

European Agency for Safety and Health at Work

# Regulating telework in a post-COVID-19 Europe: recent developments



European Agency  
for Safety and Health  
at Work



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## 1 Introduction

The unprecedented expansion of telework — home-based remote work — as a result of the outbreak of the COVID-19 pandemic gives rise to questions about the impact of this form of work organisation in the longer term, particularly because there are many reasons to believe that it will accelerate pre-existing trends towards the digitalisation of work and the increasing flexibility of work arrangements. Many employers have had a large proportion of their employees working from home since March 2020, when the public health measures and the lockdowns were implemented all over Europe and beyond to contain the spread of the virus. Both employers and employees with no previous experience of telework have had to become familiar with the advantages and drawbacks of this work arrangement. As time goes on, it is increasingly clear that telework and more flexible work organisation arrangements are becoming a more prominent and permanent feature for employers and employees in Europe.

While the literature outlines the potential benefits of telework for both organisations and individuals in terms of flexibility, autonomy, performance and work–life balance, studies also point out potential drawbacks. Telework has traditionally been associated with psychosocial risks, mainly related to the pervasiveness of information and communications technology (ICT) (extended availability and increased workload), blurring boundaries between work and private life (work–life conflict), and workers' isolation. Telework also entails higher ergonomic risks because working outside the employer's premises, using makeshift workstations at the worker's home, increases the complexity of risk assessment and the enforcement of occupational safety and health (OSH) standards by either the company or workers' representatives.

The increased prevalence of telework as a consequence of the COVID-19 pandemic has led to increasing interest regarding this form of work organisation and its impact on the wellbeing and health of employees. For this reason, in autumn 2020, the European Agency for Safety and Health at Work (EU-OSHA) conducted a consultation with its [national focal points](#) network through an online survey about existing legislation applicable to telework in a national context, and any legal changes, initiatives and debates resulting from the COVID-19 pandemic. The information collected was analysed and presented in the 2021 publication 'Regulating telework in a post-COVID-19 Europe'.<sup>1</sup> This information has been updated in 2023 based on the analysis of the contributions from the European Foundation for the Improvement of Living and Working Conditions (Eurofound) Network of National Correspondents and additional desk research to provide more up-to-date analyses of recent regulatory reforms.

This report presents therefore an analysis on how telework is currently regulated in Europe, based on the information gathered from the above-mentioned sources and an additional literature review. The report starts with an introductory overview of EU regulation post-COVID-19. The next section provides an account of permanent changes in legislation and developments in collective bargaining since the outbreak of the pandemic crisis. The report ends with some concluding remarks.

## 2 Regulation of telework in the EU

Before the outbreak of the COVID-19 pandemic, telework was not regulated at the EU level through hard-law mechanisms, although several directives and regulations<sup>2</sup> enacted before 2020 address issues that are important for ensuring good working conditions for teleworkers (EU-OSHA, 2021). The main EU

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<sup>1</sup> See: <https://osha.europa.eu/en/publications/regulating-telework-post-covid-19-europe>

<sup>2</sup> Examples of directives and regulations that are relevant for ensuring good working conditions for teleworkers are: Directive 2003/88/EC of the European Parliament and the Council of the European Union of 4 November 2003 concerning certain aspects of the organisation of working time (OJ L 299, 18.11.2003); Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989); Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union (OJ L 186, 11.7.2019); and Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU (OJ L 188, 12.7.2019).

regulation addressing telework was introduced through the EU Framework Agreement on Telework concluded in 2002 (EU-OSHA, 2021). This agreement defines telework as a ‘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 employers’ premises, is carried out away from those premises on a regular basis’ (Article 2) (ETUC et al., 2006). Moreover, the EU Framework Agreement on Telework addresses different regulatory dimensions such as the telework regime (voluntary principle, reversibility), employment conditions, training, collective rights, privacy, working time, equipment and OSH (EU-OSHA, 2021).

Since the outbreak of the pandemic crisis, two key EU initiatives have addressed relevant issues for the regulation of telework. First, attention must be drawn to the legislative initiative from the European Parliament (January 2021),<sup>3</sup> which calls on the European Commission to propose a law aimed at recognising the right to disconnect. This law should also establish minimum requirements for remote working and clarify working conditions, hours and rest periods. The legislative initiative was passed with 472 votes in favour, 126 against and 83 abstentions.

Second, it is worth mentioning the European social partners’ negotiation process on ‘Telework and the right to disconnect’. On 28 June 2022, EU-level cross-industry social partners signed a work programme that includes the negotiation of a legally binding agreement on ‘telework and the right to disconnect’ through a directive. At the time this report was written (June 2023), the outcomes of the negotiations had not been made public.

### 3 Changes in national regulation and debates post-COVID-19

This section provides an account of permanent changes in the regulation of telework since the outbreak of the COVID-19 pandemic. To this aim, the section follows the classification set up in the previous EU-OSHA report (EU-OSHA, 2021), which distinguished two main groups of countries:

- **countries with statutory definitions and specific legislation on the use of telework** (work organisation, employment conditions, etc.) established in the labour code or related legislation (Austria, Belgium, Bulgaria, Czechia, Spain, Germany, Estonia, France, Greece, Hungary, Ireland, Croatia, Italy, Lithuania, Luxembourg, Latvia, Malta, the Netherlands, Poland, Portugal, Romania, Slovenia and Slovakia);<sup>4</sup> and
- **countries without statutory definitions and specific legislation addressing telework or where telework arrangements are dealt with in different laws** related to data protection, safety and health, or working time (Cyprus, Denmark, Finland and Sweden).

