisation of work and increasing flexibility in work arrangements. In this context, legislative reforms have amended and updated previous legislation with the aim of introducing specific provisions targeting teleworkers in different legal texts (for example, in Austria) or providing a more complete and balanced regulation for employers and employees regarding certain key topics. Social partners have played an uneven role in the legislative changes; while they have been involved either through tripartite agreement or in consultation processes in some countries (Austria, Portugal, Slovakia and Spain), in others, legislative changes were unilaterally designed (Greece, Latvia and Romania).

Table 3: Changes in national regulations of telework

Country	Legislative provision	Date of entry into force	Legislative approach	Social partners' involvement
Austria	Federal Act amending the Employment Contract Law Amendment Act, the Labour Constitution Act, the Employee Liability Act, the Labour Inspectorate Act 1993, the General Social Insurance Act, the Civil Servants' Health and Accident Insurance Act, and the Income Tax Act	1 April 2021	Amendment/update to previous legislation	Bipartite and tripartite consultation
Greece	Law No. 4808-19-06-2021	19 June 2021	Amendment/update to previous legislation	No
Latvia	Amendments to Section 76 of the Labour Law	27 May 2021	Amendment/update to previous legislation	No
Portugal	Law No. 83/2021 of 6 December 2021	1 January 2022	Amendment/update to previous legislation	Consultation
Romania	Governmental Emergency Ordinance Nos. 192/2020 and 36/2021	6 May 2021	Amendment/update to previous legislation	No
Slovakia	Act No. 76/2021 Coll. amending and updating Act No. 311/2001 on the Labour Code	1 March 2021	Amendment/update to previous legislation	Consultation
Spain	Royal Decree-Law 28/2020 of 22 September on remote work	22 September 2020	Separate piece of legislation, which integrates and harmonises previous legislation on the right to disconnect and flexible working time	Tripartite agreement

Source: Authors, based on national contributions by the Network of Eurofound Correspondents and additional desk research

In **Austria**, the so-called Home Office Law came into effect on 1 April 2021, following the widespread use of home offices during the COVID-19 pandemic. The law is not a stand-alone law, but rather a package of several measures that amended several pieces of legislation (for example, the Employment Contract Law and the Employee Liability Act). The law involved consultation with the social partners, who were asked by the government to start to negotiate a home office package in September 2020, when it became apparent that businesses and workers would continue to rely on telework after the pandemic.

In **Greece**, a new regulation on telework was included in a comprehensive labour market reform passed through Law No. 4808-19-06-2021. The new law provides for a complete regulation on telework. The law was unilaterally passed by the government, against trade unions' opposition who were particularly critical of issues not strictly related to the telework regulation, such as strike rights and the flexibilisation of working time.

In **Latvia**, an amendment to Section 76 of the Labour Law was adopted on 27 May 2021. A new article was adopted (n. 4) states that if the employer and the employee have agreed on the performance of remote work, the employer must cover the employees' expenses related to the performance of remote working, unless otherwise provided for by the employment contract or the collective agreement. There were also other amendments that, according to a national report, had a temporary scope, even if they become permanent in the future (for example, an amendment to the Law on Personal Income Tax).

In **Portugal**, Law No. 83/2021, of 6 December 2021, modified several aspects of the telework regulation in response to the increase in the use of telework. The new law was adopted following parliamentary debates on different bills submitted to the Labour and Social Security Commission, and was also influenced by the *Green paper on the future of work* (Moreira et al, 2021). It was subject to consultation with the social partners at the Standing Committee for Social Concertation, which included guidelines in relation to the implementation of telework.

In **Romania**, Telework Law No. 81/2018 was amended through Governmental Emergency Ordinance Nos. 192/2020 and 36/2021 following the rapid increase in telework arrangements. While the emergency ordinances dealt with several temporary measures, the new rules on telework are expected to remain in force after the end of the pandemic.

In **Slovakia**, the amendment to the Labour Code of March 2021 brought several changes concerning home working and teleworking. The changes were introduced as many employees had to stay at home and others were asked to work from their home, if possible, during the pandemic. The main drivers of the adoption of new rules for telework and home working were the needs for more flexible working conditions, better reconciliation of work and personal life (including the right to disconnect), better implementation of new digital technologies and better adaptation to telework after the pandemic. The new legislation took into consideration most of the social partners' demands.

In **Spain**, the government passed a new regulation through the Royal Decree-Law 28/2020 of 22 September 2020 on remote work. The legislation was introduced due to the increase in telework during the pandemic and the expectation that the proportion of workers teleworking will remain higher than before the pandemic. The aim of this legislation is to provide a sufficient and integrated regulation that balances the use of telework and its benefits with a clear framework of rights. The legislation was the result of a tripartite agreement with the social partners.

Main topics introduced in telework legislation during the pandemic

The comprehensiveness of telework legislative reforms varies across the seven countries (Table 4). For this report, 10 key regulatory dimensions were considered, namely the telework statutory definition; the telework regime; the organisation of work and working time; the right to disconnect; compensation for the costs of telework; employment conditions; OSH; data protection, privacy and surveillance; collective rights; and training access. The most comprehensive reforms, dealing with the greatest number of telework topics, have been passed in Spain (ten dimensions), Portugal (nine dimensions) and Slovakia (seven dimensions). The narrowest reforms in terms of topics covered are those from Austria (four dimensions), Greece (four dimensions), Romania (three dimensions) and Latvia (one dimension).

In the six countries that have passed new legislation on telework (Austria, Greece, Portugal, Romania, Slovakia and Spain) the legislative changes introduced have encompassed, in particular, the following topics.

- **The telework regime** (access to telework and information to be provided to the teleworker): This topic has been addressed in all six countries.

Table 4: Main topics addressed in telework legislative reforms

Topic	Austria	Greece	Latvia	Portugal	Romania	Slovakia	Spain
Telework regime	X	X		X	X	X	X
Definitions	X	X		X	X	X	X
Organisation of working time		X		X		X	X
Right to disconnect		X		X		X	X
Compensation for the costs of telework	X		X	X	X	X	X
Equal treatment				X			X
OSH	X			X			X
Data protection and privacy				X		X	X
Collective rights				X			X
Training access						X	X

Source: Authors, based on national contributions by the Network of Eurofound Correspondents and additional desk research

- A new statutory definition of telework:** A new statutory definition has been introduced in all six countries. Interestingly, new definitions follow different directions in relation to some criteria, such as regularity. In Portugal, the requirement of regularity (*habitualidade*) was removed from the statutory definition, while in Slovakia, this requirement was added. Moreover, in Spain, regularity was specifically defined in terms of the proportion of working time, while, in Romania, the condition of regularity has been kept in the new definition but there is no longer the requirement for a certain number of days to be worked remotely.
- The organisation of working time:** This aspect has been modified in five of the countries, namely Greece (measuring and monitoring working time), Portugal (telework access for work–life balance purposes, the management of workloads and the monitoring of working time), Romania (the monitoring of working time), Slovakia (working time patterns) and Spain (the right to flexible working time for teleworkers and new rules on recording, measuring and monitoring working time).
- The right to disconnect:** This right has been introduced in Greece, Portugal and Slovakia, and has been further regulated in Spain.
- Compensation:** Provisions on compensation for equipment and office supplies have been dealt with in Austria, while provisions on expenses and coverage of costs are covered in Latvia, Portugal, Romania, Slovakia and Spain.
- OSH – new provisions have been introduced in Austria (liability in the case of accidents), Portugal (risk assessments and the prevention of psychosocial risks) and Spain (risk assessments and the prevention of ergonomic and psychosocial risks)**
- data protection, privacy and surveillance –** this topic has been covered in the legislative reforms of Portugal (the right to privacy and data protection), Slovakia (data protection) and Spain (the right to privacy and data protection)
- collective rights –** these have been addressed in legislative reforms in Portugal and Spain
- training and career development –** this has been covered in Slovakia (training on ICT) and Spain (generic access to training and training on ICT)

Detailed comparative information on the provisions related to the topics included in this section are outlined in Chapter 4 of this report.

Legislation under discussion

There are three countries in which new legislation on telework are being presented at the time of writing this report (Q2 2022): Germany, Ireland and Luxembourg.

In **Germany**, in late 2020, the Ministry of Labour and Social Affairs proposed a Mobile Work Act that included the right to telework 24 working days a year (with a five-day week). This draft act did not reach consensus between the Social Democrats (SPD), the Christian Democratic Union and Christian Social Union in Bavaria (CDU/CSU), within the former grand coalition government, owing to the strong opposition of the CDU/CSU. A second draft that provided the ‘right to request’ did not reach consensus either. This draft law established that employees could ask to work remotely but the draft did not contain a legal entitlement for

Other topics that are less commonly included in regulation are as follows:

- employment conditions –** some changes have been introduced in Portugal (a guarantee of equal treatment) and Spain (a guarantee of equal treatment and of employment status)

employees in this regard. Under the draft law, the employer was entitled to reject the request for any factual reason but needed to explain the refusal. It is worth noting that the purpose of this draft law was to regulate mobile working arrangements in a comprehensive way, overcoming the divide between telework as defined by statutory legislation and mobile work, which is not regulated directly by legislation but by agreements between the works councils (equipped with strengthened co-determination rights on mobile work; see Box 1) and/or collective agreements. The Confederation of German Employers' Associations (BDA) rejected the draft law and particularly opposed the introduction of a legal claim to home office solutions. The Confederation of German Trade Unions (DGB), on the other hand, welcomed such a step. Meanwhile, the new German government has recently taken office, so further developments remain to be seen.

In **Ireland**, the government has published the Scheme of the Right to Request Remote Working Bill 2022. The bill sets a legal framework for employees and employers to negotiate remote working conditions, setting up a 'right to request' telework for employees. The proposed legislation will require employers to consider any requests by employees to work from home. It will put in place an appeals procedure for workers should the request be rejected. Any employee who has worked for more than six months will be able to submit a request to which employers will have up to 12 weeks to respond. The bill sets out 13 potential grounds for refusal of a request, including possible negative impacts on performance or concerns over internet connectivity at the suggested home working location.

In **Luxembourg**, the Minister of Labour filed a draft of Law No. 7890 with the Luxembourg Parliament on 28 September 2021. The legislation introduced the obligation for each company to define precisely the

rules governing the right to disconnect into the Luxembourg Labour Code. The proposal is influenced by previous case law recognising the right to disconnect (a decision of the Court of Appeal on 2 May 2019). It was also based on a recent opinion issued by the Economic and Social Council that recommended putting in place mechanisms to encourage compliance with the right to disconnect and its implementation within companies (BSP, 2021).

In **the Netherlands**, on 5 July 2022 the House of Representatives approved a legislative initiative recognising working from home as a legal right for certain jobs. The goal of this new legislation is to enable a better work-life balance for employees, for example by reducing travel time. It amends the 2016 Flexible Work Act allowing employees to avail of flexible working hours as well as workplace location. At the time of writing, the legislative text is still being discussed in the Dutch parliament (Planet Labor, 2022).

Changes in national-level collective agreements

Collective bargaining initiatives

National-level collective agreements on telework exist in only seven out of the 28 European countries examined: Belgium, Estonia, France, Greece, Italy, Luxembourg and Spain (Table 5). The most powerful and far-reaching collective agreements on telework adopted at national level can be found in Belgium, France and Luxembourg – countries in which telework is regulated by a combination of statutory legislation and nationally binding collective agreements or where the latter have been turned into legislation via decree. In Belgium, France and Luxembourg, agreements on telework with binding force have been newly negotiated or updated in light of the COVID-19 pandemic.

Table 5: Overview of national-level (cross-industry) collective agreements on telework

Country	First generation			Second generation		
	Agreement	Date of origin	Binding force	Agreement	Date of origin	Binding force
France	<i>Accord national interprofessionnel</i>	2005	X	<i>Accord national interprofessionnel</i>	2020	X
Belgium	Collective Labour Agreement No. 85	2005	X	Collective Labour Agreement No. 149	2021	X
Luxembourg				Grand-Ducal regulation	2021	X
Spain	<i>Acuerdo para la Negociación Colectiva</i>	2003				
Italy	<i>Accordo interconfederale</i>	2004				
Greece	National general collective agreement (EGSSE)	2006				
Estonia				<i>Kaugtöö kokkulepe</i> (joint agreement on telework)	2017	

Note: 'First generation' refers to collective agreements established following the 2002 EU Framework Agreement on Telework. 'Second generation' refers to collective agreements established from 2017 onwards.

Source: Authors, based on national contributions by the Network of Eurofound Correspondents

In **France**, as an increasing number of company-level agreements on telework were signed in early 2020 due to the COVID-19 crisis, all of the social partners at national level published a joint diagnostic report on the state of telework in September 2020. Following the diagnostic report, a new cross-industry agreement ‘for the successful implementation of telework’ (*Accord national interprofessionnel du 26 novembre 2020 pour une mise en œuvre réussie du télétravail (2020 ANI)*) was adopted in November 2020. The agreement clarifies and completes the existing regulations on telework set by the 2005 *accord national interprofessionnel* (2005 ANI) as well as the 2017 Labour Code amendments. It aims at enabling the social partners at branch and company levels to successfully negotiate the implementation of telework and thereby emphasises the role of social dialogue.

The agreement was extended to all employees by governmental order in April 2021 and is now legally binding for the economic sectors and companies represented by the signatory parties. It therefore covers the vast majority of employees and employers of the private sector in France, with the exception of only a few professional branches, for example the agricultural and entertainment sectors.

All branch- or company-level agreements on the concrete implementation of telework must adopt the provisional framework set by the 2020 agreement, supplemented by the 2005 ANI and the Labour Code. Correspondingly, the agreement has a strong binding force for almost the whole economy. However, two articles of the Labour Code (L2252-1 and L2253-3) slightly limit its power by enabling the derogation from 2005 ANI provisions if a company-, establishment- or group-level agreement on telework already exists, even if such an agreement is less favourable from the employees’ point of view.

In **Luxembourg**, the EU Framework Agreement on Telework led to a national agreement on telework in 2006 (*Convention nationale relative au télétravail de 2006*), which was updated by the social partners in October 2020 during the pandemic (*Nouvelle convention interprofessionnelle sur le régime juridique du télétravail*). This new interprofessional agreement sharpens the definition and scope of telework and introduces new points regarding the modalities and implementation of telework. In January 2021, a general obligation was declared by the Minister of Labour through the Grand-Ducal regulation, making the national agreement on telework legally binding for all companies in the private sector. The agreement is contracted for three years and will be renewed as indefinite after this time, if it is not modified before then.

In **Belgium**, in January 2021, the social partners’ body, the National Labour Council, adopted a new national collective agreement (Collective Labour Agreement (CLA) No. 149). Although negotiations on CLA No. 149 had already been decided before the pandemic started, its content and the fact that an agreement with binding character was negotiated are attributable to the pandemic. The National Labour Council is currently reassessing telework regulations as stated in CLA Nos. 85 and 149 to make sure they are well equipped to regulate post-COVID-19 teleworking, which might lead to an update of CLA No. 85 on structural telework. Trade unions would like to negotiate a new CLA on telework that combines the two existing CLAs and transform the temporary regulations in CLA No. 149 into permanent regulations.

Main topics introduced during the pandemic

The following new topics concerning teleworking have been mainly identified in Belgium and France (detailed comparative information about these topics is given in Chapter 4 of this report).

- **The right to disconnect:** An increase in awareness regarding teleworking is visible following the pandemic when comparing the provisions on working time before the pandemic with more recent agreements, which grant the teleworker the right to disconnect.
- **OSH rules:** New agreements pay special attention to teleworkers in vulnerable settings, due to an increase in awareness regarding the risks of social isolation since the beginning of the pandemic.

Conclusions

In total, nine countries in Europe adopted new regulations on telework during the pandemic. In addition, there are at least three countries in which new relevant legal bills had been discussed and advanced by the end of 2021.

The regulations in these countries differ in terms of their comprehensiveness. The Portuguese, Slovakian and Spanish legislative texts address various aspects relating to employment and working conditions in telework, while the reforms in Austria, Greece, Latvia and Romania are of a more limited scope. Few countries have negotiated national-level collective agreements that update previous texts; in Belgium and France, national-level collective agreements incorporate provisions that strengthen the right to disconnect and include clauses requiring the protection of workers against the risk of isolation. The right to disconnect is also expected to be adopted in Luxembourg following the recommendation of the Economic and Social Council of this country.

The telework regime has been one of the most frequently addressed issues in the regulations, and Germany and Ireland are discussing new legislation to introduce an employees' right to request telework.

Overall, the situation in some of these countries suggests that further amendments to telework regulations are needed, by legislation and/or social dialogue. In fact, in most of the countries with new provisions, social dialogue has played a fundamental role.

4 National-level regulations on telework

In this chapter, the content of telework regulations will be analysed and compared across countries using the legislation frameworks as the basis for a comparative analysis. National-level collective agreements are also considered, and other relevant content will be included. It is important to note that, in some countries, particularly in cluster 1 (corporatist-framed governance approach, Table 2), what is negotiated through social dialogue is frequently adopted in legislation.

The analysis focuses on five key areas (the most common topics included in EU telework regulation) that are important for preventing negative impacts on teleworkers' working conditions:

- statutory definition of telework
- telework regime
- the organisation of working time and the right to disconnect
- occupational safety and health provisions
- compensation for telework-related expenses

Other relevant aspects for employment and working conditions are addressed, namely employment conditions; training and careers; collective rights; data protection, privacy and surveillance; gender equality; and the integration of workers within the labour market.

Legislative provisions that have only a temporary scope in association with the pandemic are excluded from this analysis. For each area, a distinction is always made between countries that have a statutory definition and specific legislation on telework (clusters 1, 2, 3 and 6 from Table 2) and countries that do not have legislation (clusters 4 and 5 from Table 2). Annex 2 provides a summary of the content of telework legislation at national level, while Annex 3 summarises the content of national-level collective agreements.

Statutory definitions of telework

This section analyses and compares how European countries define telework through statutory legislation. Accordingly, it covers the 22 countries where there are statutory definitions of telework or related national terms: Austria (the home office), Belgium, Bulgaria, Croatia, Czechia, Estonia, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Spain (remote work), Malta, the Netherlands (location-independent work), Poland, Portugal, Romania, Slovakia and Slovenia.

When analysing and comparing national statutory definitions, it is worth identifying the most important differences and similarities in relation to the EU Framework Agreement on Telework, which is still the main EU reference for a normative definition. The EU Framework Agreement on Telework defines telework as:

Any form of organising and or performing work using information technology, in the context of an employment contract/relationship, where work, which could also be performed at the employer's premises, is carried out away from those premises on a regular basis.

The five main elements of the EU Framework Agreement on Telework definitions are:

1. telework is understood as a work arrangement instead of a labour contract and only employees with an employment contract are covered
2. telework entails the use of ICT for the purpose of work
3. only telework that is carried out on a regular basis is covered (between one day and five days a week (ETUC et al, 2006))
4. telework is exclusively understood as ICT enabled, covering only 'those stationary jobs that could also be performed at the employers' premises
5. telework may include several alternative workplaces to the employer's premises

The data gathered through the Network of Eurofound Correspondents analyses how closely these 22 countries follow the definition of the EU Framework on Telework.

- There are four countries (Latvia, Lithuania, Malta and Slovakia) that seem to follow exactly the same approach as the EU Framework Agreement on Telework.
- In most of the countries that have a statutory definition of telework, national definitions follow an approach that is similar to that adopted in the EU Framework Agreement on Telework (Table 6). This applies in particular to the first, second and fifth dimensions of this framework agreement (telework is understood as a work arrangement, telework entails the use of ICT, and telework may include several alternative workplaces to the employer's premises).

- In all of the countries in question, telework legislation applies only to employees with an employment contract, and telework is understood as a work arrangement rather than a labour contract, although in at least one country there are also specific fixed-term telework contracts (Portugal²).
 - In 18 of the countries in question, telework entails the use of ICT for the purpose of work. Only in Austria, Czechia, Estonia and the Netherlands is there no reference to ICT in national definitions.
 - In 11 of the countries, only telework that is carried out on a regular or ‘predominant’ basis is covered (Austria, Croatia, Germany, Latvia, Lithuania, Malta, the Netherlands, Poland, Romania, Slovakia and Spain). By contrast, the statutory definition of telework also includes occasional telework in Belgium, Bulgaria, Czechia, Estonia, France, Greece, Hungary, Italy, Luxembourg, Portugal and Slovenia, although it is addressed in different ways.
 - In some cases (for example, Belgium and Italy), a distinction is made between regular or structural telework and non-regular, occasional or so-called smart telework (Italy³), and different legal frameworks apply to each category. In other cases (for example, France) the most recent definition of telework explicitly encompasses all types of telework, regardless of frequency and regularity. In Portugal, the requirement of regularity (*habitualidade*), which has characterised telework until 2021, has been removed. By contrast, in Slovakia, the condition of regularity has been added to the definition of home working and teleworking in a recent legislative reform (Act No. 76/2021). However, the feature of regularity is not specifically defined in most of the statutory definitions and can therefore be interpreted in different ways (for example, regularity referring to the prevalence of the work undertaken outside the employer’s premises). In only some countries, such as Luxembourg, the Netherlands (framework agreement) and Spain (modified in 2020 through Royal Decree-Law 28/2020), regularity is clearly defined in the regulation as a minimum proportion of the working time that must be performed remotely. In at least one country (Romania), the condition of regularity has been maintained in a recent reform but there is no longer a specific number of days to be provided remotely, as in the previous regulation.
- In 12 of the countries, telework is exclusively understood as an ICT-enabled arrangement, covering only those jobs that could also be performed at the employer’s premises: Austria, Belgium, Bulgaria, France, Germany, Hungary,⁴ Italy, Latvia, Lithuania, Luxembourg, Malta and Slovakia. In the other 10 countries, legislation does not deal with this aspect (Croatia, Czechia, Estonia, Greece, Netherlands, Poland, Portugal, Romania, Slovenia and Spain). In all of the countries except Germany, telework may include several alternative workplaces to the employer’s premises. In Germany, the statutory definition covers only home-based telework.
- There are 11 countries that follow a very similar approach to the EU Framework Agreement on Telework (Austria, Belgium, Bulgaria, France, Germany, Hungary, Italy, Luxembourg, Poland, Romania and Spain). This means that they adopt the same wording in four of the five dimensions of the definition of telework in the agreement (telework as a work arrangement, the use of ICT, frequency and flexibility on location of work).
 - In Belgium, Bulgaria, France, Hungary, Italy and Luxembourg, the only difference from the EU Framework Agreement on Telework definition is that statutory categories also cover occasional telework.
 - In Poland, Romania and Spain, national statutory definitions do not specify if telework is exclusively understood as ICT-enabled arrangements.
 - In Germany, the only difference is that statutory definition only covers home-based telework.
 - In Austria, the only difference from the EU Framework Agreement on Telework definition is that the statutory definition does not make any explicit reference to ICT usage.

2 In Portugal, legislation sets out a fixed-term contract for so-called ‘subordinated telework’, the duration of which cannot exceed three years. The contract must contain the duration of the work under a telework regime and the ownership of the work equipment to be used by the teleworker and must indicate who is responsible for the installation and maintenance of equipment and for the payment of the costs incurred in the provision of telework.

3 Smart work is a category regulated in Italy. It is defined as a flexible arrangement in which work takes place partly at the company’s premises and partly outside, with no constraints in terms of place of work or working time beyond the limits of maximum hours established in legislation or collective bargaining.

4 In Hungary, the Labour Code originally defined telework as ICT enabled, but the temporary COVID-19 legislation now states that telework can also be non-ICT enabled.

- There are five countries (Croatia, Greece, the Netherlands, Portugal and Slovenia) that follow the EU Framework Agreement on Telework approach in three out of the five key dimensions.
 - In the case of Croatia and the Netherlands, the national definitions also cover arrangements that do not entail ICT usage. Moreover, the national definitions do not specify if they cover only ICT-enabled arrangements.
 - In Greece, Portugal and Slovenia, the national definitions also cover occasional work and do not specify if they only cover ICT-enabled arrangements.
- Czechia and Estonia are the countries in which the national statutory definition of telework differs most from the EU Framework Agreement on Telework definition.
 - In Czechia, there is no clear definition. The legislation applies to any form of remote work in which the work is not performed at the workplace provided by the employer.
 - In Estonia, the statutory definition is very general and refers only to work arrangements carried out outside the employer's premises (including at the employee's home) and in the framework of an employment contract relationship.

Table 6: Statutory definitions of telework

Country	Term	Work arrangement and only employees covered?	Entails use of ICT?	Can include locations other than workers' home?	Only regular telework?	Mobile work (i.e. jobs that cannot be performed at the employer's premises) covered?
Austria	Home office	Yes	No	Yes (secondary residence or the residence of a close relative or partner)	Yes	No
Belgium	Telework (structural and occasional)	Yes	Yes	Yes (outside the business location)	No. Occasional telework is specifically regulated	No
Bulgaria	Remote work	Yes	Yes	Yes	No	No
Croatia	Telework	Yes	No (with and without the support of ICT)	Yes	Yes	Not specified
Czechia	Remote work	Yes	No	Yes, any form of remote work	Not specified	Not specified
Estonia	Telework	Yes	No	Yes	Not specified	Not specified
France	Telework and home working	Yes	Yes (only for telework)	Yes, for telework (including home, another premise of the employer or a coworking location)	No (can be on a regular or occasional basis, or in the event of exceptional circumstances or force majeure)	No
Germany	Telework	Yes	Yes	No	Yes	Yes. Mobile work regulated in collective agreements
Greece	Telework	Yes	Yes	Yes	No	Not specified
Hungary	Telework and home working	Yes	Yes (only for telework)	Yes	No	No (only covered in COVID-19 legislation)
Italy	Home working, telework, agile work	Yes	Yes (except for home working)	Yes	No (agile work includes occasional telework)	No
Latvia	Remote work	Yes	Yes	Yes	Yes	No
Lithuania	Remote work	Yes	Yes	Yes	Yes	No

Country	Term	Work arrangement and only employees covered?	Entails use of ICT?	Can include locations other than workers' home?	Only regular telework?	Mobile work (i.e. jobs that cannot be performed at the employer's premises) covered?
Luxembourg	Telework	Yes	Yes	Yes	No, it also covers occasional telework (less than 10%, on average, of the normal annual work time of the teleworker)	No
Malta	Telework	Yes	Yes	Yes	Yes	No
Netherlands	Location-independent work (Working Conditions Decree) and remote work	Yes	No	Yes	Yes, for telework (EU Framework Agreement on Telework): at least one day per week, on average, and a duration of at least three months	Location-independent work explicitly excludes some mobile jobs (work of a nursing, caring or domestic nature)
Poland	Telework (remote work in the context of COVID-19 policy measures)	Yes	Yes	Yes	No	Not specified
Portugal	Telework	There is also a telework employment contract	Yes	Yes	No	Not specified
Romania	Telework and work at home	Yes	Yes, for telework	Yes, for telework	Yes, for telework	Not specified
Slovakia	Home working and telework	Yes	Yes, for telework	Yes, for telework	Yes	No
Slovenia	Telework	Yes	Yes	Yes	No	Not specified
Spain	Distance work and telework as a type of distance work	Yes	Yes (only for telework)	Yes	Yes (at least 30% of the working time is performed remotely)	Not specified in new regulation

Source: Authors, based on national contributions by the Network of Eurofound Correspondents

Conclusions

In most EU Member States, legal definitions stipulate that telework is to be performed on a regular basis, as set out in the social partners' EU Framework Agreement on Telework. However, regularity is considered differently in these Member States. In some, there is a threshold number of days, while in others a percentage of time working remotely defines (regular) telework. In some of these countries, occasional and other forms of telework may be covered by collective agreements. However, in most countries, the national-level regulation leaves out legal coverage of occasional telework or at least occasional telework is not explicitly covered. However, the number of countries that include occasional telework is still significant, due to the number of employees in those countries.

Therefore, a large group of countries regulate only regular telework (for example, Germany, Poland and Spain). In a second group of countries (Czechia and Estonia), there is a high degree of ambiguity as there is no mention of whether telework should be regular or occasional to be considered legally telework. In a third group, working arrangements concerning telework are considered broadly (Bulgaria, Greece, Hungary, Portugal and Slovenia) and the countries in a fourth group comprise those where regular and occasional forms of telework are explicitly differentiated and covered by the regulation (Belgium, France, Italy and Luxembourg). All of the countries in this fourth group have national-level agreements.

The use of ICT in the definitions is largely irrelevant when considering telework in the legislation, as nowadays most remote work in Europe is performed with ICT.

In relation to the place of work, it is interesting to note that most national-level regulations cover working remotely in locations different from home. In this respect, even though mobile work is not defined as such in most countries in the legislation (for example, there is no legal regulation of mobile work in Germany, but it is addressed through other instruments such as company and works council agreements (*Betriebsvereinbarungen*) and collective agreements at company and sectoral levels), the fact that different locations can be considered for remote working opens the door to implicitly recognising that ICT-based mobile work is covered by existing telework legislation in most countries. Nevertheless, a more specific analysis on this aspect should be carried out to confirm this conclusion.

Finally, taking into account the findings in this chapter and Eurofound research on working conditions (Eurofound and ILO, 2017), regulations on telework should consider the frequency of telework and should avoid leaving out some forms of remote work that might be exposed to risks and challenging conditions, for example regular telework (hybrid/partial or permanent), mobile telework and occasional telework.

Telework regime

The unprecedented expansion of telework and the expectation that a high proportion of employers and employees will be willing to implement some types of telework arrangements after the pandemic (Microsoft Work Trend Index, 2021; Vargas Llave, 2021) raises questions on the so-called telework regime and its impact on teleworkers' working conditions.

In many countries, debates are ongoing about the conditions needed to formalise telework arrangements and the information that has to be provided to teleworkers. In this regard, the EU Framework Agreement on Telework already requires companies to provide teleworkers with written information on several aspects, such as a description of the work to be done or details of their immediate superior. The importance of guaranteeing teleworkers the right to return to previous employment conditions and work arrangements is also acknowledged. Overall, these aspects can ensure a more balanced implementation of telework arrangements. In addition, debates about workers' rights to request and access to telework are taking place, which calls into question previous regulatory approaches exclusively based on the voluntary principle recognised in the EU Framework Agreement on Telework. This right, if further developed in Europe, might have implications for improving work-life balance, an aspect that is discussed below.

The following analysis of the legislation dealing with the so-called telework regime focuses on:

- information to be provided to the teleworker by the employer
- access to telework
- the right to return to previous work arrangements
- the frequency and duration of telework

Information to be provided to the teleworker

The following is an analysis of the extent to which national legislation across countries requires the telework regime to be included/specified under the employment contract or under an individual agreement and the type of information that must be provided to the teleworker.

Countries with statutory definitions and specific legislation

In 17 out of the 22 countries where there are statutory definitions of telework or related national terms, legislation establishes that the telework regime, normally set up through an individual (mutual) agreement, should be included in the employment contract or in a written individual agreement: Belgium (CLA Nos. 85 and 149), Bulgaria, Czechia, Estonia, France (2020 ANI and also in the job specifications), Germany, Hungary, Italy, Latvia (also a 'special employer order' can formalise the telework regime), Luxembourg (Grand-Ducal regulation) Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Spain (modified in 2020 through Royal Decree-Law 28/2020 on distance work).

Conversely, in the remaining five countries, national legislation does not specify how the telework regime should be formalised and specified: Austria, Croatia, Greece, Lithuania and the Netherlands. However, in Croatia, there has been an unofficial proposal aiming to include telework information (including working hours, equipment and compensation) in an annex to the employment contract. The case of Austria is also nuanced because the so-called Home Office Law, which entered into force on 1 April 2021 (see Chapter 3), states that telework arrangements have to be agreed upon between the employer and the employee in writing. In Greece, the law requires the employer to set out in writing the terms of telework, as set up in recent legislation passed in 2021 (Law 4808/2021).

Besides these formal procedures, in several Member States, legislation outlines detailed provisions on the information that the employer is obliged to give teleworkers by any means, including email or other written communication (Belgium, Bulgaria, Greece and Hungary), that should be included in the employment contract (Bulgaria, Portugal and Romania) or that should be included in a written agreement (Latvia,

Luxembourg and Malta). Topics that different national legal systems require to be specified in the contract/written agreement of telework include a description of the tasks to be performed, the identification of the line manager of the teleworker, the monitoring and evaluation of performance and/or working time, the workplace and working time or schedule and provisions regarding equipment and costs.

In Bulgaria, legislation simply states that all of the conditions, rights and obligations of the parties have to be set out in the contract. In France, the Labour Code does not directly address provisions on the information that the employer is obliged to give to teleworkers. This is regulated in the national collective agreement (2020 ANI) and by the applicable collective agreements at lower levels.

Countries without statutory definitions and/or specific legislation

There are no specific legal provisions on the information that should be provided to the teleworker in this group of countries, except in Norway. In Norway, legislation lays down the minimum requirements for the content of an agreement on telework, which must be annexed to the employment contract. The agreement has to include the scope of the work, working time, possible regulations on when the employee is to be available, the procedure that must be undertaken to finish teleworking and return to the previous work arrangement, possible regulations on a trial period for working from home, property rights, the running and maintenance of equipment and possible regulations on case handling, duty of confidence and keeping documents.

Access to and requests for telework

Countries with statutory definitions and/or specific legislation

In no country does legislation set out objective conditions for a worker to be eligible for telework (for example, the teleworkability of a job or professional categories). However, in countries such as Belgium, legislation recommends that employers include clear descriptions of tasks and jobs that are eligible to be undertaken through telework if they make a telework policy for occasional telework.

In all of the countries with statutory definitions and/or specific legislation, workers gaining access to telework has to be based on an agreement between the employee and the employer, normally following an employee request. This is in line with the voluntary

principle acknowledged in the EU Framework Agreement on Telework. In practice, this means that, although all employees are entitled to ask for telework, the employer always has the right to reject an employee's request.

In only three countries (France, Lithuania and Portugal (the latter modified in 2021)) does legislation provide that an employer's decision following a telework request must be justified or motivated, particularly when it affects workers with care needs. Therefore, it can be considered that these three countries recognise the right to request telework. The right to request was also included in Germany's proposed Mobile Work Act in 2020; however, this act did not pass the legislative process.

Interestingly, in at least three countries (Bulgaria, Malta and Romania), legislation reinforces workers' right to reject telework by establishing that the refusal of the employee cannot lead to unfavourable consequences for them (Bulgaria) or constitute a good and sufficient cause for terminating employment or modifying employment conditions (Malta and Romania).

During the pandemic, several countries temporarily suspended the voluntary principle of telework based on the regulation of the state of emergency (for example, Poland), however no countries will retain this type of regulation after the pandemic.

Countries without statutory definitions and/or specific legislation

Access to telework is not addressed in the legislation of this group of countries. However, in the case of Ireland, a recent bill set out a legal framework for employees and employers to negotiate remote working conditions. The proposed legislation will require employers to consider any requests by employees to work from home and it will put in place an appeals procedure for workers to pursue should the request be rejected. It lays out 13 reasons why employers can refuse to approve a request for remote working.⁵

Right to return to the previous work arrangement

This subsection analyses whether legislation recognises workers' right to return to their previous work arrangement (the chance to return to work at the employer's premises at the worker's or the employer's request). The so-called reversibility principle is explicitly acknowledged in the EU Framework Agreement on Telework.

⁵ At the time of drafting this report, the bill is going through pre-legislative scrutiny by the joint Oireachtas (national parliament) Committee on Enterprise, Trade and Employment.

Countries with statutory definitions and/or specific legislation

According to the national contributions, the right to return to the previous work is explicitly acknowledged in the legislation of Austria, Belgium, Greece, Luxembourg, Malta, the Netherlands, Poland, Portugal, Slovakia and Spain.

In some countries, legislation leaves individual or collective parties to agree on the conditions for returning to the previous arrangement (Bulgaria, Estonia, France and Italy), with it being mandatory to set up those conditions in an individual agreement in Italy.

In the remaining countries with statutory definitions and/or specific legislation, legislation does not specify any explicit aspect regarding the right to return to the previous work arrangement, according to the information provided in the national contributions (Croatia,⁶ Czechia, Germany, Hungary, Latvia, Lithuania, Romania and Slovenia).

Countries without statutory definitions and/or specific legislation

The right to return to the previous work arrangement is not addressed in the legislation of this group of countries.

Frequency and duration of telework

An analysis is undertaken in this subsection of whether legislation establishes some limits on the frequency of telework (namely on the proportion of working time taken up by telework) or the duration of the telework agreement. Issues related to the criteria used to define the regularity of telework are therefore not addressed here.

Countries with statutory definitions and/or specific legislation

Only in Hungary and Portugal does legislation establish some limit to the frequency or duration of telework. In Hungary, it can be interpreted that working from home may not exceed a total of 44 working days or 352 scheduled hours during a calendar year. In Portugal, Article 167 of Law No. 7/2009 provides that, in the case of a worker already contracted or working for the company, the initial duration of the contract for subordinate teleworking cannot exceed three years or the duration established in a collective agreement.

In some countries, legislation states that the frequency and duration of telework must be specified in the employment contract or in an individual agreement of telework (for example, in Germany, Latvia and Spain).

Countries without statutory definitions and/or specific legislation: Clusters 4 and 5

The frequency and duration of telework is not addressed in the legislation of this group of countries.

Conclusions

Within the broad group of countries with statutory legislation, there is a similar approach to the telework regime. With some minor exceptions, these countries require the telework regime to be set up through an individual agreement between the employer and the employee or in the employment contract. Written information about the agreement must be provided in most countries. However, the minimum content of the agreement varies from country to country and, in a few of these countries, this aspect is mostly set by collective agreements. Moreover, in most of these countries, the voluntary principle of telework is acknowledged, but no objective conditions for being eligible for telework are set (for example, the teleworkability of a job or professional categories).

The right to request is a concept that goes beyond individual agreements because it gives the employee the right to access telework and, in principle, it can be rejected only if the employee does not meet certain conditions (for example, having a caring role). However, this approach has been formalised in only a few countries (France, Lithuania and Portugal), although it is being developed in Germany and Ireland. Interestingly, in some countries, the right to reject telework by the employee is provided (Bulgaria, Malta and Romania).

The right to return to the previous work arrangement exists in several countries (mainly in western Europe), but it is not explicitly included in the legislation of most eastern Member States. Moreover, the frequency and duration of telework is not considered in most countries and therefore this aspect largely depends on individual agreements or agreements at other levels (company or sector).

⁶ In the case of Croatia, national information provided highlights that the right to return to the previous work arrangement is not explicitly stipulated; however, teleworkers are entitled to the same rights as regular employees in terms of the employment relationship. The national correspondent interprets this as meaning that teleworkers have a right to return to their previous work arrangement.

Organisation of working time and the right to disconnect

The relationship between telework and working time has been extensively explored in empirical research (Eurofound and ILO, 2017; Eurofound, 2019, 2020d, 2021). The reduction in time spent commuting is considered a key driver for the adoption of telework arrangements and it is one of the most positively valued aspects of this work arrangement (Fana et al, 2020). Telework also has the potential to improve work–life balance by facilitating family life, helping workers cope with the demands of their personal lives, increasing leisure time and increasing workers’ autonomy in the organisation of working time to suit their preferences and needs (Eurofound and ILO, 2017). However, telework has often been associated with informal overtime (working from home in addition to the normal schedule in the office) due to difficulties in coping with work overload in the context of flexibility as regards time and place of work. Moreover, Eurofound research based on the European Working Conditions Survey 2015 found that teleworkers work longer hours, work more often on irregular schedules and tend to have shorter rest periods between working days than other workers (Eurofound, 2020b).

Following on from this evidence, it is crucial to analyse how European countries regulate the organisation of working time of teleworkers. So far, EU regulation has barely addressed this dimension. In the EU Framework Agreement on Telework, working time was addressed under Section 9 on work organisation, establishing that the teleworker manages the organisation of their working time. More recently, the Work–Life Balance Directive also refers to telework as a means to balancing employees’ work and social time. In addition, telework and the right to disconnect are currently under consideration at EU level, following a resolution from the European Parliament which calls on the Commission to propose a directive recognising the right to disconnect and an EU legislative framework on telework.

This section addresses this topic by analysing legislation dealing with:

- working time patterns
- work–life balance provisions
- recording, measuring and monitoring working time provisions
- the right to disconnect

Working time patterns

Here, an analysis is presented on the extent to which national legislation and national-level collective agreements include specific provisions on breaks, rest periods and rights or entitlements regarding flexible working time or working schedules.

Countries with statutory definitions and/or specific legislation

In 9 out of the 22 countries included in this group of countries, legislation only establishes that the general working time regulation applies to teleworkers (Austria, Croatia, Germany, Latvia and Luxembourg) or that general legislation applies unless collective agreements or individual written agreements set out specific conditions for teleworkers (Belgium, Estonia and Malta). In addition, three countries (Poland, Portugal and Slovenia) follow a similar approach, considering that there is no specific legislation on this issue.

In contrast, there are 10 countries in which legislation establishes that teleworkers can organise their working time themselves to some extent (Czechia, Hungary,⁷ Italy (only for agile/smart work), Lithuania, the Netherlands, Romania, Slovakia (modified in 2021) and Spain (modified in 2020)) or assigns autonomy to teleworkers to organise their breaks and rest periods during working time (Bulgaria and France). In the case of Italy, in the regulation of ‘agile work’, the work takes place partly at the company’s premises and partly outside, with no constraints in terms of place of work or working time beyond the limits of maximum hours established in legislation or collective bargaining.

Moreover, the new convention in Luxembourg provides for specific arrangements in relation to working time to give teleworkers more flexibility and requires the employer to ensure the exceptional nature of overtime. The Estonian remote work agreement (*Kaugtöö kokkulepe*) grants employees the freedom to choose their own working time, as long as working hours remain within the legal framework. This is in line with the EU Framework Agreement on Telework, in which Article 9 states that teleworkers manage the organisation of their working time.

In some countries, sectoral-level agreements (as reported in Germany and Lithuania) or company collective agreements (examples reported in France, Italy, Lithuania, the Netherlands and Spain) play a role in determining working time patterns in telework arrangements. The collective agreements regulating working time patterns range from granting employees more temporal flexibility through telework (for example, agreements reported in Germany and

⁷ In Hungary, legislation requires that, in the absence of an agreement to the contrary, the employee’s working arrangements must be flexible.

the Netherlands) to preserving common legislative working time regulations for teleworkers (for example, agreements reported in Italy, Lithuania and Spain).

Countries without statutory definitions and/or specific legislation

In the Nordic countries, where either OSH legislation (Finland and Norway) or working time legislation (Sweden) addresses working time patterns, there are no specific provisions for teleworkers. In Finland, Chapter 5 of the Occupational Safety and Health Act (*Työturvallisuuslaki 2002/738*) requires the employer to provide specific provisions for breaks and rest time that apply to all workers, stating that ‘if the work requires staying continuously in one place or is continuously stressful, an opportunity for breaks during working hours shall be provided, allowing short-time absence from the workstation’. In the case of Norway, the Working Environment Act states that workers should work 40 hours a week, and not exceed 48 hours a week on average within four months with overtime included. For those partly working from home, the total working time must not exceed this limit. In the case of Sweden, the Working Hours Act states that the same rules on working time apply to teleworkers. Similarly, Danish regulation sets out that general working time rules apply to teleworkers. However, a Danish national report notes that there is a tacit understanding that teleworkers can deviate from this rule when they work from home, because one of the possibilities when working from home is to be more flexible in the organisation of one’s workday.

Similarly, there are no specific provisions for teleworkers related to working time patterns in Cyprus or Ireland. The national contributions from both countries did not provide any information on this dimension.

Work–life balance provisions

Although telework can result in overtime and more irregular schedules, it also has the potential to improve work–life balance (Eurofound and ILO, 2017). Research during the pandemic period (Eurofound, 2022) confirmed the role of telework in improving work–life balance. In this regard, the Work–Life Balance Directive included telework as one of the flexible working arrangements to which working parents and carers are entitled. This entitlement is linked to the right to request, as work–life balance is one of the conditions under which telework can be granted. Moreover, one of the main objectives of the right to disconnect is to improve the work–life balance of employees, and flexible working also has the potential for improving work–life balance.

Below, an analysis is presented on whether or not telework has been promoted in the legislation as a way to support the reconciliation of work and family or personal life, including, for instance, specific

arrangements for personal situations (for example, care needs).

Countries with statutory definitions and/or specific legislation

According to Eurofound (2020c, 2020d), based on information available in 2019 and the contributions from the Network of Eurofound Correspondents in 2021, there are nine countries in which telework has been promoted as a way to support the reconciliation of work and family or personal life (Belgium, France, Italy, Lithuania, Malta, Poland, Portugal, Romania and Spain). In these countries, telework is recognised as a right that some employees are entitled to, with a view to attending to family responsibilities. Thus, legislation goes beyond the voluntary principle acknowledged in the EU Framework Agreement on Telework as shown in the following examples.

- In Lithuania, the right to telework applies to pregnant workers, new parents, parents of young children, single parents, workers with a medical condition and workers who are caring for others owing to illness.
- In Poland, the employer is obliged to grant a request for switching to telework under the legal regime of Article 142/1 of the Labour Code to pregnant workers in the case of a complicated pregnancy and to parents of disabled children.
- In Portugal, this right applies to workers who are victims of domestic violence and workers with children up to three years of age when it is compatible with the activity performed, and the employer has the resources and means to do so. In addition to these two groups, the new Article 166A of Law 83/2021 also establishes this right for workers with children up to eight years of age in specific situations. In all of these cases, the employer cannot oppose the request for telework. Workers with informal care responsibilities (*cuidadores informais*) are also entitled to request telework, except when they work in microcompanies.
- In France, legislation seems to some extent to favour the implementation of this right for work–life balance purposes. In this regard, legislation establishes that employees are entitled to request telework and to receive a written justification in the case of the employer’s rejection.

Attention should also be drawn to the case of Italy, in which the 2004 national agreement defines telework as an instrument to enable workers to reconcile personal and working life, and the regulation of smart/agile work (Law 81/2015) explicitly aims to facilitate work–life balance. This is because smart/agile work is defined as a more flexible arrangement than traditional telework. Moreover, the 2019 budgetary law sets out objective conditions for the preferential access to smart/agile

work of workers within three years from the end of maternity/paternity leave and of workers with severely disabled children.

Finally, it is worth noting that, during the exceptional circumstances of the pandemic, when several governments approved different types of confinement measures, including the closure of schools, telework was promoted for health and safety reasons but also with a view to enabling workers to attend to family responsibilities (Belgium in CLA No. 149 and Croatia).

Countries without statutory definitions and/or specific legislation

There are no specific legal provisions on this dimension in this group of countries.

Recording, measuring and monitoring working time

On 14 May 2019, the European Court of Justice ruled that employers must establish systems to record working hours, with Member States individually responsible for determining the specific arrangements for the implementation of such systems (CJEU, 2019). This ruling applies to all workers regardless of the place of work. This subsection describes how statutory legislation regulates the monitoring and recording of working time for teleworkers.

Countries with statutory definitions and/or specific legislation

In several countries, there are no specific legal provisions on recording, measuring or monitoring working time in telework. In addition, in other countries, legal provisions on telework tend to refer to the general principles of proportionality, legitimacy and the balance between employers' control and privacy rights or strict data protection principles (Estonia, Germany, Hungary, Ireland, Italy, Latvia, Luxembourg, the Netherlands, Poland and Portugal).

In a few countries, telework legislation sets out certain limits on employers' capacity to record, measure and monitor working time.

- In Austria, the Data Protection Act 2018 (specifically Section 96a) within the Labour Constitution Act sets up relevant provisions for employers' capacity to record and monitor teleworkers' working time. This provision establishes that the works council (and also the employer) has the right to demand a company collective agreement for the introduction or implementation of the following data processing projects: projects related to the installation of any technological facilities at work that are (potentially) likely to monitor employees and affect human dignity (Section 96(1)(3) of the Labour Constitution Act); any system for the computerised collection,

handling and processing of employees' personal data that exceeds the collection of general data regarding the person and their qualifications (Section 96a(1)(1) of the Labour Constitution Act); and any system for the evaluation of employees, if data are collected, which is not justified by operational needs (Section 96a(1)(2) of the Labour Constitution Act; EU-OSHA, 2021a).

- In Malta, telework legislation states that any monitoring system has to be compatible with safety and health requirements for working with display screens.
- In Belgium, Malta, Romania and Slovakia (recent legislation in Slovakia), legislation provides that consent in writing is required prior to implementing any monitoring system through its inclusion in an individual agreement or telework contract.
- In France, legislation does not specifically address this issue for teleworkers. It establishes that arrangements for monitoring working time have to be established in collective bargaining or employers' charters. The 2020 ANI provides that employers are required to set up, in agreement with teleworkers, slots during which employees can be contacted, in line with the working hours in force in the company. The agreement calls for an adaptation of managerial practices based on a relationship of trust between a manager and each teleworker and on two complementary skills: autonomy and responsibility.

Some countries specify in the legislation that employers are responsible for recording teleworkers' working time or setting up the procedures for this.

- In Austria, in the case of remote work, the Federal Act on the Organisation of Working Time provides for the possibility that the remote worker records only the duration of their daily working hours rather than the exact start and end time of each working day.
- In Bulgaria, the working time of remote workers has to be reflected in a document approved by the employer on a monthly basis. According to the Labour Code (Article 107l, paragraph 5), the employee is, however, responsible for the accuracy of the data.
- In Croatia, the law provides that the employer must properly monitor and keep records of working hours for teleworkers.
- In Czechia, Act No. 155/2000 introduced the employer's obligation to record working hours in accordance with EU law. However, it is up to the employer to choose the method for recording working hours. According to a national report, in practice this is based on trust between the employer and the employee.

- In Greece, a comprehensive reform of the Labour Code passed in 2021 provides that employers are obliged to acquire and operate an electronic system for measuring the working time of their employees, directly connected and interoperable, in real time (Article 74 of Law No. 4808-19-06-2021). This provision is not exclusively targeted at teleworkers. It intends to combat undeclared work and undeclared overtime.
- In Lithuania, legislation provides that employee's working time shall be calculated in accordance with the procedure established by the employer. Accordingly, employers shall adapt their own procedures taking into consideration needs of the enterprise.
- In Slovenia, the Employment Relationships Act provides that the employer must keep a record of working time on a daily basis for remote workers.
- In Spain, recent specific legislation on telework (Article 14 of Royal Decree-Law 28/2020 on distance work) has set out that the system for recording work regulated in the Workers' Right Statute (Article 34.9) should accurately reflect the working time of teleworkers. Without limiting working time flexibility, this recording system has to include, among other aspects, the start and end of daily working time.

Countries without statutory definitions and/or specific legislation

There are no specific legal provisions on this dimension in this group of countries, with the only exception being in Finland, where Chapter 7 of the Working Time Act establishes that, in the case of so-called flexi-work, the:

employee shall provide the employer with a list of hours worked during regular working time for each pay period so that the list indicates the weekly working time and weekly rest period.

Right to disconnect

Previous research has already identified and analysed the main policy initiatives on the right to disconnect until 2020 (Eurofound, 2020c, 2020e). The Eurofound research presented in this report has enabled further mapping of those policy initiatives and has identified new country regulations passed since 2019.

Below, the existing legislation in the EU before and after the outbreak of the COVID-19 pandemic is summarised (Table 7). This is followed by an analysis of the differences between countries in relation to the implementation and specific enforcement of this right. Finally, several initiatives that have not been formalised in legislation are presented.

Pre-pandemic regulations

Previous research has shown that Belgium, France, Italy and Spain are the only countries that had passed specific legislation on the right to disconnect before the pandemic crisis (Eurofound, 2020c, 2020e; EU-OSHA, 2021a).

Table 7: Legislative provisions on the right to disconnect

Country	Is the right to disconnect explicitly recognised in national legislation?	Is the right to disconnect enacted in statutory legislation?
Belgium	No, but there is an obligation for employers to organise a consultation on this matter with their health and safety committee	Yes: act regarding the strengthening of economic growth and social cohesion of 26 March 2018
France	Yes	Yes: new provisions in the French Labour Code in 2016
Greece	Yes	Yes: Law No. 4808-19-06-2021
Ireland	No; however, the code of practice is admissible before court	No, only the code of practice
Italy	Yes	Yes: Law No. 81/2017
Luxembourg	(There is a bill pending being passed into law)	(Bill No. 7890 modifying the Labour Code is pending being passed into law)
Portugal	Yes, although the law does not explicitly refer to the term 'the right to disconnect'	Yes: Law No. 83/2021 of 6 December 2021
Slovakia	Yes	Yes: Law 76/2021
Spain	Yes	Yes: Law 3/2018 of 5 December 2018 and Royal Decree-Law 28/2020

Source: Authors, based on national contributions by the Network of Eurofound Correspondents

France was the first European country to introduce the right to disconnect through a provision in its new Labour Code in 2016 (currently codified under Article L2242-17 of the Labour Code). The right to disconnect is intended to ensure compliance with rest and holiday periods, as well as to reconcile work with personal and family life. Therefore, employers are required to put mechanisms in place to regulate the use of digital tools so that rest and holiday periods are respected.

In Italy, the right to disconnect was established in Law No. 81 of 22 May 2017, which legislated a new framework on flexible (smart or agile) work. This provision established that individual agreements between smart workers and employers need to identify the times of rest of the worker and the technical and organisational measures necessary to ensure the disconnection of the worker from technological work tools.

In Spain, Article 88.1 of Law 3/2018 of 5 December 2018 on the protection of personal data and the guarantee of digital rights established that public and private employees must have the right to digital disconnection in order to guarantee, outside the legally or conventionally established working time, respect for their rest time, leave and holidays, as well as their personal and family privacy.

In Belgium, some provisions favouring the right to disconnect were included in the Act of 26 March 2018 regarding the strengthening of economic growth and social cohesion. However, in Belgium, there was no statutory obligation to ensure the right to disconnect. Instead, legislation established the employers' obligation to organise a consultation on this matter with their health and safety committee (Article 16 of the 2018 act). In February 2022, civil servants of the Belgian public sector were granted the right to disconnect via Royal Decree.

Regulations approved after the pandemic

Since the outbreak of the pandemic, four new countries have passed legislation on the right to disconnect, namely Greece, Luxembourg, Portugal and Slovakia. In addition, in Ireland, a code of conduct on the right to disconnect has been approved. In Spain, new regulation on telework (Royal Decree-Law 28/2020) has strengthened the pre-pandemic provisions concerning the right to disconnect; this new regulation states that risk prevention should pay special attention to psychosocial and organisational aspects related to the distribution of working time, the limitation of availability and breaks. In France, the 2020 ANI explicitly mentions the right to disconnect from professional digital tools outside working hours to protect rest and

holiday periods and the personal and private lives of employees, as stipulated by the corresponding law existing in France since 2017.

In Greece, new legislation on telework was incorporated into the comprehensive labour market reform passed through Law No. 4808-19-06-2021. The new law provides for the complete regulation of teleworking, including the right to disconnect. In this regard, the law states that employees must have the right to disconnect: the right to completely refrain from carrying out any work-related activities and, in particular, the right to not communicate online or respond to calls, emails or communication of any other nature beyond the work schedule or during leave. In addition, the law prohibits any discrimination against a teleworker on the grounds of exercising the right to disconnect.

In Luxembourg, Bill No. 7890, modifying the Labour Code, introduced a provision on the right to disconnect. It was submitted to the Chamber of Deputies on 28 September 2021 and reflects the opinion of the Economic and Social Council.⁸ This bill plans to introduce a new section (Section 8) entitled 'Respect for the right to disconnect' in order to oblige employers to define a specific regime ensuring respect for the right to disconnect when employees use digital tools for work purposes.

In Portugal, Law No. 83/2021 of 6 December 2021 included a number of significant changes on telework, including the right to respect rest periods and holidays. The text does not explicitly refer to the term 'right to disconnect', but states that employers must refrain from contacting any employee, regardless of the place of work, during rest periods, except in cases of force majeure.

In Slovakia, a labour code reform (76/2021) addresses telework (among other things) and regulates the right to disconnect. According to this reform, each employee working from home will have the right to disconnect. Employees working from home will be entitled to not use work equipment (to not be logged in or connected) during their daily rest periods or holidays. In addition, employers cannot punish their employees if they do not fulfil their work tasks during those rest periods.

Finally, it is also worth noting the case in Ireland, where a code of practice for employers and employees on the right to disconnect was approved in 2021. The code of practice aims to stimulate a new workplace culture and provides sample auto-replies and auto-signatures encouraging recipients of emails to not reply until their normal working hours. Moreover, according to Irish legislation, in any proceedings before a court, a code of practice shall be admissible in evidence and any provision shall be considered in determining questions.

⁸ The full text of this opinion is available, in French, at <https://ces.public.lu/dam-assets/fr/avis/droits-salaries/deconnexion.pdf>

The scope of legislation on the right to disconnect

This section analyses if there are groups/types of employers or employees exempt from the obligation to apply or adhere to the right to disconnect.

According to the Eurofound Industrial Relations Dictionary, the:

right to disconnect refers to a worker's right to be able to disconnect from work and refrain from engaging in work-related electronic communication, such as emails and other messages, during non-work hours and holidays.

Based on this definition, the right to disconnect could potentially apply to all workers who use ICT for work purposes outside the employers' facilities and can be potentially contacted at any time. However, comparative analyses of national regulations on the right to disconnect reveals that, in some countries, it mandatorily applies only to employees with telework arrangements. This is the case in Greece, Italy and Slovakia, where the right to disconnect is provided by law only in telework or related categories (for example, smart work in Italy).

By contrast, in Belgium, France, Luxembourg, Portugal and Spain, the right to disconnect does not exclusively apply to teleworkers but instead applies to all employees who use ICT for work purposes, although, in several cases, there are specific provisions for teleworkers.

- In Belgium, the right to disconnect applies to employers that fall within the scope of the law on collective bargaining agreements, namely employers in the private sector (the public sector has its own regulation on the right to disconnect). However, as the law requires that health and safety committees are established only in companies with more than 50 employees, the right to organise consultation on this matter is limited to such companies.
- In France, the right to disconnect applies to all employees in the private sector. Although the labour code has specific provisions on negotiations or consultations on the right to disconnect in companies with more than 11 workers (those companies that can have a works council), case law (for example, ruling No. 01-45889) has recognised the right to disconnect as a universal right. Similarly, the new cross-sectoral social partners' agreement (2020 ANI) states that the right to disconnect 'is the right of every employee'. It is also worth noting that the section of the Labour Code that regulates telework (Articles L1222-9 to L1222-11⁹) does not explicitly mention the right to

disconnect (as is the case in Spain) and refers to it only implicitly. However, as the actual implementation of the right to disconnect can be challenging for teleworkers, Article L1222-9(II)(4) provides that the applicable collective agreement or, failing that, the charter drawn up by the employer must specify 'the time slots during which the employer can usually contact the teleworking employee'.

- In Luxembourg, a new bill will apply to those employees who use digital tools for work purposes.
- In Portugal, the Labour Code stipulates that employers have a duty to refrain from contacting workers during their rest period, except in situations of force majeure (The Guardian, 2021). This is regardless of whether employees have a telework arrangement or not. However, there are also specific provisions for teleworkers. In this regard, Law 83/2021 of 6 December 2021 establishes that, under the regime of telework, 'the employer has the duty to refrain from contacting the employee during the rest period, except in situations of force majeure' (Article 169B). These telework provisions also apply to those who are self-employed, whenever they are considered in the economic dependence of the beneficiary of the activity (Labour Code, Article 165, paragraph 2).
- In Spain, the right to disconnect formally applies to all workers, although the law (Article 88 of Law 3/2018) states that it applies, in particular, to regular or occasional distance workers and home-based teleworkers.

Approach to implementation

Overall, the comparative analysis shows that the approach to implementing the right to disconnect differs between countries.

- In Belgium, consultation on the right to disconnect can be held with health and safety committees at company level, and this is mandatory in companies with more than 50 employees.
- In France, Luxembourg and Spain, legislation leaves the implementation of the right to disconnect to collective bargaining (or agreements between the employer and workers' representatives) at sectoral and company level.
 - In France, employers with at least 50 workers must negotiate agreements with unions that allow employees to disconnect from work technology after working hours. In the absence of an agreement, particularly in companies with more than 11 employees, the employer draws up a charter, after consulting with the social and

9 The full text of these articles is available, in French, at <https://www.legifrance.gouv.fr/codes/id/LEGISCTA000025558058/>

economic committee. This charter defines the terms and conditions for exercising the right to disconnect. It also provides for the implementation of training and awareness-raising measures on the reasonable use of digital tools for employees, managers and directors.

- In Luxembourg, a new bill (Bill No. 7890) states that the right to disconnect will be implemented by a collective bargaining agreement or a subordinate agreement. In the absence of a collective agreement, the right to disconnect should be defined at company level, in accordance with the remit of workers' representatives.
- In Spain, the right to disconnect is subject to collective bargaining dispositions or agreements between employers and workers' representatives and should be aimed at improving work-life balance. The employer, after consulting with workers' representatives, must prepare an internal policy for employees, including those in management positions, defining the modalities for exercising the right to disconnect and setting out training and awareness-raising actions for staff on the reasonable use of technological tools (Article 88 of Law 3/2018 of 5 December 2018).
- In Italy, the right to disconnect should be implemented through individual agreements between the employer and the employee (smart workers).
- In Greece, Portugal and Slovakia, legislation does not establish procedures for implementing the right to disconnect. In Greece, for example, further additions to the regulation will address implementation aspects.

Recent debates on the right to disconnect

Beyond those countries that have already passed specific legislation, ongoing Eurofound research on the regulation of telework has identified several countries where the right to disconnect is currently under discussion by social partners and/or policymakers.

In Croatia, the oil economy trade union (*Sindikatski savez naftnog gospodarstva* (SING)) has initiated some actions on the right to disconnect.

In Cyprus, there is an ongoing social dialogue process for the regulation of telework in the public sector, including the right to disconnect.

In the Netherlands, a proposal was submitted in 2020 by the opposition party PvdA (the labour party) to amend the law on working conditions (*Arbeidsomstandighedenwet*), by adding a sentence to Article 3 that states that employers and employees have to come to an agreement on the hours during which employees have the right to disconnect.

In Romania, trade unions call for complementing legislation on teleworking by giving employees the right to disconnect, as there is already a general problem of undeclared overtime in the country.

Country classification according to organisation of working time

Previous Eurofound research (Eurofound, 2020c) has classified countries' legislative approaches on the basis of the link between ICT-based flexible working arrangements, work-life balance and the prevention of negative effects. This Eurofound typology is revisited here, taking into consideration European countries' regulations on the four dimensions analysed in this chapter: flexible working time patterns, work-life balance, monitoring of working time and the right to disconnect. The reason for this new approach is to gain a clearer picture of the protection of employees in relation to their working time and work-life balance.

Following this approach, the provisions identified on the organisation of working time can be classified as follows.

Only promoting approach (Hungary, the Netherlands, Poland and Romania): This group is made up of those countries with legislation on the use of telework that refers only to the potential benefits of telework in terms of work-life balance and the flexible organisation of working time. In these countries, the legislation sets out that the teleworker can organise their own working time (Hungary, the Netherlands and Romania) or promotes access to telework for work-life balance purposes (Poland and Romania), but it does not specifically deal with any negative consequences through, for example, the right to disconnect or preventing long hours by recording working hours. In some of these countries, regulations on monitoring working time do not include specific protections for privacy or health risks.

Only partial-protection approach (Austria, Croatia, Finland, Malta and Slovenia): This group is made up of those countries in which there is specific regulation only on working time in telework arrangements. It addresses the recording and monitoring of working time by setting out employers' obligation to record working time and prevent negative effects of monitoring, particularly as regards privacy and health risks, and by limiting the role of the employer. However, these countries do not have provisions related to the right to disconnect.

Balanced promote-protect approach: This group can be divided into light-protection and strong-protection countries.

- **Light protection** (Bulgaria, Czechia and Lithuania): This group is made up of countries with specific legislation that promotes the use of telework for work-life balance purposes, either by establishing that teleworkers can organise their working time (or part of their working time) themselves (Bulgaria

and Czechia) or by entitling certain workers to access to telework for work–life balance purposes (Lithuania). In addition, a certain level of protection is in place through regulations on working time monitoring (Bulgaria, Czechia and Lithuania).

- Strong protection (Belgium, France, Italy, Luxembourg, Portugal, Slovakia and Spain): In these countries, apart from those provisions related to flexible working time or/and work–life balance promotion, the regulation is complemented by legislation that seeks to protect workers from the potentially negative consequences of permanent connectivity, being requested to work after working hours and long working hours. This is done by regulating the right to disconnect. In some of these countries, there is also a regulation on recording working time. Given the importance of the right to disconnect in telework arrangements, workers in this group are considered to potentially have the greatest protection against the negative effects of certain working time aspects (long hours, working in free time or being contacted in rest periods).

General legislation (Estonia, Germany and Latvia): In these countries, according to the national contributions, there are no specific provisions regulating the organisation of working time.

No specific legislation (Cyprus, Denmark, Ireland, Norway and Sweden): These countries do not have specific legislation governing telework. The case of Ireland is, however, nuanced, considering the recent bill that has set out the right to request telework and, also, the existence of guidelines on the right to disconnect.

Conclusions

Around half of the Member States with legislation on telework have regulations that provide **flexible working time** for telework arrangements. Surprisingly, this is not recognised in the national-level regulation in a number of countries. However, in some of these countries, this flexibility is addressed at sectoral or local level. In any case, beyond the transposition of the 2019 Work–Life Balance Directive (which extends the right to request flexible working to all working parents with children up to the age of eight and to all carers), there are countries in which employees teleworking do not have the right to flexible working in telework arrangements, an aspect that is intrinsic to these arrangements.

Despite evidence of the potential role of telework and flexible working time in **improving work–life balance**, only 10 EU Member States highlight this in the regulation at national level.

In line with other working time aspects, **monitoring and recording working time** while working remotely is regulated in only some countries despite the implications for workers' privacy or even health. These provisions place limits on these type of activities by

requiring written consent or placing restrictions on monitoring working time. Some of the provisions set limits on what time must be recorded, with respect given to working time flexibility, while others seem to give employers full autonomy to establish the method of monitoring and recording working time.

Provisions related to the **right to disconnect** are among those that have been developed most during the pandemic. Before the pandemic, discussions had already been held in some countries on new regulations on the right to disconnect. However, the expansion of telework during the pandemic fuelled further debates and, consequently, the number of countries including the right to disconnect has doubled in the EU. However, differences exist in respect to content, coverage, requirements and methods of implementation.

Occupational safety and health provisions

Although telework encompasses different work arrangements, physical separation from company premises and the intensive use of ICT are common features of these arrangements. In this sense, telework entails significant changes to the physical work environment and to the organisation and management of work, which are key aspects for addressing physical and psychosocial risks and the impact on well-being and health (Eurofound, 2020b; EU-OSHA, 2021b).

The literature suggests that psychosocial risks are the most prevalent health risks associated with telework (Eurofound, 2020b; Oakman et al, 2020; EU-OSHA, 2021b). This is partly because long hours and extended availability are a common issue for teleworkers (EU-OSHA, 2021b). However, there is also increasing evidence that teleworkers – or teleworkers with particular profiles, such as regular home-based teleworkers – are particularly exposed to other physical risks, namely musculoskeletal disorders (MSDs) and eye strain. Accordingly, it is crucial to understand how legislation is responding to these problems (Eurofound, 2020b; EU-OSHA, 2021a, 2021b).

At EU level, the EU Framework Agreement on Telework includes mainly general recommendations related to information provided to and consultation with teleworkers on OSH policies and about the prevention of some psychosocial risks (isolation). The Framework Directive on Safety and Health at Work (Council Directive 89/391/EEC), which aims to encourage improvements in the safety and health of workers in the workplace, does not specify the work location when it comes to the application of its provisions and, accordingly, also applies to teleworkers. Similarly, neither the Display Screens Directive (Directive 90/270/EEC), which lays down minimum safety and health requirements for work with display screen

equipment, nor the Workplace Requirements Directive (Directive 89/654/EEC), which lays down minimum requirements for safety and health at the workplace, specifically refers to telework arrangements.

Although different legislative measures (for example, the right to disconnect) can contribute to mitigating the negative impact of telework on health and well-being, this section focuses exclusively on specific OSH legislation. It analyses specific legislation dealing with:

- risk assessments for telework situations and OSH enforcement
- prevention of MSDs and eye strain
- prevention of psychosocial risks

Risk assessment and OSH enforcement

In this subsection, legislation that focuses on teleworkers' risk assessment and OSH inspections conducted by employers, workers' representatives or enforcement agencies (labour inspectorates or similar bodies) is analysed and compared between countries.

Countries with statutory definitions and/or specific legislation

In relation to OSH, statutory telework legislation generally acknowledges the equal rights of teleworkers and employees working at employers' premises. Thus, the general rules on OSH are applicable to teleworkers. This means that the responsibility to carry out a risk assessment lies with the employer, as established in the Framework Directive on Safety and Health at Work. However, several countries also have specific provisions related to either risk assessment or OSH inspections in a telework environment.

Although a risk assessment must be carried out for all workers (which therefore includes teleworkers), only a few national reports noted that legislation establishes that a risk assessment is a pre-condition for being allowed to telework (or that the risk assessment is mandatory in the case of telework), namely those of Belgium, Croatia (only for regular telework), Germany, Greece, the Netherlands, Portugal and Spain. In Italy, the 2004 national agreement also stipulates that a risk assessment should be carried out in the place of remote work.

As a result, attention should be drawn to the practical implementation and enforcement of risk assessment and OSH prevention for teleworkers. The enforcement of OSH standards is more problematic when employees are working outside employers' premises. Under telework arrangements, employer compliance with OSH is more challenging than working at the employer's premises and can be legally restricted owing to employees' privacy rights. Similarly, labour inspectorates and workers' representatives may experience more limitations and difficulties in verifying

that the relevant safety and health provisions are correctly applied in telework arrangements than working at the employer's premises. In only a few countries does legislation provide labour inspectorates, employers (or safety and health experts) and/or workers' representatives with the right to access to teleworkers' places of work (for example, home) to inspect workers' compliance with OSH, under certain limits.

In Bulgaria, the employer, workers' representatives and the control bodies of the labour inspectorate are entitled to access the employee's home within the limits agreed in the individual and/or collective employment contract. Employees who perform telework have no right to refuse access to their workplace without reason, within the established working hours and/or agreed in the individual and/or collective labour agreement (Article 107k of the Labour Code).

In Portugal, the workplace (the worker's home or other location) can be accessed by the employer between 9:00 and 19:00 in the presence of the worker or another person designated by the worker. The company's health and safety technicians, insurance experts and labour inspection experts can also access the site.

In other countries, however, legislation does not entitle the employer, workers' representatives or enforcement agencies to inspect teleworkers' place of work (mainly when the home is the teleworker's workplace), or this is subject to prior notification of the employee and their consent or agreement.

- In Austria, the labour inspectorate officers are not entitled to enter private homes of workers in home offices without their consent.
- In Belgium, risk assessments should be undertaken by the employer. To this end, the employer can inspect teleworkers' work environment. In the case of home-based telework, an appointment is required and, according to the national agreement, this appointment requires prior notification and the consent of the teleworker.
- In France, the 2005 ANI and 2020 ANI provide that, if the teleworker carries out their activity at home, employers' and employee representatives' access to teleworkers' workplace is subject to notification of the person concerned, who must give their prior agreement.
- In Germany, according to Article 13 of the Constitution, the employer has no general right to access the employee's home. Access needs to be announced and agreed upon with the employee.
- In Greece, the employer, workers' representatives and/or the authorities have access to the telework site as provided for in applicable provisions. However, in the case of home-based teleworkers, this access is subject to the teleworker's consent.

- In Italy, access by workers' representatives and competent authorities to teleworkers' workplace is subject to prior notification and the consent of the worker, within the limits of the national legislation and collective agreements.
- In Romania, the law requires the employees' consent if union representatives/workers' representatives and/or labour inspectors want to verify teleworkers' working conditions. Collective agreements can include rules on union access conditions.

The problem of ensuring employers' and employees' compliance with OSH standards can also be addressed through other measures. For instance, in Slovenia, the national report notes that the labour inspectorate may prohibit home-based telework if there is a danger that it may become harmful for workers working at home. In Estonia and Luxembourg (national-level collective agreements), the problem of ensuring workers' compliance with OSH standards has been addressed through an approach that stresses employees' responsibility.

Interestingly, national-level collective agreements in Belgium, France, Italy and Luxembourg allow the teleworker to request a risk assessment inspection visit to their home.

Countries without statutory definitions and/or specific legislation

Generally, legislation in these countries acknowledges the equal rights of teleworkers and employees working at the employer's premises in terms of OSH.

In three Nordic countries (Denmark, Norway and Sweden), the inspection of teleworkers' workplace by employers and workers' representatives is subject to employee consent. In the case of Sweden, the Work Environment Authority highlights on its website the importance of cooperation between employers and teleworkers owing to the limited ability of the employer to assess risks in the working environment.

In Ireland, where there is no specific legislation on this aspect, the Health and Safety Authority guidance on working from home for employers and employees contains a checklist to be followed by employers.

Prevention of MSDs and eye strain

MSDs refer to health problems affecting the musculoskeletal system (the muscles, tendons, ligaments, nerves, discs, blood vessels and so on). This term encompasses a wide range of mobility problems and multiple or localised pain syndromes affecting the upper limb extremities, the neck and shoulders, the

lower back area¹⁰ and the lower limbs. Historically, efforts to reduce the risk of MSDs in the workplace have focused on physical factors. However, the relationship between MSDs and psychosocial factors, such as an excessive workload or a lack of support from colleagues or managers, appears to be crucial.

Previous research has found that certain teleworker profiles, such as regular home-based teleworkers, can be more exposed to certain MSD problems such as upper limb pain (Eurofound, 2020b). Teleworkers' MSD problems are related to poor ergonomic conditions at home and the experience of stressful working conditions or working longer hours (EU-OSHA, 2021b).

Countries with statutory definitions and/or specific legislation

Despite growing evidence of teleworkers' exposure to MSDs, specific legal provisions related to the prevention of MSDs targeted at teleworkers were mentioned in the country reports of Belgium, France, Greece, Italy, the Netherlands, Portugal and Spain only.

Countries without statutory definitions and/or specific legislation

Specific legal provisions related to the prevention of MSDs and eye strain were not mentioned in the reports for this cluster of countries, with the exception of Ireland. In the national report for Ireland, it is suggested that employers require employee training on identifying and preventing MSD issues, with a particular focus on workstation set-up.

Prevention of psychosocial risks

Despite the potential benefits of telework related to work-life balance and autonomy, which can have positive consequences for employees' well-being, empirical research also points to the relevance of psychosocial risks leading to increased work-related stress and exhaustion. The increase of telework has been identified as part of a more general trend towards work intensification. Telework has often been associated with overtime, which is partly related to difficulties in coping with work overload. The intensive use of ICT (including video-conference software) and the expectation of being constantly available to attend to job requests beyond regular working hours is another source of work intensification. Another important risk derives from the experience of isolation (Eurofound, 2020b, 2021, forthcoming; EU-OSHA, 2021c). In line with these findings, this subsection analyses specific legislation (beyond the right to disconnect or the organisation of working time in general) aiming to prevent teleworkers' exposure to psychosocial risks.

10 More information on lower back issues is available on OSHwiki at: https://oshwiki.eu/wiki/Managing_low_back_conditions_and_low_back_pain

Countries with statutory definitions and/or specific legislation

Specific legal provisions related to the prevention of psychosocial risks for teleworkers were mentioned in the country reports of Belgium, Bulgaria, Estonia, France, Greece, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia and Spain.

Information gathered from national questionnaires reveals that OSH legislation is aimed, in most of these countries (all except the Netherlands and Spain), at avoiding isolation and its implications for psychosocial well-being. This problem was acknowledged in the EU Framework Agreement on Telework and has been particularly linked to regular and intense home-based telework. This is also the case in national-level collective agreements in Belgium, Estonia, France, Italy and Luxembourg. For example, in France, employers must take actions to prevent social isolation and maintain a 'social link' (2020 ANI), while, in Belgium, the 'psychological connectedness' (CLA No. 149) of the teleworker with the company should be maintained.

Only in the Netherlands and Spain does legislation mention other psychosocial risks. In the Netherlands, Article 5.9 of the Working Conditions Decree requires companies to minimise psychological stress as a result of working with visual display units. In Spain, recent legislation approved in 2020 acknowledged teleworkers' risks related to the organisation of working time, such as overtime, permanent availability and irregular schedules.

To prevent or mitigate psychosocial risks, legislation generally requires employers to implement measures focused on the problem of isolation. The most common provisions tend to follow the EU Framework Agreement on Telework guidelines, which recommends the following to employers, under Section 9:

to ensure that measures are taken preventing the teleworker from being isolated from the rest of the working community in the company, such as giving him/her the opportunity to meet with colleagues on a regular basis and access to company information.

In line with this, national legislation requires companies to create conditions for:

- holding periodic meetings at employers' premises with colleagues and managers (Belgium (temporary legislation), Bulgaria, France, Greece, Italy, Luxembourg, Malta, Portugal, Romania and Slovakia) – in the case of Portugal, recent law (2021) specifically defines minimum time intervals to organise face-to-face contacts (not exceeding two months)

- supporting teleworkers' access to company information (Bulgaria, Greece, Italy, Luxembourg and Malta)
- supporting teleworkers' communication and cooperation with employees and employee representatives (Bulgaria, France and Lithuania)

Other types of provisions are provided in the French collective agreement (2020 ANI). The agreement states that there should be a certain period during which new recruits may not be eligible for telework, to ensure that their integration in the company, inclusion in the community and job understanding are solid before they physically distance themselves from the company's premises. Finally, CLA No. 149 in Belgium and the 2020 ANI in France contain provisions highlighting that particular attention should be paid by the employer to teleworkers in vulnerable situations (for example, at risk of domestic violence or addiction) and that they should be provided with relevant emergency contacts.

Countries without statutory definitions and/or specific legislation

Specific legal provisions related to the prevention of psychosocial risks were only mentioned in the countries included in this cluster. However, the national contributions from Ireland and Sweden refer to non-legally binding guidelines.

In Ireland, the non-legally binding guidelines recommend that employers communicate with their employees to identify and prevent psychosocial risks.

In Sweden, the Swedish Work Environment Authority highlights the importance of maintaining a good social order when working from home as well as when working at the employer's premises. This aspect is, for instance, included in the provision for systematic work environment management.

Conclusions

Due to the unique work environment of teleworking arrangements, considerations are being made as to whether there is a need to adapt OSH regulation to deal specifically with telework. This environment is different from the workplace because employers' preventive actions might be limited when it comes to employees' homes. Different approaches are adopted by the Member States in terms of the implementation of risk assessments or inspections of employees' remote workplaces. However, the reality is that only a few countries have specifically put in place regulations addressing risk assessments as a pre-condition for teleworking (Belgium, Croatia,¹¹ Germany, Greece and Spain).

¹¹ In Croatia, occasional telework is excluded from mandatory risk assessments.

The question that remains in both sets of countries (namely those with and those without specific regulation) is whether or not the risk assessment is actually carried out in telework settings. According to the European Agency for Safety and Health at Work (EU-OSHA) European Survey of Enterprises on New and Emerging Risks (ESENER), only about 30% of European establishments carry out risk assessments of telework settings (teleworkers' homes).

Only a few countries have specific regulations on preventing MSDs in telework, most of them in western Member States (Belgium, France, Greece, Italy, the Netherlands, Portugal and Spain). However, a larger number of countries regulate psychosocial risks in telework environments by mainly targeting isolation (Belgium, Bulgaria, France, Greece, Italy, Lithuania, Luxembourg, Malta, the Netherlands, Portugal, Romania, Slovakia and Spain). However, the provisions are not very specific. The analysis shows that legal provisions provide only general recommendations and, in the case of psychosocial risks, which are the most prevalent health risks associated with telework (Eurofound, 2020b, 2021), mostly focus on the problem of isolation (except in the case of Spain and, to a lesser extent, the Netherlands).

The problem of isolation is acknowledged in the EU Framework Agreement on Telework. While the importance of this problem should not be undervalued, there are reasons to believe that the widespread use of more flexible telework arrangements in a context of non-COVID-19-related restrictions can contribute to improving this problem. In this sense, research has shown a general preference for 'hybrid' work arrangements (Eurofound, 2021; Microsoft Work Trend Index, 2021). Hybrid or partial telework arrangements appear to provide the best balance between remote work flexibility and face-to-face interaction with managers and co-workers (Eurofound and ILO, 2017).

However, recent research has also stressed the importance of other psychosocial risks for teleworkers beyond the problem of isolation. The problems of work intensification, overtime and irregular schedules have also been highlighted (Eurofound, 2020b; Oakman et al, 2020; EU-OSHA, 2021b). As shown, several countries are addressing these problems through the right to disconnect, recording working time or allowing flexible working time and the right to request telework based on work-life balance grounds.

Compensation for telework-related expenses

At EU level, the topic of compensations is partially addressed by the EU Framework Agreement on Telework. It establishes that, as a general rule, the employer is responsible for providing, installing and maintaining the equipment necessary for regular telework unless the teleworker uses their own equipment. If telework is performed on a regular basis, the employer compensates or covers the costs directly caused by the work, in particular those relating to communication. More recently, the European Economic and Social Committee (EESC) has addressed this topic in its opinion entitled *Teleworking and gender equality – Conditions so that teleworking does not exacerbate the unequal distribution of unpaid care and domestic work between women and men and for it to be an engine for promoting gender equality* (2021/C 220/02). Moreover, according to the EESC, the cost of equipment to be compensated by the employer includes the cost of ICT equipment, ergonomic furniture and health and safety measures, and increased costs related to the space in which the work is performed.

In this section, the legal provisions regulating employers' responsibilities regarding the expenses of teleworking are analysed.

Countries with statutory definitions and/or specific legislation

Most of the countries included in this broad cluster (16 out of 22) have stipulated in legislation, in line with Article 7 of the EU Framework Agreement on Telework, that the employer is responsible for providing, installing and maintaining the equipment necessary for carrying out telework, as defined in statutory definitions, or for providing economic compensation to the employee to cover expenses linked to telework: Austria, Belgium (only for regular telework), Bulgaria, Croatia, France, Germany, Greece, Italy (only for regular telework), Latvia, Lithuania,¹² Luxembourg, Malta, Poland, Portugal, Slovakia and Spain).

Similarly, the collective agreements of Belgium, Estonia, France, Italy and Luxembourg state that, in the case of regular telework, the employer is obliged to provide, install, connect and maintain the necessary equipment and cover the running costs if the equipment is directly related to the telework, especially relating to communication. For example, the agreement in Luxembourg suggests that the compensation paid to the teleworker could take the form of a monthly flat rate to be agreed upon mutually in writing. For occasional

¹² In Lithuania, the legislative provision leaves some room for interpretation. The legislation provides that 'if while working remotely, the employee incurs additional expenses related to the job or the purchase, installation or use of work equipment, said must be reimbursed' (Article 52(4) of the Labour Code).

telework, the Belgian agreement also stipulates a mutual written agreement on possible compensation for connectivity costs. According to the French 2020 ANI, the compensation allowance paid to the teleworker must be used in compliance with its purpose and is exempt (within a certain limit) from social security contributions.

Among the more dated agreements, there is a difference between the 2005 ANI and the 2004 national agreement in Italy in relation to cases in which teleworkers use their own equipment: while the French agreement sets out that, even in this case, the employer is supposed to ensure the adaptation and maintenance of the equipment, the Italian convention does not regard the employer as responsible if the teleworker's own equipment is used for work purposes.

In three countries (Hungary, Romania and Slovenia), legislation establishes that the responsibility for providing and maintaining the equipment and communication is subject to an agreement between the employer and the employee. This also applies to Belgium in the case of occasional telework. In the case of Romania, Governmental Emergency Ordinance No. 192/2020 introduced the obligation to have a written agreement on the use of the teleworker's own equipment. The case of Slovenia is nuanced: in this country, legislation establishes that an employee has the right to compensation for the use of their own resources when working at home. However, the amount of compensation has to be determined by the employee and the employer within the employment contract.

In contrast, in Czechia and the Netherlands, the national contributions state that there are no particular specifications regarding the provision of expenses and cost coverage.

In the case of Estonia, employer liability for the health and safety of teleworkers means that the employer is obliged to provide suitable work equipment, including a desk and chair if the employee demands it. It can also be agreed that the employee buys the equipment required and the employer covers the costs. If the teleworker uses their own equipment, the Estonian agreement states that the two parties must agree on compensation for costs.

The most common rule identified for regulating cost compensation is that the employer bears the entire responsibility for the provision, installation and maintenance of the equipment. Nevertheless, specific rules were also mentioned in several national contributions in cases where the teleworker uses their

own equipment, which were mostly related to the procedures for compensating the costs.

- In Austria, employees working in a home office can agree to use their own work equipment (their own laptop or private mobile phone and internet connection). If they do so, they are entitled to an appropriate reimbursement of their expenses in the form of a flat rate up to €300, determined either on a case-by-case basis or in a works agreement. The pre-requisite for this is that the employee works in their home office for at least 26 days per year.
- In Bulgaria, legislation states that the individual employment contract may stipulate the use of the employee's own equipment, as well as all rights and obligations arising from this situation.
- In France and Spain, legislation stipulates that company social dialogue (France) or collective bargaining (Spain) must establish how to compensate the costs incurred by teleworkers when they use their own equipment.
- In Lithuania, the amount of compensation and the conditions for its payment when a teleworker uses their own equipment must be established by agreement between the parties in the employment contract.
- In Luxembourg, legislation states that compensation for teleworkers for costs incurred has to take the form of a monthly flat rate, to be agreed between the employer and the employee in writing. Moreover, the Grand-Ducal regulation (agreement) in Luxembourg further specifies that if telework means a loss of a certain benefit for the teleworker, the teleworker would be entitled to compensation.
- In Poland, the costs incurred by the teleworker as a result of working in such a mode (a private telephone, internet and private office equipment) may be subject to a refund that is non-taxable.
- In Portugal, the telework agreement has to specify whether the equipment is supplied directly or acquired by the worker, with the agreement of the employer on its characteristics and price. The employer has to compensate the worker for all additional expenses that the worker incurs as a direct consequence of the acquisition or use of the computer.

In most countries, the objects for compensation refer to information technology (IT) equipment or digital equipment (for example, a computer or software programmes). Other elements that were less frequently mentioned in national reports are office furniture (Croatia, Estonia and Germany), devices for communication (Bulgaria, Croatia, France and Italy),

training and information for using the equipment when teleworking (Bulgaria and Poland), the costs related to communication (Croatia, Greece (only for regular telework), Italy (only for regular telework), Malta and Portugal) and energy costs (Croatia and Portugal).

An example of a very detailed definition regarding the object of compensation appears in the Bulgarian legislation, which specifically refers to the following:

the equipment necessary for carrying out the work from a distance, as well as consumables for its functioning; software; technical prophylaxis and maintenance; devices for communication with the employee performing remote work, including internet connection; information and requirements for the work with the equipment and its maintenance in serviceability; and other technical or documentary aids according to the individual and/or collective labour contract.

In Portugal, following a recent legislative amendment (Law 83/2021 of 6 December 2021; see Chapter 3 for more details), legislation states that the employer has to compensate the worker for all additional expenses that the worker endures as a direct consequence of the acquisition or use of the computer or other equipment and systems necessary to carry out the work. This includes:

the increases in energy costs and costs with the network installed at the location of work in conditions of speed compatible with service communication needs, as well as the maintenance costs of the same equipment and systems.

In France, the definition of what is to be compensated, provided in the 2020 ANI, leaves space for interpretation, stating that it covers ‘expenses incurred by the employee for the needs of his/her professional activity and in the interest of the company, after prior approval by the employer’.

Countries without statutory definitions and/or specific legislation

There are no specific legal provisions on this dimension in this group of countries.

Conclusions

The pandemic revealed issues regarding equipment in the context of telework, with a significant proportion of workers reporting either that they did not have the right equipment or that employers did not provide the necessary equipment for teleworking (Eurofound, 2021).

Regarding compensation, this aspect is regulated in most Member States with legislation, generally following the approach set out in the EU Framework Agreement on Telework. As a general rule, legislation stipulates that employers bear the entire responsibility for the provision, installation and maintenance of the equipment. However, there are some differences

regarding the coverage of equipment (own or provided by employers), whether expenses, such as the energy used while teleworking at home, are covered and the way that expenses are compensated (directly by the employer or indirectly through tax or social security contributions). In only a few countries does regulation state that employers must cover the costs of teleworking that are not specifically related to equipment, such as training, communication and energy costs.

In some countries, the compensation conditions are left to be agreed between the employee and the employer. Compensation is not regulated in only two countries with specific statutory legislation on telework (Czechia and the Netherlands).

Other topics

Beyond the five key topics analysed in depth in the previous sections Eurofound research has also explored how statutory legislation has dealt with other relevant aspects for employment and working conditions, namely employment conditions; geographical location; collective rights; data protection, privacy and surveillance; and gender equality.

General legislation regarding equal treatment and other aspects related to employment conditions apply to teleworkers in all Member States. However, some countries prefer to include specific provisions to ensure that the place of work does not have negative effects on defining or changing the employment status (Belgium, Bulgaria, Croatia, Greece, Italy, Lithuania, Luxembourg, Malta, Portugal and Spain).

Geographical location or the possibility of working remotely from another country, which could be a relevant issue to consider in the context of the EU labour market and mobility, is addressed only in Luxembourg, which establishes some limitations. With this precedent and even though the EU rules on social security coordination do not replace national systems, there might be room at EU level for practical developments to ease specific aspects of working remotely from abroad between Member States. Furthermore, there is the possibility to develop related provisions in agreements at company level.

In half of the countries with telework regulations, the **collective rights** of workers are safeguarded. The aim, depending on the country, is to ensure that information is provided and consultation takes place and the conditions for workers’ representation are put in place.

Data protection, surveillance and monitoring are issues that affect all workers, not just teleworkers. However, in the context of remote work and the intensive use of digital technologies, these aspects have become more relevant. In half of the countries with legislation, data protection, surveillance and

monitoring issues are addressed. Data protection is covered by EU legislation. Such regulation includes the principle of proportionality, information about the methods used, the need for written consent and restrictions about including monitoring tools within work-related apps. Interestingly, regulations in the Nordic countries addressing these issues foster negotiations and dialogue between workers and employers.

According to the information provided through the national contributions, no regulation has included aspects related to **gender equality** (except the national-level collective agreement), apart from the generic provisions with positive implications for work-life balance, which are expected to have a gender equality dimension. This is the case even though, at EU level, the EESC has addressed telework from the gender perspective stating that ‘teleworking does not exacerbate the unequal distribution of unpaid care and domestic work between women and men and for it to be an engine for promoting gender equality’ (2021/C 220/02).

5 Sectoral-level collective agreements

Overview of collective agreements in Member States and sectors

A sample of 99 sectoral collective agreements with provisions on telework from 18 Member States was selected based on information provided by the Network of Eurofound Correspondents. The agreements selected are found mainly in countries where collective bargaining traditionally is strong or where sectoral-level bargaining is predominant (see Chapter 2). An overview of sectoral agreements by country is presented in Table 8.

In Austria and the Netherlands – the countries where most of the company agreements in the sample were found – telework is regulated by very broad legislation, leaving key aspects to be regulated by sectoral-level agreements.

In Italy, Portugal, Slovenia and Spain, telework saw a pandemic-induced increase in collective agreements at sectoral and company levels that complemented the statutory legislation regulating telework. These countries also saw an increase in addressing specific issues to be regulated at lower levels, such as economic compensation for telework, during this time.

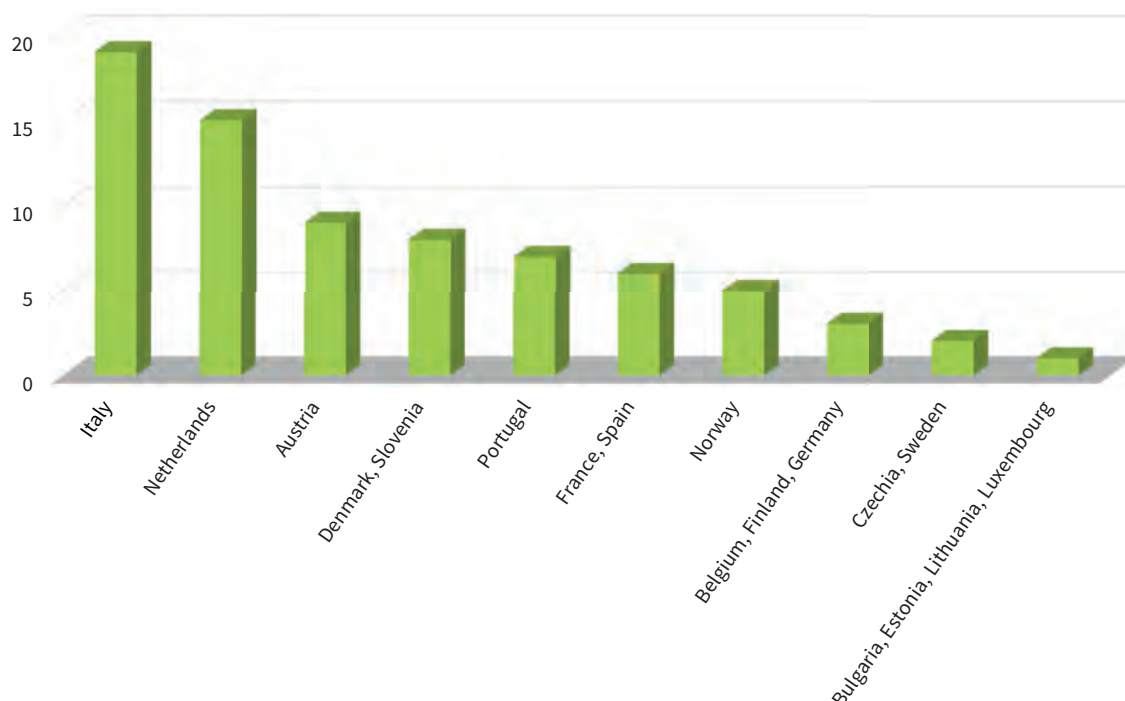
Table 8: Overview of sectoral collective agreements by sector and country

NACE sector	Countries with collective agreements on telework covering this sector
A: Agriculture, forestry and fishing	France, Italy, Sweden
B: Mining and quarrying	Austria, Italy
C: Manufacturing	Austria, Belgium, Czechia, Denmark, Finland, France, Germany, Italy, Netherlands, Portugal, Spain
D: Electricity, gas, steam and air conditioning supply	Austria, Denmark, Germany, Italy, Netherlands, Portugal
E: Water supply, sewerage, waste management and remediation activities	Austria, Denmark, Italy, Portugal, Slovenia
F: Construction	Denmark
G: Wholesale and retail trade, repair of motor vehicles and motorcycles	Belgium, France, Italy, Netherlands, Norway, Spain
H: Transportation and storage	Austria, Denmark, Italy, Netherlands, Slovenia
I: Accommodation and food service activities	Italy, Netherlands, Portugal
J: Information and communications	Austria, Denmark, Finland, France, Italy, Netherlands, Norway, Slovenia, Spain
K: Financial and insurance activities	Austria, Denmark, France, Germany, Italy, Luxembourg, Netherlands, Portugal, Slovenia, Spain
L: Real estate activities	Italy, Netherlands, Slovenia
M: Professional, scientific and technical activities	Austria, Finland, France, Italy, Portugal, Slovenia
N: Administrative and support service activities	Denmark, Italy, Netherlands, Norway, Spain
O: Public administration, civil protection and defence, and compulsory social security	Czechia, Estonia, Italy, Netherlands, Sweden
P: Education	Bulgaria, Italy, Netherlands, Slovenia
Q: Human health and social work activities	Italy, Lithuania, Netherlands, Portugal, Slovenia, Spain
R: Arts, entertainment and recreation	Austria, Belgium, Italy, Norway
S: Other service activities	Italy, Netherlands, Norway
T: Activities of households	Netherlands
U: Activities of extraterritorial organisations and bodies	Netherlands

Note: NACE stands for the Statistical Classification of Economic Activities in the European Community.

Source: Contributions from the Network of Eurofound Correspondents

Figure 2: Number of sectors covered by sectoral agreements with telework provisions by selected Member States, 2021



Source: Authors, based on national contributions by the Network of Eurofound Correspondents

In the case of Denmark, telework is indirectly regulated through OSH legislation, but the EU Framework Agreement on Telework was implemented through legally binding cross-sectoral collective agreements on telework, especially in the Danish public sector, which play an important role.

Interestingly, rather small numbers of sectoral agreements with relevant provisions on telework were reported from some countries with strong collective bargaining traditions, among them Belgium, Finland, Luxembourg and Sweden. The apparent anomaly at sectoral level in these countries can be explained by the existence of either sufficient regulation through legislation (Finland, Luxembourg and Sweden) or agreements through other collective bargaining (higher) levels (Belgium). For example, as reported in Chapter 2, CLA Nos. 85 and 149 in combination with labour law form a very strong basis for the regulation of telework in Belgium, meaning sectoral collective bargaining is not always necessary.

Figure 2 shows the number of sectors covered by agreements with telework provisions in each country. It does not include sectoral agreements with provisions on telework in Croatia, Cyprus, Greece, Hungary, Ireland, Latvia, Malta, Poland, Romania and Slovakia, countries where sectoral collective bargaining generally plays a weak role. However, other countries with weak

collective bargaining, such as Bulgaria (the education sector), Estonia (the public sector), Lithuania (the human health and social work activities sector) and Czechia (the manufacturing and public administration sectors) are represented in the sample with at least a few sectors covering telework.

Sectors with predominance of telework provisions

Based on the sample in Figure 2, collective agreements containing provisions on telework are found mainly in the manufacturing, financial and insurance, and information and communications sectors. In each of these sectors, sectoral agreements referring to telework are found in 10 or 11 Member States (Figure 3). In the manufacturing field in Belgium and Greece, sectoral working groups on telework have been established. Telework in the manufacturing sector seems to be most densely regulated in Germany and Spain, with provisions on, among others, the prevention of physical health disorders and access to ICT training for teleworkers. Telework is also quite densely regulated in the financial and insurance activities sector in Austria, France, Germany, Italy and Spain, with quite far-reaching provisions regulating, among others, the social integration of teleworking employees and the right to privacy.

Figure 3: Number of selected Member States with collective agreements on telework by sector, 2021



Source: Authors, based on national contributions by the Network of Eurofound Correspondents

The information and communications sector and the financial and insurance sector classically provide mostly white-collar jobs, in which telework is rather easily applicable. Telework in the **information and communications sector** is most densely regulated by sectoral agreements in the sample in Austria, Denmark, France, Italy, Norway and Slovenia. The agreements covering telework in this sector include provisions on working time patterns, the recording of working time, risk assessments, expenses and cost coverage, training and career development and collective rights. Collective agreements in Slovenia and Spain covering the sector also contain provisions on the right to disconnect.

Sectors in which there are no or only very few collective agreements referring to telework are those that include jobs that usually take place outside in the open air – among them agriculture, forestry and fishing, mining and quarrying, and the construction sector. Collective agreements referring to telework in these sectors can be found in Austria, Denmark, France, Italy and Sweden, as there are some teleworkable jobs and tasks.

Sectoral collective agreements on telework during COVID-19

In the wake of the pandemic, new amendments to existing agreements on telework or additional agreements containing provisions on telework were negotiated, especially in those sectors in which sectoral collective agreements with provisions on telework already existed before the crisis.

New provisions on telework in the **manufacturing** sector were added to many agreements, including sectoral agreements in the electrical and electronic sector in Czechia in January 2021, a new agreement on telework that was negotiated for the chemical industry in Spain in July 2021, a non-binding annex on telework that was added to the sectoral agreement for upper-level white-collar workers in manufacturing in Finland, and a new social partner working group on telework that was initiated in the Greek oil and gas industries in 2021. In the **finance and insurance** sector, new agreements containing provisions on telework came into force for Dutch health insurers in January 2020, in the Spanish banking sector in March 2021 and in the French insurance sector in December 2021. In the Spanish **information and communications sector**, a new agreement on telework regulation is currently in the process of being negotiated for the contact call centres industry.

Apart from these sectors, which are traditionally more likely to be associated with telework, the **public service sectors** also experienced new developments in terms of telework agreements and provisions during the pandemic. The **human health and social work activities sector**, which already had some agreements on telework in different European countries before the pandemic, saw the introduction of an amendment on telework to the Lithuanian public health system sectoral agreement in 2020, and additional provisions on telework in the sector in Spain in 2021. Moreover,

several new sectoral collective agreements on telework were negotiated in **public administration** in Italy, the Netherlands and Spain in 2020/2021 (mostly dealing with the issue of compensation) and in the **education sector** in Bulgaria, Italy and Portugal, as this activity was severely affected by the COVID-19-induced lockdown.

In addition to the traditional telework sectors and the public service sectors, provisions on telework were also newly introduced to an agreement in the **agricultural sector** in France in September 2020 due to the health crisis.¹³

Content of telework provisions

This section presents an overview of the content of the sectoral agreements dealing with telework and focuses on:

- telework regime
- organisation of working time and the right to disconnect
- health and safety
- compensation for telework-related expenses

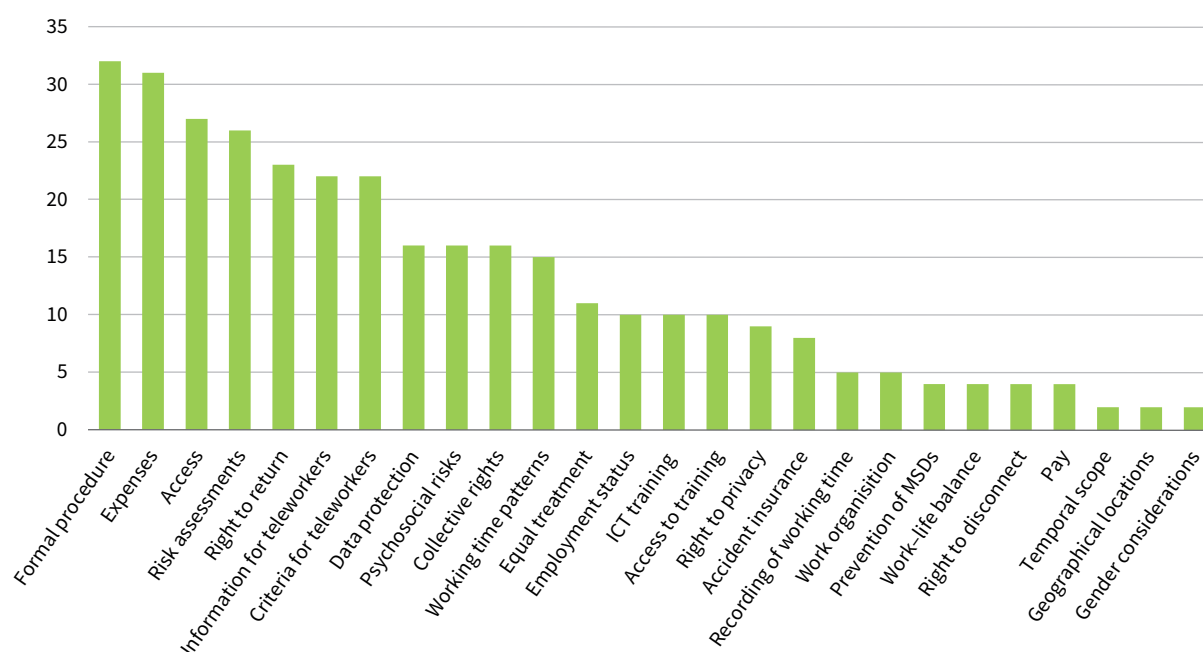
Some examples of agreements are provided to illustrate how sectors in specific countries (Bulgaria, Czechia, Denmark, Finland, France, Germany, Lithuania, Norway, Portugal, Slovenia, Spain and Sweden) are addressing the different employment and working conditions in telework arrangements.

Telework regime

Of the sectoral agreements on telework analysed, most contain provisions on the telework regime, which refer to the scope, the formal procedure of introducing telework, access to telework, information to be provided to the teleworker and the right to return to previous work arrangement (Figure 4). However, the frequency and duration of telework tends to be neglected by most of these sectoral-level agreements.

Concerning the scope of the sectoral agreements analysed, most agreements refer to telework from home (Czechia, Finland, Germany, Netherlands, Norway, Slovenia and Spain), while some include other places, as long as they are located outside of the employers' premises (Denmark, Finland, France, Germany, Norway, Portugal, Spain and Sweden). Sectoral agreements in Denmark, France, Portugal and Sweden mention ICT-based telework. The Bulgarian educational sector

Figure 4: Number of sectoral-level agreements with telework provisions covering different aspects



Source: Authors, based on national contributions by the Network of Eurofound Correspondents

¹³ The Convention collective nationale de la production agricole et CUMA du 15 septembre 2020 is available at: <https://agriculture.gouv.fr/telecharger/128333?token=eb28461033c8c0b220b61cd562995e06e9a5558c2e2184364da65ce634b728c3>

agreement speaks of remote work, the Italian agreements mention both telework and agile work, and the German agreements speak of mobile work. Both the Swedish and the Danish agreements mention that telework must be work that could also be carried out from the employer's premises.

An interesting provision on the introduction of telework supported by a pilot scheme is found in a French agreement covering 46,000 employees in the sectoral collective agreement for (re)insurance brokers in France (2019). In this pilot scheme, telework is tested before its implementation and, at the end of the experimentation phase, an evaluation phase is set up to adapt the initial

telework project if necessary and to implement teleworking in all of the company's departments.

In terms of how the analysed sectoral agreements address access to telework, most of the provisions grant access to telework (at least a certain minimum number of days) to either all employees or all employees whose jobs lend themselves to telework – for example, because they do not require the worker's physical presence at the employer's premises or involve immobile work material. However, an explicit right to request telework is mentioned in only two amendments to a 2020/2021 sectoral-level agreement from Lithuania covering employees in the public health system (Box 2).

Box 2: Lithuania

Amendments to the sectoral collective agreement for the national public health system.

Validity of the agreement: July 2020 to December 2021

2020 amendment:

At the request of an employee, the employer shall make it possible for the employee to work remotely for at least 20% of his/her total working time (unless telework is not possible due to the nature of the work).

2021 amendment:

The employer shall create conditions for employees to work remotely ... Remote work shall be assigned at the request of the employee and upon agreement of the parties in accordance with the procedure established by law.

The idea that (prioritised) access to telework for certain groups of employees could foster professional equality is represented in provisions of a French sectoral

agreement covering nearly 30,000 workers in the pharmaceutical industry (Box 3).

Box 3: France

The national collective agreement on the manufacture and trade of products for pharmaceutical, parapharmaceutical and veterinary use, 2019

The company must take into account professional equality in its telework project:

- by ensuring that telework is accessible to all within the framework of the specificities of the professions;
- by analysing each of the real work activities in order to identify the part of the activity that could be carried out at a distance. This approach makes it possible to think collectively beyond the representations of occupations characterised by strong requirements of presence at work;
- by making telework a lever for professional equality if it broadens the range of jobs for women and men by making them more accessible and attractive, or if it facilitates the careers of all employees through functional or geographical mobility and access to positions of responsibility, or if it improves working conditions through, for example, autonomy or recognition.

In a similar attempt to promote equality in the workplace, access to telework is granted primarily to a

certain group of employees according to an agreement for the manufacturing sector in Portugal (Box 4).

Box 4: Portugal

Collective contract between the National Metal Federation, the Union of Workers and Technicians of Services, Commerce, Restaurants and Tourism and others.

Validity of the agreement: July 2019 to July 2022

Workers with disabilities or chronic illnesses, who have children aged up to 12 years old, or regardless of age, who are disabled or chronic illness, or spouses or ascendants who need special assistance due to illness or old age have preference to perform functions in teleworking or distance work.

Organisation of working time and the right to disconnect

Provisions dealing with the organisation of working time are not among the most frequently covered aspects in the sectoral agreements on telework analysed. The recording of working time, work organisation, work–life balance and the right to disconnect are dealt with in just a few of the sectoral-level agreements. In general, the provisions dealing with telework working time in the sectoral

agreements can be split into those that assimilate telework to ‘regular’ work performed at the employer’s premises and those that see telework as a means to make working hours more flexible. For example, in a Norwegian trade sector agreement (Box 5) and a Lithuanian public health system agreement (Box 6), telework is regarded as equal to ‘regular’ work in terms of working hours. Telework and, in the case of the Lithuanian agreement, even the time spent at the employer’s premises is set within a fixed time frame.

Box 5: Norway

National collective agreement between Virke and LO (trade sector)

Validity of the agreement: 2020–2022

The employee follows the working hours in force in the company at any given time and which appear from law and agreements, unless otherwise agreed. Mandatory overtime should only exceptionally be imposed during the period in which the employee performs telework.

The part of the employee’s rate of work performed remotely may not be indicated in the work schedule and may be computed in accordance with the procedure established by the employer. This working time shall be allocated at the employee’s discretion, without prejudice to requirements for maximum work periods and minimum rest periods.

Box 6: Lithuania

Amendments to the sectoral collective agreement for the national public health system

Validity of the agreement: July 2020 to December 2021

The time within which a teleworker is required, when necessary, to come to the place of work to perform his/her job functions may not be less than 2 hours.

By contrast, two German framework agreements from the insurance and the metal and electrical sectors treat

telework as more flexible in terms of working time than ‘regular’ work (Boxes 7 and 8).

Box 7: Germany

Collective framework agreement on mobile work (TV MobA) in the insurance sector

Date of entry into force: July 2019

Possible reduction of rest hours from statutory 11 to 9 hours, if workers can define the end of one workday or the beginning of their working hours next day and if such a reduction is necessary.

Box 8: Germany

Collective framework agreement on mobile work in the metal and electrical industry

Date of entry into force: January 2018

Rest periods between two 'shifts' can be shortened from the statutory 11 to 9 hours, if the employee can either decide when to end the first day's work or when to begin work the following day. If rest hours are shortened, the employee needs to be able to balance longer hours within the next six months (by prolonging another rest period). However, OHS [occupational health and safety] and any other collectively agreed (working time) standards need to be respected in case of mobile work (at home or elsewhere).

With a rather broad scope, the German framework agreement in the metal and electrical industry stresses that telework 'might improve work-life balance of employees'. Similarly, the branch-level social partners in the French water supply, sewage and waste management sector encourage the negotiation on telework at lower levels, in order to 'reach a better work-life balance'.

To ensure the potential of telework as a tool to improve work-life balance for employees, it is essential to prevent a delimitation of work, for example by providing for a right to disconnect after official working hours. Among the sectoral agreements analysed, an explicit right to disconnect is found only in sectoral-level agreements in France (Box 9).

Box 9: France

National collective agreement for the nautical industry and services, 2020

Article 63 on the right to disconnect:

When the employer authorises access to the professional network outside the company's work premises, particularly in the context of teleworking, she/he shall remind the employee concerned of his right to disconnect and ensure that this right is respected.

Health and safety

Health and safety issues are the second most common area dealt with by the analysed sectoral-level agreements on telework, with the most common being provisions on risk assessments and the prevention of psychosocial risks. While provisions on the risk assessment of the workplaces of teleworkers are relatively common among the company agreements analysed, provisions on the prevention of psychosocial risks are rather rare.

In terms of OSH risk assessments, generally only the requirement to carry out an assessment is reported. No specific provisions were reported at sectoral level, except in one agreement of the Czech electronic sector (Box 10), which places the responsibility for OSH compliance mostly with the employee, contradicting the existing legal framework, which places the responsibility with the employer.

Box 10: Czechia

Collective agreement of the Electrical and Electronic Association of Czechia and the Metalworkers' Federation

Date of entry into force: January 2021

The employee is obliged to prove e.g. by taking photo documentation that the working place is in accordance with the legal requirements of occupational health and safety.

Provisions are found on the prevention of psychosocial risks in the form of social isolation, emphasising the significance of teleworkers' connectedness to the

company and the establishment of a trustful relationship as a pre-requisite for telework (Boxes 11 and 12).

Box 11: Norway

National collective agreement between Virke and LO

Validity of the agreement: 2020–2022

The employee's professional and social connection to the ordinary workplace must be safeguarded ... The parties therefore recommend that teleworking should mainly be combined with work at the company workplace. If it is agreed on periods where the employee is teleworking fulltime, special measures should be established to ensure professional and social connection to the ordinary workplace during the period.

Box 12: Germany

Collective framework agreement on mobile work (TV MobA) in the insurance sector

Date of entry into force: July 2019

100% mobile work is not possible. Employees need to be present in office at certain times, in order to strengthen team spirit and company culture.

Compensation for telework-related expenses

Quite a few of the sectoral agreements analysed address the issue of compensation and coverage of costs for telework-related expenses (Box 13 gives an example).

Dutch and Spanish collective labour agreements (Boxes 14–16) deal with the level of compensation to be paid by the employer.

Box 13: Bulgaria

Collective labour agreement for the system of primary and secondary school education

Date of entry into force: August 2020

Additional remuneration for remote work is determined in order to compensate for consumables.

Box 14: The Netherlands

Collective labour agreement for civil servants at national level (CAO Rijk)

Date of entry into force: January 2020

Compensation concerns 2 euros per day that an employee works from home. This is meant to compensate for the extra costs of heating and lighting that come with working from home.

Box 15: The Netherlands

Collective labour agreement for regional water authorities (CAP Waterschappen)

Date of entry into force: January 2021

compensation for employees that want to work from home of 3 euros per day and a budget for a workstation at home of between 250 and 600 euros.

Box 16: Spain

Sectoral agreement of the chemical industry

Validity of the agreement: July 2021 to December 2023

In the absence of provisions on expenses and costs coverage in collective or individual agreements in companies of the sector, the amount to be paid shall be €35 gross per month as 'compensation for remote work'. This amount is of an extra-salary payment and applies for full-time workers who work remotely 100% of their working day. Therefore, in situations of part-time work and/or lower percentages of remote work of the working day, the corresponding proportional amount will be paid. This amount compensates the worker for the cost of, for example, energy supplies, water, internet connection, use of spaces.

Other topics

Thematic fields that, comparatively, are covered very little in sectoral-level agreements on telework are access to (ICT) training and career development, accident insurance and employee liability, collective rights and the right to privacy. An interesting provision concerning the employee's privacy is included in Article 6 of the French agreement of the (re)insurance sector (July 2019), which aims to establish a 'balance between the employee's autonomy and the company's control', which can be reached only through a certain level of mutual trust.

Conclusions

Based on the analysis of the above sectoral collective agreements with provisions on telework, these agreements (accompanied by statutory legislation and/or company-level agreements) play an important role in Austria, France, Italy, the Netherlands, Portugal, Slovenia and Spain. This is also the case for Denmark, although telework is regulated through the Occupational Safety and Health Act, along with far-reaching cross-sectional agreements, especially in the public sector.

Sectoral collective agreements with provisions on telework predominantly exist in the manufacturing, financial and insurance, and information and communications sectors. They are least represented in sectors concerning outdoor activities that are unsuitable for telework, such as agriculture, forestry and fishing, mining and quarrying, and construction, as well as in extraterritorial and household activities.

During the pandemic, the public services and administration, education, and health and social work activities sectors experienced an increase in sectoral agreements on telework.

Most sectoral agreements include provisions on the formal procedure of the introduction of telework, as well as on access to telework. Provisions dealing with the organisation of work and working time are not very frequently represented in the sectoral-level agreements analysed, while an explicit right to request telework is hardly mentioned.

Among those provisions that deal with questions of working time, a general divide can be found between those that insist on compliance with regular (fixed) working hours during telework and those more focused on telework with flexible working time. An explicit right to disconnect is mentioned only in sectoral collective agreements from France.

Similar to the analysis of the content of statutory legislation, provisions on OSH mostly refer to risk assessments and the prevention of psychosocial risks, the latter emphasising the need to build on a relationship of trust between the teleworker and the employer as a preventive measure.

Aspects rarely covered by the aforementioned sectoral agreements on telework, which might be addressed at other levels of collective bargaining or in the statutory legislation, are access to ICT training and career development, accident insurance and employee liability and collective rights. The right to privacy and gender considerations are other aspects sparsely covered at sectoral level.

6 Company-level collective bargaining and other social dialogue initiatives

Company-level collective bargaining

Overview and sectoral distribution

A sample of 39 agreements, this time company collective agreements, selected by the Network of Eurofound Correspondents, provides a snapshot of the current situation of company-level bargaining on telework (Table 9) with the following nine countries accounting for the largest number of agreements; Italy, France, Denmark, Spain, Greece, Hungary, the Netherlands, Portugal and Romania.

The agreements selected were all recently negotiated and most of them were agreed during the COVID-19 pandemic (only a few were agreed before the pandemic, for example in Denmark, Germany and Sweden). In the case of France, for example, the number of company-level agreements on telework had already been rising before the start of the COVID-19 pandemic, with the number tripling in the two-year period of 2018–2019. During the pandemic, many companies (re)negotiated existing agreements with provisions on telework to respond to the demands of the health crisis, and some negotiated new agreements on telework.

Table 9: Sample of company-level collective agreements by countries and date of entry

Country	Sector (company)	Date of entry into force
Belgium	Finance (Argenta, bank)	September 2020
Bulgaria	Education (University of Architecture)	November 2020
Cyprus	Information and communications (CYTA; a company policy, not negotiated)	2006
Czechia	Public administration (Ministry of Interior and Police)	February 2019
Denmark	Finance (Danske bank)	April 2020
Denmark	Information and communications (NA)	August 2007
France	Manufacturing (PSA group)	April 2021
France	Water supply (Suez group)	November 2020
France	Manufacturing (Thyssenkrupp)	June 2020
France	*Manufacturing (Thales Group)	December 2020
France	*Manufacturing (Daher Group)	March 2020
France	*Insurance (Matmut)	May 2020
France	*Electricity (EDF)	June 2020
Germany	Information and communications (WDR)	June 2006
Germany	*Electricity/water (Stadtwerke Böblingen)	December 2020
Germany	*Manufacturing (B. Braun Melsungen AG)	April 2020
Greece	Electricity/gas (DEI)	March 2021
Greece	Electricity/gas (ADMIE)	April 2021
Hungary	Manufacturing (EGIS)	2020
Hungary	Information and communications (anonymous IT company)	2020
Ireland	Finance (FSU & Allied Irish Banks)	Not yet agreed
Italy	Telecommunications (TIM)	August 2020
Italy	*Telecommunications (Vodafone)	December 2020
Italy	Manufacturing (Acciai Speciali Terni)	August 2020

Country	Sector (company)	Date of entry into force
Italy	*Manufacturing (Merck Serono)	January 2021
Italy	*Finance (ING banking group)	August 2020
Italy	*Finance (Banca-Credito Cooperativo Italiano)	September 2021
Lithuania	Electricity/gas (Klaipėdos nafta; Amber Grid)	2018/2019
Netherlands	Finance (Aegon)	July 2020
Netherlands	Service activities (ANWB)	April 2020
Portugal	Water supply/sewerage (Águas da Covilhã)	March 2020
Portugal	Accommodation and food services (INATEL)	February 2019
Romania	Finance/monetary intermediation (NA, mutual aid houses)	November 2019
Romania	Insurance/monetary intermediation (NA, collective agreement at company level)	January 2019
Slovakia	Education (Institute for Child Psychology and Psychiatry)	April 2021
Slovenia	Manufacturing (Skaza plastic)	October 2020
Spain	Finance and insurance (Allianz)	April 2021
Spain	Information and communications (RTVE)	December 2020
Sweden	Public administration (Agency for Economic and Regional Growth)	April 2009

Note: Agreements marked with * have been added from the COVID-19 EU PolicyWatch database.

Source: Authors, based on national contributions by the Network of Eurofound Correspondents

The most prominent sector among the company agreements is finance and insurance, followed by the manufacturing sector and the information and communications sector. These three sectors have the largest numbers of private companies and a high density of regulation through collective bargaining at both sectoral and company levels.

Fewer company agreements were reported from the electricity and gas supply, education, public administration and water supply sectors. Some sectors without any reported company agreements contain jobs that do not lend themselves to telework (such as agriculture or mining) or are covered by agreements at other levels of collective bargaining (such as education or science).

Content of the provisions on telework

The most common provisions in the sample refer to the frequency and duration of telework, access to telework and expenses and coverage of costs. Given the financial implications, expenses and coverage of costs seems to be an issue that is predominantly regulated at this level of collective agreement. Other prominent provisions are working time patterns, risk assessment, formal procedures and criteria for telework and geographical

location. However, the prevalence of provisions on certain topics is hard to assess, as the content of company-level agreements is often confidential and are therefore not published.

Telework regime

Provisions establishing access to telework – the employees who are eligible for telework – are contained in company-level agreements from Belgium, Czechia, France, Romania and Slovenia for the finance, public administration and manufacturing sectors. An explicit right to request telework was not found in the sample and, while some provisions speak of telework being offered to all employees, others require a formal request for telework by the employee. Furthermore, provisions on access to telework can be split into two groups:

1. those that grant access to telework based on the nature of the position (Boxes 17 and 18)
2. those that grant access to telework based on the level of seniority and several other criteria that must be fulfilled by the employee requesting telework, such as an equipped teleworking space or sufficient home infrastructure (Box 19)

Box 17: Belgium

Collective agreement of the Argenta bank

Date of entry into force: September 2020

The collective agreement states that all functions are open to telework except those from which the tasks require a specific work location.

Box 18: France

Collective agreement on telework in the Suez group, (water sector)

Date of entry into force: November 2020

The use of teleworking is offered to all Suez employees in France whose activity allows it. All employees of the Suez Group companies in France, whatever their employment contract, whatever their seniority, are eligible to telework. However, the position held must be compatible with this work organisation.

Box 19: France

Amendment of Annex 2 of the agreement on motivation and well-being within the PSA group (manufacturing sector), France, 2021

Before being able to opt for telework, new recruits benefit from an on-site integration period of up to 100 calendar days (modulated according to the employee's level of autonomy) as well as an adapted course in order to appropriate the organisation of the company and the service and to apprehend their role within the work community. Trainees and work-study students (professional training contracts, apprenticeships, etc.) are also eligible for teleworking, subject to a possible period of 100 days of integration on site.

The amendment sets out five criteria for access to telework: sufficient **autonomy**, **mastery of the skills** to be exercised, **mutual trust** with the manager, **compatible work organisation and position**, and an **equipped telework space**.

Other company-level agreements establish criteria for employees to be eligible for telework, giving priority to certain groups of workers (Box 20).

Some company-level agreements address cases where there are limits on the number of employees who are

entitled to telework in the organization. Such agreements recommend the involvement of the relevant trade union to reach a consensus on which employees have a more compelling justification to telework, subject to the principle of non-discrimination (Box 21).

Box 20: Portugal

Portuguese company agreement between the Inatel Foundation, the Federation of Agriculture, Food, Beverage, Hospitality and Tourism Trade Unions Portugal (FESAHT) and others

Validity of the agreement: February 2019 to February 2022

besides the situations provided by law, the worker may apply for teleworking if he/she is a worker with children, adopted or stepchildren of age less than 12 years; in charge of disabled and/or handicapped family members; or a student worker

Box 21: Czechia

Article 7 of Czech collective agreement on teleworking concluded by three trade unions representing employees of the Ministry of the Interior and the Police, and their employer, 2019

The decision-making process with respect to competing employee claims within one organisational unit is based on the principle of non-discrimination, including the fact that consent may subsequently be revoked should another employee have a more serious claim; such issues must be discussed with the relevant trade union.

Telework is particularly open to employees **on medical grounds** and to those who **have to commute long**

distances between home and their usual place of work (Box 22).

Box 22: France

Collective agreement on teleworking within the company Thyssenkrupp Electrical Steel UGO S.A.S and amendments (manufacturing sector), 2020

The employer is required to create the conditions that enable the maximum number of employees to be able to work from a different location over the short term. The reasons for negotiating the performance of the work of an employee from a different location include, for example, the care of dependent children (or other serious family reasons), long-term health problems that prevent an employee from physically getting to the workplace of the employer, but who is capable of working and is able to work elsewhere.

Organisation of working time and the right to disconnect

Generally, provisions for the organisation of working time are well represented in many of the company collective agreements, with provisions on telework analysed. As at sectoral level, provisions range from granting employees more working time flexibility

through telework to those applying regular working time limitations to telework. Box 23 gives an example of provisions that provide employees with more freedom (thereby maximising their personal well-being) and more flexibility in telework working hours than 'regular' work.

Box 23: The Netherlands

Collective labour agreement of Aegon insurance.

Validity of the agreement: July 2020 to July 2022

The working hours are extended to provide more flexibility to workers in terms of when they want to work.

Other agreements establish fixed working times and rest periods for teleworkers, and even promote the shortening of work meetings and their organisation

within fixed time slots, while clearly distinguishing between work and private life (Box 24).

Box 24: Spain

Collective agreements of Allianz Spain (insurance and reinsurance) on telework, the right to disconnect and flexible work

Date of entry into force: April 2021

These agreements establish a common working hours range set between 10:00 and 16:30, and it is then up to each employee to organize the rest of the day according to workload and personal obligations. In addition, these agreements promote shorter meetings that are limited to the necessary participants and that take place during the common time slots set by the company.

An explicit right to disconnect is contained, for example, in the Spanish Allianz agreement from April 2021, the Italian TIM agreement from August 2020, the Italian Acciai Speciali Terni agreement from August 2020 and the Dutch Aegon insurance company agreement from July 2020.

Health and safety

While provisions on the risk assessment of the workplaces of teleworkers are relatively common among the company agreements analysed, provisions on the prevention of psychosocial risks are rather rare.

Regarding risk assessments, a provision from a French company agreement sets out that employees' homes must fulfil certain safety criteria for the employee to be eligible for telework (Box 25).

Box 25: France

Collective agreement on telework in the Suez group

Date of entry into force: November 2020

All employees wishing to benefit from teleworking must submit a formal request to their manager with a diagnostic form that outlines their eligibility for teleworking (compatible workstation, ... home that allows teleworking, certificate of comprehensive home insurance that covers home working).

Another provision from Allianz Spain allows the employee to choose two different places where they can perform telework (Box 26).

Some company agreements foresee that the employer and, in certain cases, also the relevant trade union may access the employee's home for OSH-related assessments (Box 27).

Box 26: Spain

Collective agreements of Allianz Spain (insurance and reinsurance) on telework, the right to disconnect and flexible work

Date of entry into force: April 2021

In that regard, employees will be able to choose two remote work locations, provided that the workstations are suitable.

Box 27: Germany

Collective agreement on alternating telework at West German Broadcasting, Cologne

Date of entry into force: June 2006

Last amendment: 2018

Within one day notice, employees need to grant access to the telework station in their homes, if requested by the employer.

Concerning psychosocial risks, the French PSA group agreement of 2021 provides for far-reaching measures to prevent psychosocial risks (Box 28).

Compensation for telework-related expenses

Different provisions can be found that suggest the payment of a (monthly) compensation rate to the teleworking employee (varying between €10 and €129 in the case of pandemic-induced permanent telework) or various other benefits including, meal vouchers or reimbursing of office furniture costs (Box 29).

Box 28: France

Amendment of the collective agreement on motivation and well-being within the PSA group (manufacturing sector), France, 2021

The agreement also aims to reinforce measures to prevent psychosocial risks and to support employees in difficulty. The establishments must communicate on how to provide support, as well as on the network of people to contact in case of need.

Box 29: France

Amendment of the collective agreement on motivation and well-being within the PSA group (manufacturing sector), 2021

The company may, if the employee so requests, contribute to the financing of office furniture (desk, ergonomic chair, storage box, computer screen, keyboard) by paying 50% of the purchase cost up to a maximum of €150. The reimbursement will be made in one go, at the latest within three months of the signing of the telework agreement. ... Employees with a telework agreement will also be entitled to a flat-rate compensation of €10 per month, as compensation to cover the cost of the additional heating cost, use of water, meals.

Other company-level agreements do not provide for any compensation at all due to the temporary nature of the telework arrangement. In addition, some agreements set out compensation that is granted only for certain groups of employees and not for others.

Other topics identified

The scope of telework differs across the company agreements analysed. Some agreements are merely classified as telework agreements, and others contain detailed descriptions of the use of ICT or the place of work. The definition in some agreements contains multiple elements. Over half of the company agreements analysed use the term 'telework', followed, in order of frequency of use, by the following terms: 'work from home', 'work outside the employer's premises', 'remote work' and 'ICT'. Therefore, as at sectoral level, in most cases, the term 'telework' itself was considered ideal to describe the applicability of the agreements. The Greek agreements use the similar term 'institution of teleworking'.

Another important factor for the applicability of employees to the agreements is the location of telework, namely either working from home or working outside the employer's premises. In this context, the Italian cases are interesting because, during the pandemic in Italy, the term 'agile work' was used, with no specific spatial or time constraints.

For most company agreements, the definition of a specific frequency or duration for telework is essential. In several cases, telework is only temporary in its scope, namely during the pandemic (for example, in company agreements in Greece, Hungary and Romania). In other cases, there are restrictions on regularly occurring telework to a limited number of days per week or month (for example, in company-level agreements in France, Spain and Sweden). In the French company agreement of Thyssenkrupp Electrical Steel UGO S.A.S (June 2020), the maximum number of teleworking days was increased from one day to two and a half days per week following the second pandemic wave (January 2021).

In terms of the frequency and duration of telework, the 2020 agreement of the Spanish Radio and Television Corporation (RTVE) stipulates that the renewal of an individual telework arrangement is subject to the performance of the employee. After one year, the company will evaluate the employee's telework performance according to productivity criteria.

Geographical location refers to the location where the remote work is performed, for instance in the same city as the employer, in another region or in another country. Examples of geographical location provisions in the company-level agreements include working at the employer's premises (for example, Sweden), at the employee's home (for example, Greece) or at another predefined location in the same region (for example, Cyprus and Spain). The option of working in another country is not explicitly mentioned in any of the agreements analysed.

Regarding data protection and privacy, the former is more common in this sample of company agreements on telework. The right to privacy for employees is specifically mentioned in only two cases (one French and one German company agreement).

Other types of company-level collective regulations and provisions

Eurofound national correspondents indicated that, in a quite heterogeneous group of countries (Austria, Croatia, Cyprus, Estonia, Finland, Latvia, Luxembourg, Malta, Norway and Poland) company collective agreements either do not exist, are not publicly available or no information on them is available.

However, a lack of information on company collective agreements does not indicate the inexistence of any company-level collective regulation concerning telework in these countries. For example, in Austria, Finland, Luxembourg and Norway, the collective regulation of working conditions and work organisation is established not by collective bargaining agreements but via works agreements (Austria), staff committees (Luxembourg¹⁴) or joint cooperation bodies and shop

¹⁴ In Luxembourg, staff committees at department, enterprise or group level are obligatory in all private companies with more than 15 employees. The responsibilities and tasks of these committees also include consulting on issues related to working time and work organisation, including telework, in accordance with the Luxembourgish labour law.

steward committees (Finland and Norway). In Finland, collective agreements at company or sectoral level do not play a role, but it is common practice for social partners to issue recommendations that are followed by shop stewards and management at company level. Therefore, it is very likely that, in these countries, agreements with management on telework or other types of mobile working are concluded for the whole workforce, but are regarded as confidential and not made publicly available.

A similar pattern of collective regulation of telework at company level is reported via annexes to individual employment contracts in Cyprus and Croatia. However, in the remaining countries (Estonia, Latvia and Poland), it has not been possible to obtain information on any telework regulation at company level. Nevertheless, even in these national cases, it cannot be ruled out that there are companies – in particular large companies and/or subsidiaries with a significant proportion of teleworkable workplaces – that have introduced provisions on telework or mobile working after consultation and agreement with the staff representation committee or works council. Therefore, it is important to take into account these other forms of collective representation and social dialogue at company level in each national case.

However, there is one important difference between collective bargaining agreements and company agreements negotiated between employee representation bodies and management. While collective bargaining agreements are legally binding and enforceable before courts, this is not always the case in the agreements negotiated between management and works councils or similar employee representative bodies at company or workplace level. Enforceability or voluntariness depends not only on the legal effects of such agreements, but also often (for example, in Germany and Luxembourg) on the specific topic (for example, agreements on working time are enforceable while those on other topics may not be).

An interesting EU-level development is found in BNP Paribas. In April 2022, this banking group reached an agreement with the UNI Europa Finance trade union federation, the European Federation of Credit Institution Executives (FEDEC) and the European Works Council on a common telework framework for the 22 EU countries where the group operates in the European Works Council's scope. The charter provides an opportunity to define schemes comprising of up to two and a half days of teleworking per week and proposes four compensation packages for the group's 132,000 employees in Europe (Planet Labor, 2022). More cross-border agreements at multinational level in the EU are expected to set out teleworking arrangements.

Conclusions

Based on the company collective agreements with provisions on telework that are analysed in this report, nearly all of the agreements were negotiated before 2020 and 2021, indicating that there was already a trend towards telework before the start of the pandemic at company level. Even older agreements, from the beginning of the 2000s, are reported from Denmark, Germany and Sweden, countries where collective bargaining at company level has been established for a long time.

Companies with collective agreements on telework are prominently represented in the same sectors (finance and insurance, information and communications and manufacturing).

Access to telework is one of the topics most often covered in this sample of company agreements on telework. Telework is mostly granted on the basis of either the nature of the position or other criteria, such as the level of seniority or the quality of the teleworking space at home. Some agreements at company level give priority access to certain groups of employees, such as those with children, those with caring responsibilities for relatives, those with medical conditions, those with long commutes and student workers.

Provisions dealing with the organisation of working time are well represented in this sample of company-level agreements. As in the sectoral-level collective agreements, a general divide is found between the majority of provisions stressing compliance with maximum working hours and minimum rest periods during telework and a minority that instead consider telework as a tool to promote work-life balance through greater working time flexibility.

An explicit right to disconnect is mentioned in several Dutch, French, Italian and Spanish company agreements.

The company-level provisions analysed mostly refer to risk assessments, which largely deal with access by the employer or the trade union representative to the teleworking space within the employee's home. The prevention of psychosocial risks or MSDs was not found in the sample.

Unsurprisingly, compensation for telework-related expenses is among the most common provision dealt with at company or workplace level, usually in the form of provisions establishing a monthly amount to be paid to the teleworker.

Other provisions deal with the frequency and duration of telework, which is often restricted to a certain number of days per week or month, which, in some cases, was increased in the wake of the pandemic.

Aspects rarely covered by these company agreements on telework, which might be addressed at other levels of collective bargaining or in the statutory legislation, are the management of workload, guaranteed employment status, access to ICT training and gender considerations.

Teleworking arrangements may be established at company level outside formal collective bargaining. Other important sources of collective provisions are local (or company-wide) agreements between management and works councils or staff representation bodies, as in Austria, Germany and Luxembourg. Similarly, teleworking conditions may be agreed upon after consultation and negotiation in joint cooperation bodies or between local trade union committees and management, as in the Nordic and other countries.

Other social dialogue initiatives addressing telework

In about half of the countries analysed (Austria, Croatia, France, Greece, Ireland, Italy, Latvia, Norway, Portugal, Slovenia and Sweden), additional bipartite or tripartite social dialogue initiatives on telework were reported. In the case of Austria and France, social dialogue initiatives (consultation and a position paper) successfully led to or influenced national legislation on telework.

Most of the social dialogue initiatives analysed took place at national level in bipartite and tripartite formats. Usually, bipartite initiatives refer to dialogue between social partners but, in some cases (Austria, Greece and Italy), also refer to dialogue between trade unions and governmental authorities.

The social dialogue initiatives analysed include non-binding agreements, guidelines and position papers, discussions, campaigns and consultations (Annex 1). The initiatives mainly involved the consultation of the social partners before or during the legislative process (for example, in Austria, Cyprus, France, Greece, Portugal, Slovenia and Sweden). Non-binding agreements resulting from bipartite social dialogue were reported from Italy and Latvia; guidelines and position papers resulting from bipartite and tripartite social dialogue were reported in France, Ireland, Norway and Portugal. Less often, round table discussions (Croatia and Ireland) or funding campaigns in relation to telework (Austria) were reported.

The increased relevance of telework during the pandemic is also visible in these initiatives. A sizable majority of the initiatives analysed were launched in 2020 or 2021. Consultations with social partners were initiated by governments in 2020 or 2021 as a form of emergency measure in relation to the COVID-19 pandemic. Social dialogue initiatives on telework that existed before the pandemic were reported only from France (2017), Latvia (2006) and Norway (2005) and, in the case of Latvia and Norway, were related to guidelines and non-binding agreements implementing the EU Framework Agreement on Telework.

Other social dialogue initiatives were reported from most of the eastern European countries (Bulgaria, Czechia, Hungary, Lithuania, Poland, Romania and Slovakia), from some northern and western European countries (Denmark, Finland, Germany, Luxembourg and the Netherlands) and from Malta and Spain. However, other initiatives may exist, as this list is a non-exhaustive collection of examples.

7 Impact assessment of telework regulations and social partners' satisfaction

Impact assessment of legal regulation

Apart from a European Commission report on the implementation of the Framework Agreement on Telework among the cross-industry social partners (European Commission, 2008) and a report of the EU social partners on the implementation of their agreement (ETUC et al, 2006), no detailed impact assessments on the legal regulation of telework in the EU Member States exist. There are hardly any robust research findings from impact assessments of existing telework regulations, through either legal provisions or collective bargaining agreements, in the EU27 countries and Norway. Impact assessments could provide an analysis of whether national regulation or collective agreements are improving and protecting workers' rights and working conditions in telework arrangements. They could also help to determine to what extent the right to disconnect is respected in practice and if teleworkers' rights, in comparison with workers in the employer's premises, are guaranteed in reality.

The only country in which a recent impact assessment on telework regulation was reported is Sweden. It was undertaken in relation to the pandemic (Swedish Agency for Work Environment Expertise, 2021). The results of this assessment highlight the following.

- The employer is responsible for a functioning work environment that minimises psychosocial and physical risks; however, the responsibility of each party in regard to the home environment is unclear. Although the employer has the legal responsibility, in practice it is up to the individual employee to report bad conditions in the home environment.
- Most interviewees (experts, managers and social partner representatives) found that the existing regulations worked well during the pandemic and that new legislation would not help to resolve the issues regarding telework (social and ergonomic, mainly) in a meaningful way.

In a number of countries, public studies and surveys have been carried out on the prevalence of regular or occasional telework as well as on occupational or sectoral patterns of teleworking. For example, in France, the Research Department of the Ministry of Labour (DARES) has carried out studies on the prevalence of telework both generally and in different sectors. DARES surveys have also revealed certain patterns of teleworking in large and in small companies, and have also shown differences between companies covered by collective agreements or with workers' representation and companies in which this is not the case. DARES has provided monthly data on the proportion of employees in the main sectors that are teleworking since the beginning of the COVID-19 pandemic.

In a few other countries, government departments were or have been engaged in the monitoring of teleworking before and/or since the pandemic, for example in Belgium, where a governmental web page provides references to existing data from surveys and other sources.¹⁵ In addition, some information and data on the frequency and patterns of teleworking are available in countries such as Bulgaria, Czechia, Hungary, Latvia (data on remote workers by age, gender and sector), Poland, Portugal and Spain.

Impact assessments of collective bargaining on telework and mobile working during COVID-19

Although, in relation to collective bargaining agreements on teleworking, no impact assessments of ex post evaluations were identified, there is a lot of evidence highlighting the strong linkage between collective bargaining and the regulation of teleworking in the workplace. For example, the surveys commissioned by DARES in France show that collective agreements on telework are mainly found in establishments with strong collective bargaining structures. In addition, the prevalence of collective agreements on telework is very low when there is no staff representation, as is often the case in small companies. The research shows that the proportion of workers covered by a collective bargaining regulation

¹⁵ This web page is available at: <https://www.telewerken.be/in-cijfers>

on telework is quite high in large companies (57% in companies with more than 500 employees), whereas the coverage of workers in small and medium-sized companies (10–49 employees) is only about 5%.

Similar results are reported from other countries. For example, in Norway, a survey carried out by LO, the Norwegian trade union confederation, illustrates that when considering company size, workers in large companies are much more likely to be covered by a collective agreement at company level or other outcomes of social dialogue (for example, consultation between managers and local trade union representatives) than those in small companies. In large companies and in the private sector, almost half of the respondents said that telework had been the result of consultation between managers and local trade union representatives and/or safety deputies. In public companies, the proportion was even higher at 66%.

By contrast, in countries with only weak collective bargaining structures and social dialogue between employers and trade unions, regulation by collective agreements at company or even sectoral level is quite rare or does not exist. In Bulgaria, according to statistical analyses, around 4.9% of all agreements negotiated since 2017 include a clause on telework. In Czechia, it is reported that, in 2020, only 1% of company agreements included a provision on working from home. In addition, in Romania, it is reported that the number of workers covered by a collective agreement on telework is very low.

The largest proportions of collective agreements on teleworking are reported in countries with a robust system of collective bargaining. In Spain, for example, it is reported that around 30% of all sectoral agreements negotiated between October 2020 and mid-2021 contained provisions on telework. For company-level agreements, the proportion in the same period was 17%.

Impact assessments and surveys conducted by social partners and other organisations

Owing to the absence of impact assessments of legislation and collective bargaining on working conditions, health and safety measures, working time and other issues (such as work–life balance) in most countries, surveys conducted or commissioned by the social partners seem to be the most important source of evidence and knowledge in this area.

This is not surprising, as social partners have a strong interest in gaining a full picture of employees' and employers' needs and concerns when it comes to teleworking or working from home in a more flexible way. This information is important for negotiating agreements that provide real added value for affiliates on the ground.

The countries with a significant amount of national research and a significant number of surveys of employers, managers, workers and workers' representatives are Austria, Belgium, Denmark, France, Germany, Greece, Italy, the Netherlands, Spain and Sweden.

Surveys conducted or sponsored by social partners have also demonstrated the positive effects of consultation and social dialogue regarding telework regulation (FGTB, 2000; DGB, 2000).

Social partners' satisfaction with telework regulations

National trade unions and employer organisations were contacted by the Network of Eurofound Correspondents to determine their degree of satisfaction with ongoing telework regulations. Social partners' views on two dimensions were collected: their involvement in ongoing telework legislation and their satisfaction with the contents of telework regulations.

Involvement in ongoing telework legislation

Overall, in quite a few countries, social partners positively assessed their involvement in the design of legislation on telework: Austria, Belgium, Bulgaria, Czechia, Denmark, Finland, France, Latvia, Malta, the Netherlands, Poland and Spain. This positive assessment probably stems from them having been consulted and involved (or even having a strong influence in co-shaping legislation) in the implementation of the EU Framework Agreement on Telework or more recent legislative initiatives on measures during the COVID-19 pandemic and regulations on teleworking from home.

However, different social partners, of course, have different interests and so their levels of satisfaction/dissatisfaction regarding their involvement differ. Whereas employer organisations favour voluntarism and providing space for flexibility at company level, the priority of trade unions is clearly defining employer obligations and protecting worker's rights and, in general, minimising health and safety risks.

In Belgium, for example, employer organisations are quite satisfied with decisions on access to telework residing with the employer, while trade unions would rather a specific right to telework. Regarding compensation, employer organisations support that no general obligation to compensate was included in the current regulation and that companies have the autonomy to decide what and especially how much they give employees, while trade unions are less satisfied with this decision. With regard to digital devices, trade unions are happy with the current

agreement and the strict limits on the possibilities of using digital devices for example, in terms of monitoring employees. Employer organisations, on the other hand, would prefer fewer restrictions in this area.

Social partners in France have a similar outlook and are generally satisfied with the regulation as a whole, given they were involved in the design of the telework regulation. In contrast, social partners in Croatia, Hungary, Italy, Slovakia and Slovenia are only partially satisfied with the telework legislation of the last decade and have expressed the need to develop more flexible provisions and mobile forms of telework. To a large degree, this relates to dissatisfaction with the lack of involvement of social partners in legislation (for example, in Hungary and other central and eastern European countries). Such a lack of involvement often results in regulation provisions that are not sufficient from the social partners' perspective.

Finally, rather polarised opinions were reported between trade unions and employer organisations in Lithuania, Portugal, Romania and Sweden.¹⁶

Unsurprisingly, social partners in countries with solid social dialogue frameworks and participation of social partners in national policymaking are positive about their role in the implementation of telework regulation, including through collective bargaining activities at national level (Austria, Denmark, Finland and France). Satisfaction with the current legal regulation will of course be highest when social partners are directly involved and/or (as in the case of Austria and France) when legislation is based on a cross-industry agreement of the peak social partner organisations. Generally, in these countries, social partners are satisfied with the current regulation on telework, with an overall feeling that there is no need for further regulation because of the low prevalence of telework in the country.

Differing levels of satisfaction exist in relation to the implementation of rules and provisions on telework in a large number of countries, such as Belgium, Bulgaria, Italy, the Netherlands, Romania, Slovakia and Spain (all of which have an overall picture of at least partial satisfaction) and Croatia, Hungary, Italy and Slovenia (in which social partners are generally either unsatisfied

or partially satisfied). Furthermore, in Czechia, Germany, Latvia, Lithuania, Malta, Portugal and Sweden,¹⁷ different social partners have differing views on the implementation.

Satisfaction with the contents of telework regulation

National social partners' views show that the highest degree of satisfaction with the actual content of telework regulations exists in those countries where they are actively involved in both legislation and regulating telework by collective agreements at national level: Austria, Belgium, Denmark, Finland, France, Spain and Sweden.

In Spain, for example, despite some disagreements, both the employer organisation CEOE and the trade unions UGT and CC.OO expressed their satisfaction with the modernised regulation of teleworking by Royal Decree-Law 28/2020. This comes as no surprise, as the regulation is based on intensive tripartite negotiations.

Mixed satisfaction (partial or a low degree of satisfaction) exists in countries where the influence of social partners on legislation and/or via collective agreements is lower, such as Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. The Netherlands should also be included in this group, as trade unions expressed dissatisfaction with the current legislative framework because it does not sufficiently address issues such as work–life balance, working hours, availability and health strains.¹⁸

As a rule, trade unions are less satisfied than employer organisations. Trade unions' main issue is that, although the law should provide a good framework, in practice it is clear that employees are still under pressure. In addition, trade unions argue that regulations are insufficiently detailed and unclear regarding the potential negative consequences. They also note that inspections have limited consequences and impact, mainly concerning working hours, work–life balance and the social pressure to stay connected and available. Trade unions would like to see more concrete agreements made in these areas to protect employees, such as on the right to disconnect.

¹⁶ It should be noted that information was not available on this question for Germany or Norway.

¹⁷ In Sweden, social partners met in June 2021 to discuss possible changes to telework legislation. Employers' organisations are satisfied overall and think that the 'current legislation works well', with the only suggestion being that the rights and obligations of employers and employees should be defined more clearly. Trade unions, on the other hand, are only partially satisfied and call for an update to the regulation in the context of the pandemic and technological change. Furthermore, trade unions see problems regarding work environment issues, cost compensation and unclear responsibilities of employers and employees.

¹⁸ In the Netherlands, both trade unions and employer organisations are concerned with unclear definitions overall and especially 'liability issues, for instance the responsibility for accidents that occur at home'. Nevertheless, employer organisations are satisfied overall, while trade unions are only partially satisfied with the regulation because of problems regarding the limited impact of inspections and high pressure on employees during telework, resulting in work–life balance and working hour issues (trade unions request the right to disconnect for employees).

Polarised views have been reported from social partners in countries such as Bulgaria, Czechia, Italy, Malta, Portugal and Romania. For example, in Italy, while employer organisations are quite satisfied with the 2017 law that introduced the concept of agile work, trade unions have been very critical of this law. In particular, trade unions are concerned with the agile working regime at company level being based on an individual agreement between the worker and the employer. According to the trade unions, the law aims to marginalise the trade unions and the collective regulation of the employment relationship more generally and is in line with orientation of the government that passed the law (the Renzi Cabinet). They argue that the law does not set out any role for the trade unions in the regulation and leaves all regulatory

capacity to individual agreements that determine the technical and organisational ways in which agile work must be carried out. However, a new national protocol on agile work in the private sector was signed in Italy on 7 December 2021 by all representative employer and trade union organisations. Unlike the 2017 legislation, which did not assign any role to collective bargaining, the agreement recognises the primary role of collective bargaining in shaping agile work at sectoral and company level.

Finally, a fairly strong degree of dissatisfaction with the contents of telework provisions or proposals for telework legislation is reported in both Germany (Box 30) and Croatia.

Box 30: Controversial proposal on telework legislation in Germany

In terms of German social partners' views on draft mobile telework legislation issued by the Ministry of Labour in autumn 2020, both employer organisations and trade unions rejected the draft and were unsatisfied overall. Both types of social partner heavily criticised the definitions, arguing that they were unclear and too broad, especially regarding the precise meaning of 'regular mobile work'. Employer organisations rejected the binding claim for telework in the first draft, noting that it would 'breach German labour law and impede entrepreneurial freedom', and also criticised the unclear definitions of compensation, working place and working hours. While trade unions were in favour of legislation that would include a legal right of employees to work from home, they were unhappy that the legal claim for telework was dropped in the revised draft, which instead stated that 'employers only need to discuss mobile work with employees when asked'. Other negative points from the perspective of the trade unions were uncertainties about the place and time frame of mobile work, risk assessments and compensations.

8 Conclusions

There is a varied picture of telework regulation across Member States. The nature and extent of regulations vary widely, and they are impacted by industrial relations systems, traditions and practices. The different regulations across countries broadly range from countries with specific statutory legislation, to regulation embedded in labour codes or legislation on health and safety (or other work environment-related topics), to countries without statutory definitions (with teleworking mainly regulated through collective agreements and other agreements) and to countries with hardly any regulation.

In countries with well-developed collective bargaining at national level, telework features significantly in legislation. National-level collective agreements not only play a role in pioneering legislation, but they also complement existing legislation or provide a framework that is tailored to the specific needs of sectors, companies or even workplaces (Belgium, France and Luxembourg).

Based on the sectoral collective agreements with provisions on telework that were selected for the sample in this report, these agreements, accompanied by statutory legislation and/or company-level agreements, play an important role in Austria, France, Italy, the Netherlands, Portugal, Slovenia and Spain. This is also true of Denmark, although telework in this country is regulated through the Occupational Safety and Health Act, along with far-reaching cross-sectional agreements, especially in the public sector. Interestingly, agreements made before the COVID-19 pandemic have been found in Nordic countries, highlighting a longer tradition of teleworking.

In the country cluster comprising of Belgium, France and Luxembourg, and in other countries with strong social dialogue and a key role of social partners in legislation, telework regulations are more developed. In these countries, there is a high prevalence of agreements, a good level of satisfaction among employers and employee representatives with the existing regulation and a solid set of provisions to protect workers in telework arrangements (for example, the right to request telework and the right to disconnect). It is also expected that this way of regulating telework would facilitate the implementation of regulations to protect both the workers at company level and the overall economic activities of the organisation.

The cluster of Nordic countries represents a group without specific statutory legislation on telework. Collective bargaining plays an important role in these

countries, particularly at company level. Despite not having a developed set of regulations, like those in some countries in western and southern parts of Europe, they have the highest prevalence of employees teleworking and any problems regarding working conditions are similar to those reported in other clusters. This situation is very likely to be the result of the long tradition of flexible and remote working in these countries, a culture of trust and strong individual (employee–employer dialogue) and social dialogue at company level.

Therefore, one size might not fit all when it comes to regulating telework. While social dialogue at all levels can be recognised as a way to better develop and implement telework to protect the employment and working conditions of employees, it is possible that different combinations of sources of regulation, policies and the culture of work produce positive outcomes.

Impact of the pandemic on regulating telework

COVID-19 has been an accelerator for regulating telework both in legislation and through collective bargaining. Since the pandemic outbreak, 10 Member States have updated or adopted new legislation on telework and at least four more were involved with advanced discussions on new legal texts by the end of 2021. At company and sectoral levels, a considerable number of agreements on telework have been developed, particularly in those sectors that already had agreements before the pandemic: financial services, manufacturing, and information and communications. In addition, during the pandemic, new agreements were developed in the public services and administration, education, and health and social work activities sectors. This shows that telework has become a consolidated modality of work organisation across the EU.

In general, before and during the pandemic, there was a similar set of countries (mainly from western and southern Europe) developing regulations through legislation and collective bargaining. This trend has accelerated, particularly with the same geographical and sectoral scope as before the pandemic (with the exception of Lithuania, Romania and Slovakia).

The changes and updates to the regulations have mainly concerned the telework regime, access to telework, working time organisation, the right to disconnect and compensation for telework-related expenses.

Definitions of telework and telework arrangements

The EU Framework Agreement on Telework provides a conceptual common ground regarding the definition of telework, but it could be considered outdated.

Firstly, technological progress has made the teleworking requirement of using ICT rather irrelevant, as nearly all types of remote work are now performed through ICT.

Secondly, regular telework is not the only type of remote work with ICT. There are different ways of teleworking, including on an occasional basis or with a certain degree of mobility. In the EU, only a few national regulations (Belgium, France, Italy and Luxembourg) explicitly address occasional telework, while some examples of collective bargaining include this modality (for example, in Germany). Even regularity of telework is regulated differently across Member States, based on either a threshold number of days or a percentage of time working remotely.

In this context, in around half of the Member States, employees working remotely on an occasional basis can be excluded from the telework regime and therefore, for example, from mutual written agreements or the right to disconnect when these apply only to regular teleworking. This is particularly challenging in the context of informal supplemental work done outside the employer's premises on an occasional basis.

Therefore, the term 'regular telework' falls short when addressing the current and future landscape for remote work arrangements. A clear definition may be needed in EU-level regulation (for example, the EU Framework Agreement on Telework), particularly as new terms such as 'hybrid work' (regular telework carried out on a partial basis) and 'mobile work' are being widely used, creating further confusion in the regulatory frameworks.

The frequency and duration of telework are often addressed in sectoral- and company-level agreements. Telework is often restricted to a certain number of days per week or month in these agreements. In general, these agreements support hybrid telework rather than full-time telework, which could be related partly to the need to tackle issues such as isolation, but also to allow some employers and managers to better monitor and enhance communication with employees.

Finally, most national regulations consider working remotely to include locations different from the home, which could be interpreted as ICT-based mobile work being covered by existing telework legislation in most Member States, even though mobile work is not defined as such.

Differences in provisions protecting employees

Overall, regulation on telework in Member States shows that there are some topics commonly regulated at national level, such as the telework regime, while other topics are regulated in only a few countries, such as working time in telework arrangements.

Telework regime rules apply in most statutory legislations and most follow a similar approach. They require that an individual agreement must be set up between the employer and the employee or in the employment contract. Written information about the agreement must be provided to the employee, although the minimum content of the information varies across countries; collective agreements tend to require more information. The interaction of these obligations, in countries with statutory legislation on telework, and the Directive on Transparent and Predictable Working Conditions (Directive (EU) 2019/1152) should be further analysed, and particularly the connection with Article 4(2)(b) (on the place of work) and 4(2)(m) (on work pattern; European Commission, 2021).

Although the voluntary principle of telework is acknowledged in legislation in most countries, objective conditions for a worker to be eligible for telework (for example, teleworkability and professional categories) are not usually established in national-level regulation. The conditions for access to telework are more detailed in agreements at company level. The conditions set out in these agreements under which telework could be granted include, for example, tasks, family situation, commuting time, medical conditions and seniority. However, this is different from the right to request laid down in a few countries' national regulations.

Telework is, by nature, a working arrangement based on a modality of work organisation. Employees in teleworkable jobs may be entitled to request telework through a right to request. This right has been established only in France, Lithuania, Portugal and the Netherlands, with bills also having been developed in an additional two countries by the end of 2021. These provisions aim to go beyond the Work-Life Balance Directive clause on the right to request telework or flexible work for parents, intending to improve to a greater extent the possibilities for workers to decide the place (and in some countries the time) of work, adapting those dimensions to their needs and well-being.

Interestingly, the right of the employee to reject telework is provided in some eastern European countries, which suggest that there is a possibility of teleworking being unilaterally requested by the employer.

In relation to the **organisation of working time**, there is a group of countries (mainly in central and eastern Europe) that rely on standard regulation for work carried out on employers' premises for regulating working time in telework arrangements. In another group of countries (mainly in southern and western Europe), flexibility in the organisation of working time is included in the regulation on telework. Two conclusions can be drawn from this situation.

1. In some Member States, working time regulation is not adapted to employees' specific situation of teleworking, namely in those in which flexible working time is a common feature in remote work arrangements. Such flexibility has been shown to have the potential to improve work-life balance and the well-being of workers.
2. There is a divide in Europe about how to address, in national-level regulation (and to some extent in sectoral agreements), issues related to working time in telework arrangements. Some countries rely on existing regulation that applies to work carried out at employers' premises, while other countries promote changes in the organisation of working in telework. Some countries have a preference for continuing similar regulations on working time in telework to those in employers' premises, while other countries are adding new aspects such as flexible working time and the right to disconnect.

In any case, collective agreements at company level also address flexibility in working time in most countries with strong social dialogue.

Finally, the expansion of telework during the pandemic has fuelled existing debates on **the right to disconnect**, resulting in newly adopted legislation in some Member States. As a result, the number of countries including the right to disconnect in national legislation doubled during the pandemic, although differences exist in respect to content, coverage, requirements and methods of implementation. At EU level, the European Parliament approved an initiative on the right to disconnect and fair telework, and an explicit right to disconnect is mentioned in several collective agreements at company level (France, Italy, the Netherlands and Spain).

Health and safety issues in teleworking pose challenges to the practical application of some principles that are enshrined in OSH legislation. Telework presents specific challenges for employers with regard to fulfilling their legal obligations; in particular, risk assessments and inspections to guarantee adequate working conditions may clash with the right of the employee to privacy at home.

Only a few countries (Belgium, Croatia,¹⁹ Germany, Greece, the Netherlands and Spain) have specifically put in place regulations addressing risk assessments as

a pre-condition for allowing telework. Even in these countries, different approaches are adopted to implement risk assessments or on how to monitor employees' remote workplaces. In those countries with no specific regulation, it remains to be seen how risk assessments will be carried out, even though general provisions in the EU Framework Directive on Safety and Health at Work apply. Risk assessment clauses are more developed at company level, which suggests that some companies are applying the general principles of risk prevention to telework environments even without specific national-level regulation.

Despite an overall reduction in physical risks when employees work with ICT, there is a considerable proportion of workers reporting that they do not have an appropriate work environment (including inadequate equipment and physical and sometimes psychosocial issues) to work from home. Several countries regulate psychosocial risks, targeting mainly, or only, isolation. In such regulations, companies are required to provide employees with a contact from the company and to facilitate workers' presence at the employer's premises. However, these regulations do not discuss more generally the right telework arrangement to tackle isolation, for example the adoption of partial telework (hybrid work).

Recent research has also stressed the importance of further psychosocial risks for teleworkers in terms of work intensification, overtime and irregular schedules. These aspects seem to be developed mostly in sectoral-level agreements, while national legislation provides only recommendations.

In relation to **equipment and compensation for costs**, as a rule, national legislation following the EU Framework Agreement on Telework sets out that employers bear the full responsibility for providing the equipment necessary to telework. However, research evidence shows that a significant proportion of workers have not received equipment from their employers, at least during the pandemic. In this respect, important differences by sector exist. Therefore, it seems that there might be an enforcement issue in this regard.

Moreover, diverging regulations exist in Member States regarding the installation, maintenance and financial coverage of work equipment, the coverage of other expenses while teleworking at home (for example, communication and energy costs) and the way such expenses are compensated (directly by employers or indirectly through tax or social security contributions). Regulations dealing with the compensation of these costs related to equipment and energy expenses have been found in collective agreements, mainly at company level, with different approaches and solutions provided. In some cases, these agreements may be reached individually between the employee and the employer.

¹⁹ In Croatia, occasional telework is excluded from mandatory risk assessments.

Provisions on **geographical location** and particularly teleworking abroad were found only in Luxembourg, which has developed bilateral cross-border agreements with Belgium, France and Germany to avoid double taxation and to prevent tax evasion. However, there are also no regulations prohibiting working remotely from abroad. Geographical location is addressed in only some company-level agreements, but they mainly define places of work within a region or regions within a Member State. In the context of the European labour market and the mobility of workers, this issue could be subjected to EU-level regulation.

The **collective rights** of teleworkers are mentioned in half of the countries with telework regulation. Such regulation ensures that information and consultation takes place and that the conditions for teleworkers' representation are put in place.

Apart from the generic provisions about work-life balance, which are expected to have **gender equality** implications, no regulation has been included on gender equality aspects in national-level legislation (except in the 2020 French ANI). Provisions on gender equality are found in only a few sectoral-level agreements. The legislation appears insufficient in this regard, particularly in terms of the potential risks for career development when women telework regularly from home, as this situation involves a lack of visibility for career development and the combined burdens of caring, domestic work and paid work. Another important aspect that is scarcely included in national regulations is the potential of telework for **including workers with medical conditions or workers with a disability** in the labour market. Only a few sectoral- and company-level agreements have addressed this aspect.

The overall picture in Europe shows that, while several countries have updated their national regulation on telework, this is not the case for all countries. This variation is related to the prevalence of telework, the industrial relations model, the role of social dialogue and the existing culture of flexible working in each Member State. The trends show that, in the future, Europe might have a diverging way of addressing telework in terms of the sources of regulations, the content of regulations and how different employment and working conditions are regulated. Despite these differences, some common challenges have been addressed in a good number of countries, for example in terms of access to telework and updating the definitions of telework. In the context of minimal national-level standards, all countries with developed social dialogue rely on sectoral- and company-level agreements to adapt employment and working conditions.

Finally, from the information provided by social partners and gained from previous assessments, it can be concluded that the adaptation of regulations on

working conditions to telework is still ongoing and has not been finalised in several EU Member States, at least in relation to key elements concerning telework arrangements.

Policy pointers

- The expansion of flexible working arrangements, including occasional and mobile telework, brings opportunities for employers and workers. EU-level social dialogue is essential to find solutions to the challenges associated with these developments and to assess if the 2002 EU Framework Agreement on Telework continues to meet the needs of both businesses and workers.
- While some common ground exists between national-level regulations on telework (legislation and collective agreements), these regulations also differ in certain aspects between Member States, with some showing gaps, in relation to health and safety, the organisation of working time and the right to disconnect. This highlights the need for shared standards if teleworkers across the EU are to be protected equally.
- While, in most countries, national-level regulation on telework provides 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 effectively protect employees teleworking. Capacity building for social dialogue should be further developed in relation to telework. 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 change. Developments in Member States need to be monitored by policymakers, including different types of telework arrangements, psychosocial risks, the organisation of working time, 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 not located in their country of residence, the associated regulatory challenges will become more apparent and need to be addressed. Although resolving diverse 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.

References

All Eurofound publications are available at www.eurofound.europa.eu

Eurofound topic page on 'Teleworking', <https://www.eurofound.europa.eu/topic/teleworking>

Allen, T. D., Golden, T. D. and Shockley, K. M. (2015), 'How effective is telecommuting? Assessing the status of our scientific findings', *Psychological Science in the Public Interest*, Vol. 16, No. 2, pp. 40–68.

BSP (2021), *Draft law on the right to disconnect*, web page, available at <https://www.bsp.lu/publications/newsletters-legal-alerts/draft-law-right-disconnect>, accessed 9 August 2022.

CJEU (2019), 'Judgment of the Court (Third Chamber) of 14 May 2019, Case C 55/18, Federación de Servicios de Comisiones Obreras (CCOO) v Deutsche Bank SAE, ECLI:EU:C:2019:402', European Court Reports – general, web page, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62018CJ0055&from=en>, accessed 27 June 2022.

DGB (German Trade Union Confederation), (2020), *Index Gute Arbeit*, web page, accessed on 25 July 2022.

EU-OSHA (European Agency for Safety and Health at Work) (2021a), *Regulating telework in a post-COVID-19 Europe*, Publications Office of the European Union, Luxembourg.

EU-OSHA (2021b), *Telework and health risks in the context of the COVID-19 pandemic: Evidence from the field and policy implications*, Publications Office of the European Union, Luxembourg.

EU-OSHA (2021c), *Home-based teleworking and preventive occupational safety and health measures in European workplaces: Evidence from ESENER-3*, Publications Office of the European Union, Luxembourg.

ETUC (European Trade Union Confederation), UNICE (Union des Industries de la Communauté Européenne), UEAPME (European Association of Craft, Small and Medium-sized Enterprises) and CEEP (European Centre of Employers and Enterprises providing Public Services) (2006), *Implementation of the European Framework Agreement on Telework: Report by the European social partners*, Brussels Report by the European social partners, adopted by the Social dialogue committee on 28 June 2006, September 2006, web page, available at <http://erc-online.eu/wp-content/uploads/2014/04/2006-01429-EN.pdf>, accessed 27 June 2022.

Eurofound (2010), *Telework in the European Union*, Publications Office of the European Union, Luxembourg.

Eurofound (2018), *Measuring varieties of industrial relations in Europe: A quantitative analysis*, Publications Office of the European Union, Luxembourg.

Eurofound (2019), *Further exploring the working conditions of ICT-based mobile workers and home-based teleworkers*, Eurofound working paper, Dublin, available at <https://www.eurofound.europa.eu/sites/default/files/wpef18007.pdf>, accessed 9 August 2022.

Eurofound (2020a), *Living, working and COVID-19*, Publications Office of the European Union, Luxembourg.

Eurofound (2020b), *Telework and ICT-based mobile work: Flexible working in the digital age*, Publications Office of the European Union, Luxembourg.

Eurofound (2020c), *Regulations to address work–life balance in digital flexible working arrangements*, Publications Office of the European Union, Luxembourg.

Eurofound (2020d), *COVID-19: Policy responses across Europe*, Publications Office of the European Union, Luxembourg.

Eurofound (2020e), *Right to disconnect: Exploring company practices*, Publications Office of the European Union, Luxembourg.

Eurofound (2021), *Workers want to telework but long working hours, isolation and inadequate equipment must be tackled*, web page, accessed 9 June 2022.

Eurofound (2022), *Working conditions in telework during the pandemic and future challenges*, Eurofound working paper, Dublin.

Eurofound (forthcoming), *Working conditions in telework during the pandemic: A focus on working time and connectivity, monitoring and privacy, work relations and hybrid work*, Eurofound working paper, Dublin.

Eurofound and ILO (International Labour Office) (2017), *Working any time, anywhere: The effects on the world of work*, Publications Office of the European Union, Luxembourg, and International Labour Office, Geneva.

European Commission (2008), *Commission staff working paper: Report on the implementation of the European social partners' Framework Agreement on Telework*, COM(2008)412 final, Brussels.

European Commission (2021), *Report expert group: Transposition of Directive (EU) 2019/1152 on transparent and predictable working conditions in the European Union*, Directorate-General for Employment, Social Affairs and Inclusion, Brussels.

- Fana, M., Milasi, S., Napierala, J., Fernández-Macías, E. and González Vázquez, I. (2020), *Telework, work organisation and job quality during the COVID-19 crisis. A qualitative study*, European Commission Joint Research Centre, Seville.
- FGTB (Fédération Générale du Travail de Belgique), *La Grande enquête coronavirus et travail de la FGTB*, 20 April 2020.
- Gschwind, L. and Vargas Llave, O. (2019), 'Telework and its effects in Europe', in Messenger, J. C. (ed.), *Telework in the 21st century: An evolutionary perspective*, International Labour Office, Geneva.
- ILO (International Labour Organization) (2020), 'Defining and measuring remote work, telework, work at home and home-based work. COVID-19: Guidance for labour statistics data collection', technical note.
- Lee, J. (2016), 'Drivers and consequences in transforming work practices', in Lee, J. (ed.), *The impact of ICT on work*, Springer, Singapore, Heidelberg, New York, Dordrech, London, pp. 71–92.
- Meil, P. and Kirov, V. (2017), 'Introduction: The policy implications of virtual work', in Meil, P. and Kirov, V. (eds.), *Policy implications of virtual work*, Palgrave Macmillan, Cham, Switzerland, pp. 3–29.
- Messenger, J. C. and Gschwind, L. (2016), 'Three generations of telework: New ICTs and the (r)evolution from home office to virtual office', *New Technology, Work and Employment*, Vol. 31, No. 3, pp. 195–208.
- Microsoft Work Trend Index (2021), *The next great disruption is hybrid work – Are we ready?* web page, accessed 9 June 2022.
- Moreira, T. C., Dray, G., das Neves, A. L., Fontes, A., Câmara, M. J., Trindade, S. et al (2021). *Livro Verde sobre o futuro do trabalho*, Gabinete de Estratégia e Planeamento do Ministério do Trabalho, Lisbon, available at http://www.gep.mtsss.gov.pt/documents/10182/55245/livro_verde_do_trabalho_2021.pdf/daa7a646-868a-4cdb-9651-08aa8b065e45, accessed 9 August 2022.
- Nilles, J. M. (1975), 'Telecommunications and organizational decentralization', *IEEE Transactions on Communications*, Vol. 23, No. 10, pp. 1142–1147.
- Nilles, J. M. (1988), 'Traffic Reduction by Telecommuting: A Status Reviewed and Selected Bibliography', *Transportation Research Part A: General*, No. 22, Vol. 4, pp. 301–317.
- Oakman, J., Kinsman, N., Stuckey, R., Graham, M. and Weale, V. (2020), 'A rapid review of mental and physical health effects of working at home: How do we optimise health?' *BMC Public Health*, Vol. 20, No. 1, p. 1825.
- Planet Labor (2022a), 'Pays Bas : reconnaissance du télétravail en tant que droit légal', post no. 13136, 7 July 2022.
- Planet Labor (2022b), 'BNP Paribas signs its European charter on telework', blog post, 13 April.
- Prosser, T. (2012), 'Europeanization through "procedures and practices"? The implementation of the telework and work-related stress agreements in the UK and Denmark', *Transfer*, Vol. 18, No. 4, pp. 447–460.
- Sanz de Miguel, P. (2020), *Exploring the contribution of social dialogue and collective bargaining in the promotion of decent and productive virtual work*, DEEVIEW final report, VP/2017/004/0050.
- Sanz de Miguel, P., Welz, C., Caprile, M. and Rodríguez Contreras, R. (2020), 'Industrial democracy in Europe: A quantitative approach', *Labour & Industry*, Vol. 30, No. 2, pp. 101–132.
- Sostero, M., Milasi, S., Hurley, J., Fernández-Macías, E. and Bisello, M. (2020), *Teleworkability and the COVID-19 crisis: A new digital divide?* European Commission Joint Research Centre, Seville.
- Swedish Agency for Work Environment Expertise (2021), *Kartläggning och analys av förutsättningar för arbete hemifrån under Coronapandemin*, Swedish Agency for Work Environment Expertise, Stockholm.
- The Guardian (2021), 'We stopped Portugal's bosses contacting staff outside work hours. Here's why', 18 November.
- Toffler, A. (1980), *The Third Wave*, New York, Bantam Books.
- Vargas Llave, O. (2021), 'Telework, ICT-based mobile work in Europe: Trends, challenges and the right to disconnect', conference presentation, Employment Committee virtual meeting hosted by the Portuguese Presidency of the Council of the European Union, 16 March 2021.
- Vartiainen, M. (2006), 'Mobile virtual work – Concepts, outcomes and challenges', in Andriessen, J. H. and Vartiainen, M. (eds.), *Mobile virtual work: A new paradigm?* Springer, Berlin, Heidelberg, pp. 13–44.
- Visser, J. (2009), 'The quality of industrial relations and the Lisbon Strategy', in European Commission, *Industrial relations in Europe 2008*, Publications Office of the European Union, Luxembourg, pp. 45–73.
- Visser, J. and Ramos Martin, N. (2008), *Expert report on the implementation of the social partner's Framework Agreement on Telework*, Amsterdam Institute for Advanced Labour Studies, Amsterdam.
- Webster, J. and Randle, K. (2016), 'Positioning virtual workers within space, time and social dynamics', in Webster, J. and Randle, K. (eds.), *Virtual workers and the global labour market: Dynamics of virtual work*, Palgrave Macmillan, London, pp. 3–34.

Annexes

Annex 1: Overview of other social dialogue initiatives addressing telework

Country	Year	Format	Form of initiative	Title	Aim/content
Austria	2020/2021	Bipartite/tripartite	Negotiations in the run-up to the legislative process	Yes (secondary residence or the residence of a close relative or partner)	The peak-level social partner organisations negotiated a 'home office package' in bipartite and tripartite meetings with the Labour Ministry. The government established the legislation based on the social partner agreement (with amendments).
	2020*	Bipartite (local government and trade union federation)	Funding campaign	Tele!Arbeit Offensive	This was a joint campaign by the local Chamber of Labour (AK Steiermark, a regional trade union federation) and the regional government of Styria (Land Steiermark) to financially support the set-up of temporary teleworking places in small and medium-sized enterprises. The Chamber of Labour was involved in the design of the measure and provided 30% of the funds.
Croatia	2020	Bipartite (social partners)	Round table discussion	Working from home erases line between working hours and private life	This round table of social partners discussed work-life balance issues and called for a national collective telework agreement in October 2020. No collective agreement exists yet.
Cyprus	2020*	Tripartite	Consultation in the run-up to the legislative process	Teleworking in the public sector	Decree 101 of the Quarantine Law, Chapter 260, of the Ministry of Health, which addresses employees in the public and educational sectors, was discussed and agreed upon in tripartite social dialogue before the coming-into-force of the law.
France	2020–2022*	Bipartite (social partners and a non-governmental organisation)	Consultation	Agefiph funding	Social partners are represented on the Agefiph Board of Directors, where they were consulted on an expanded budget for services, financial aid and special ICT training for disabled workers to implement telework during the pandemic.
	2020	Bipartite (social partners)	Position paper	Joint diagnosis launched by the peak-level social partners in 2020	An analysis was undertaken of the conditions, risks and consequences of telework during the pandemic by social partners. No binding agreement or rule was developed.
	2017	Bipartite (social partners)	Position paper	Shared diagnostic launched by the peak-level social partners	An analysis was undertaken of the legal framework, opportunities and risks of telework by social partners. No binding agreement or rule was developed.
Greece	2021	Bipartite (trade unions and the Labour Ministry)	Consultation	Discussion series on telework during the pandemic	A series of teleconferences and talks were held between trade unions and the Labour Ministry on problems and challenges related to telework.
	2020	Tripartite	Consultation	Tripartite discussions on telework during the pandemic	A teleconference was held between social partners and the Prime Minister regarding telework during the pandemic in May 2020. No binding agreement or rule was developed.
Ireland	2021	Bipartite (social partners)	Guidelines (draft)	Right to disconnect code of practice of the Workplace Relations Commission	The Workplace Relations Commission, with employer organisations and trade unions, drafted the code of practice for the right to disconnect.
	2020/2021	Tripartite	Round table discussion	Labour employer economic forum	A high-level tripartite body discussed issues and policies on telework during the pandemic.

Country	Year	Format	Form of initiative	Title	Aim/content
Italy	2021	Bipartite (trade unions and government)	Non-binding agreement	Pact for the innovation of public administration and social cohesion	In March 2021, the Italian Prime Minister, the Minister of Public Administration and the three major trade unions signed the agreement on good employment in public administration. One section is devoted to agile work.
Latvia	2006	Bipartite (social partners)	Non-binding agreement	Framework agreement on telework	This framework agreement is aimed at facilitating telework and follows the 2002 EU Framework Agreement on Telework. It was implemented in Latvia in 2006 by social partners.
Norway	2005	Bipartite (social partners)	Guidelines	Guidelines on telework 2005	This document provide guidelines for telework but contains no legal agreement. It implements the 2002 EU Framework Agreement on Telework.
Portugal	2020/2021	Tripartite	Consultation during legislative process	Bills on telework regulation	Bills on telework regulation during the pandemic have been previously discussed with employer organisations and trade unions.
	2020/2021*	Tripartite	Consultation in the run-up to the legislative process	Standing Committee for Social Concertation	Trade unions and employer confederations were consulted at the Standing Committee for Social Concertation as regards legislation on the specific situations of workers with disabilities/chronic illnesses regarding mandatory telework.
	2020	Tripartite	Guidelines (draft)	Green paper on the future of work	A draft of the guideline paper was developed after tripartite talks in June 2020.
Slovenia	2020	Tripartite	Consultation in the run-up to the legislative process	Special working group of the Economic and Social Council of Slovenia	This tripartite organisation held a discussion on law changes on home working to simplify procedures and prevent risks associated with telework. No binding rule or agreement was developed.
Sweden	2021	Tripartite	Consultation	A good working environment for the future: The government's working environment strategy for 2021–2025	Consultations for the government's new strategy for developing guidelines and regulations on telework were started in June 2021. No binding rule or agreement was developed.
Bulgaria, Czechia, Denmark, Finland, Germany, Hungary, Lithuania, Luxembourg, Malta, Netherlands, Poland, Romania, Slovakia, Spain					No reported social dialogue initiatives

Note: * These initiatives were added from the COVID-19 EU PolicyWatch database.

Source: Authors, based on national contributions by the Network of Eurofound Correspondents

Annex 2: Mapping key legislative provisions

Member State	Telework regime	Gender and work-life balance	Flexible working time (legislation that establishes that teleworkers can organise their working time themselves)	Workload management (specific legal provisions)	Specific provision for recording working time	Right to disconnect or other connection/disconnection clauses	Risk assessment (a pre-condition for being allowed to telework)	Psychosocial risks (specifically isolation)	Provision of equipment and costs coverage	Limitations to monitoring, surveillance and data protection	Collective rights
Austria											
Belgium									Only for regular telework		
Bulgaria			Breaks and rest periods only								
Croatia											
Cyprus											
Czechia											
Denmark											
Estonia											
Finland					Flexible work						
France			Breaks and rest periods only		ANI						
Germany											
Greece											
Hungary											
Ireland	Bill					Code of practice		Non-legally binding			
Italy		Agile work	Only for agile work						Only for regular telework		
Latvia											
Lithuania											
Luxembourg						Bill					
Malta											
Netherlands											
Norway											

Member State	Telework regime	Gender and work-life balance	Flexible working time (legislation that establishes that teleworkers can organise their working time themselves)	Workload management (specific legal provisions)	Specific provision for recording working time	Right to disconnect or other connection/disconnection clauses	Risk assessment (a pre-condition for being allowed to telework)	Psychosocial risks (specifically isolation)	Provision of equipment and costs coverage	Limitations to monitoring, surveillance and data protection	Collective rights
Poland	Blue	Blue							Blue		
Portugal	Yellow	Yellow				Yellow	Yellow	Yellow	Yellow	Yellow	Yellow
Romania	Yellow		Blue		Blue				Yellow		
Slovakia	Yellow		Yellow	Yellow	Yellow	Yellow			Yellow	Yellow	
Slovenia	Blue							Blue	Blue		
Spain	Yellow		Yellow		Yellow	Yellow	Yellow	Non-legally binding	Yellow	Yellow	Blue
Sweden											

Note: Blue cells represent regulations adopted before the pandemic. Yellow cells represent provisions that were new in 2020 or 2021.

Source: Authors, based on national contributions by the Network of Eurofound Correspondents

Annex 3: Mapping key provisions in national-level collective agreements

Provisions	Belgium	France	Italy	Luxembourg	Estonia (non-binding)
Telework regime					
Voluntary	X	X	X	X	X
Right to request	X	X			
Right to return	X	X	X	X	X
Mutual agreement	X	X	X	X	X
Information to be provided on OSH, contact, expenses, adaptation, privacy, training, etc.	X	X	X	X	X
Organisation of work					
Same duration of working time as at employers' premises	X	X	X	X	X
Workload		X			
Flexibility				X	X
Monitoring (proportional and information provided)	X	X	X	X	
Broad coverage of organisation of work		X			
Work-life balance directly or indirectly covered (more in newer agreements)	X		X	X	
Right to disconnect plus provisions on availability and dysconnectivity	X	X			
OSH					
Risk assessment (prior notification and consent required)	X	X	X		
Request for risk assessment	X	X	X	X	
MSD information	X	X		X	X
Prevention of psychosocial risks (isolation prevention)	X	X	X	X	X
Compensation					
Equal pay	X			X	X
Coverage of expenses related to telework implementation at employees' home	X	X	X	X	X
Others					
Home and co-working spaces covered	X	X	X	X	X
Geographical location		X			
Equal conditions to those at employers' premises	X	X	X	X	X
Gender equality		X			
Integration of workers with chronic disease or disability		X			
Training in ICT and/or working remotely	X	X	X	X	
Equal access to training	X	X	X	X	X
Career development		X			
Surveillance	X	X	X		X
Collective rights	X	X	X	X	X
Specific measure on collective rights	X	X			
Information on changing telework conditions	X	X	X	X	X

Source: Authors, based on national contributions by the Network of Eurofound Correspondents

Annex 4: Network of Eurofound Correspondents

Names of national correspondents who participated in the research

Country	National correspondent	Organisation
Austria	Bernadette Allinger	Working Life Research Centre (FORBA)
Belgium	Yennef Vereycken and Dries Van Herreweghe	HIVA – Research Institute for Work and Society, KU Leuven
Bulgaria	Ivan Neykov	The Balkan Institute for Labour and Social Policy
Croatia	Predrag Bejaković	Institute of Public Finance
	Irena Klemenčić	Faculty of Law, University of Zagreb
Cyprus	Loucas Antoniou	Cyprus Labour Institute (INEK-PEO)
Czechia	Renata Kyzlinková	Research Institute for Labour and Social Affairs (VÚPSV)
Denmark	Nanna Sklander and Louise Madsen	Oxford Research
Estonia	Ingel Kadarik	Praxis Centre for Policy Studies
Finland	Amanda Kinnunen	Oxford Research
France	Frédéric Turlan	IR Share
Germany	Sandra Vogel and Marc Breitenbroich	German Economic Institute (IW)
Greece	Elena Kousta	Labour Institute of the General Confederation of Greek Workers (INE GSEE)
Hungary	Nora Krokovay	Kopint-Tárki Institute for Economic Research
Ireland	David Murphy	IRN Publishing
Italy	Lisa Dorigatti	Università degli Studi di Milano
Latvia	Raita Karnīte	EPC Ltd
Lithuania	Ramune Guobaite-Kirsliene and Inga Blaziene	Lithuanian Centre for Social Sciences
Luxembourg	Franz Clement and Nicaise Misangumukini	Luxembourg Institute of Socio-Economic Research (LISER)
Malta	Anna Borg	Centre for Labour Studies, University of Malta
Netherlands	Paul Vroonhof	Panteia
Norway	Kristin Alsos	Fafo Institute for Labour and Social Research
Poland	Jan Czarzasty	SGH Warsaw School of Economics and Institute of Public Affairs
Portugal	Maria da Paz Campos Lima	Centre for Studies for Social Intervention (CESIS)
Romania	Raluca Dimitriu and Nicoleta Voicu	European Institute of Romania
Slovakia	Miroslava Kordosova	Institute for Labour and Family Research
Slovenia	Barbara Lužar	Faculty of Social Sciences, University of Ljubljana
Spain	Alejandro Godino	Centre for Sociological Studies on Everyday Life and Work, Autonomous University of Barcelona
Sweden	Anna-Karin Gustafsson and Nils Brandsma	Oxford Research

Getting in touch with the EU

In person

All over the European Union there are hundreds of Europe Direct information centres. You can find the address of the centre nearest you at: https://european-union.europa.eu/contact-eu_en

On the phone or by email

Europe Direct is a service that answers your questions about the European Union. You can contact this service:

- by freephone: 00 800 6 7 8 9 10 11 (certain operators may charge for these calls)
- at the following standard number: +32 22999696
- by email via: https://european-union.europa.eu/contact-eu_en

Finding information about the EU

Online

Information about the European Union in all the official languages of the EU is available on the Europa website at: <https://europa.eu>

EU publications

You can download or order free and priced EU publications at: <https://op.europa.eu/publications>

Multiple copies of free publications may be obtained by contacting Europe Direct or your local information centre (see https://european-union.europa.eu/contact-eu_en).

EU law and related documents

For access to legal information from the EU, including all EU law since 1952 in all the official language versions, go to EUR-Lex at: <http://eur-lex.europa.eu>

Open data from the EU

The EU Open Data Portal (<http://data.europa.eu/euodp>) provides access to datasets from the EU. Data can be downloaded and reused for free, both for commercial and non-commercial purposes.

This report sets out to map and analyse legislation and collective bargaining on telework in the 27 Member States and Norway. It highlights the main cross-country differences and similarities regarding telework legislation and recent changes to these regulations. It also examines the current situation regarding collective bargaining on telework. The analysis highlights many of the drawbacks and challenges of telework, focusing on provisions relating to access to telework, flexible working time, continuous availability/connectivity, isolation, occupational and health risk prevention and the costs incurred by the employee while working remotely. With COVID-19 having been an accelerator for regulating telework both in legislation and through collective bargaining, the report sheds light on how the future of telework could be regulated at national and EU level to improve working conditions and the well-being of workers.

The European Foundation for the Improvement of Living and Working Conditions (Eurofound) is a tripartite European Union Agency established in 1975. Its role is to provide knowledge in the area of social, employment and work-related policies according to Regulation (EU) 2019/127.