#### 3.1 Countries with statutory definition and specific legislation

##### 3.1.1 Legal changes

Since the beginning of the COVID-19 pandemic, permanent legislative initiatives on telework have been passed in **Austria, Belgium, Croatia, Estonia, Greece, Ireland, Latvia, the Netherlands, Poland, Portugal, Romania, Slovakia** and **Spain**. The legislative changes introduced have encompassed, in particular, the following topics: statutory legislation, the right to request telework, the right to disconnect, compensation for the costs of teleworking and OSH. Under this heading the report provides details on the main provisions regulated for each of these topics.

<sup>3</sup> European Parliament resolution of 21 January 2021 with recommendations to the Commission on the right to disconnect (2019/2181(INL)).

<sup>4</sup> In the previous EU-OSHA report, Austria, Ireland and Latvia were included in the group of countries without statutory definitions and specific legislation. As shown in section 3.1.1, these countries have developed statutory legislation on telework and, accordingly, are currently grouped with those countries that have specific legislation on telework.

## Statutory legislation

Since the outbreak of the pandemic crisis, changes in the statutory definitions of telework were made in seven countries: **Austria, Croatia, the Netherlands, Portugal, Romania, Slovakia** and **Spain**. Generally, new statutory definitions set up in these countries tend to follow the wording used in the EU Framework Agreement or follow a similar approach.

- In all of these countries, telework under new definitions is understood as a *work arrangement* rather than a *labour contract* and is circumscribed to dependent employment relationships.
- In several countries, new definitions make an explicit reference to ICT usage (**Portugal, Romania** and **Spain**).
- In most of these countries, telework tends to include several alternative workplaces to the employers' premises. For instance, in **Croatia**, the amendments to the Labour Act that were passed on 16 December 2022 have introduced the possibility of remote work, under which the employees can freely determine their place of work. Only in the case of **Austria**, statutory definition that was approved through the so-called Home Office Law is circumscribed to working from home or home office. However, work performed in a home at a secondary residence, in the home of a close relative or a partner, also counts as working from home.

New definitions passed in these countries follow, however, different directions in relation to the criteria of regularity. In **Portugal**, the requirement of regularity (*'habitualidade'*) was removed from the statutory definition (Law No. 83/2021, of 6 December 2021). In contrast, in **Slovakia**, this requirement was added (amendment to the Labour Code of March 2021). However, this feature is not precisely defined and can include, for instance, an agreement to work remotely for a specified number of days during the week, such as one or two days. Moreover, in **Spain**, regularity was specifically defined in terms of the proportion of working time. Telework legislation only applies when teleworkers work at least 30% of their effective total working hours remotely over a three-month period (Royal Decree-Law 28/2020 of 22 September 2020). In contrast, in **Romania** (Regulation Nos. 192/2020 and 36/2021), 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.

## Right to request telework

Before the pandemic crisis, most EU legal systems followed the 'voluntary principle' set out in the EU Framework Agreement on Telework. Thus, the decision of getting access to telework had to be based on an agreement between the employee and employer, normally following an employee request. Moreover, most EU legal frameworks required that the telework regime be set out in the employment contract or in a written individual agreement (Eurofound, 2022).

In recent years, debates about workers' rights to request and get access to telework have been at stake at the policy level and among scholars (Chung, 2022; Koslowski et al., 2021). These debates call into question previous regulatory approaches exclusively based on the voluntary principle recognised in the EU Framework Agreement. Moreover, it is worth noting that the right to request flexible working arrangements has been recognised in the EU Work-Life Balance Directive (EU-OSHA, 2021).

Since the outbreak of the pandemic crisis, the following six EU countries have regulated the right to request telework following similar approaches:

- In **Croatia**, since 1 January 2023, employees may request to temporarily work outside the employer's premises in statutorily predefined cases (e.g. pregnancy, personal care of a family member, etc.) and the employer needs to consider such requests and provide the employee with a substantiated response within 15 days.
- In **Greece**, the right to request telework has been regulated in the event of a documented risk to the workers' health through a ministerial decision issued in November 2022 (based on Law 4808/2021 Article 67 on telework) that is in force since 1 January 2023. The new regulation

provides a list of 60 diseases that entitle employees to request telework for as long as this risk lasts. Employees with those diseases can submit a request to their employer for the provision of telework, submitting at the same time a medical opinion of the competent health committee. If the employer does not respond within this period, the request is deemed to have been accepted. If the employer rejects the request, they must justify the decision on the basis of either the special nature of the employee's duties (owing to which a telework arrangement is not justified) or the lack of a documented risk to the employee's health that could be avoided with telework.

- In **Ireland**, the Irish government approved the integration of the Right to Request Remote Work for all workers into the Work Life Balance and Miscellaneous Provisions Bill, which was signed into law by the president in April 2023. Under the new legislation, employees have a legal right to request remote working from their employer. In addition, employers are now required to have regard for the Code of Practice when considering requests. The Code of Practice has been established on a statutory footing, and it is expected that it will include guidance to employers and employees as to their obligations regarding compliance.
- In **the Netherlands**, the legislative proposal 'Work Where You Want' was passed by the House of Representatives on 5 July 2022. This act amends the 'Flexible Working Act' and makes it more difficult for employers to reject a request from the employee to adjust their place of work. Under the new act, an employer must grant a request to change the place of work if, taking into account all the circumstances of the case, the employer finds that the employee's interests outweigh their own in keeping with the standards of reasonableness and fairness. In this context, the desired place of work must be the employee's home address within the territory of the EU or a suitable work location from which work is usually performed for the employer. At the time of writing, the law is still before the Senate for approval.
- In **Poland**, the amendment to the Labour Code that entered into force on 7 April 2023 has extended the catalogue of employees for whom the employer is obliged, if possible, to consider the request for remote work. The new catalogue includes parents of children under four years of age, as well as persons caring for an adult disabled person.
- **Portugal** regulated the right to request telework in December 2021. According to Law No. 83/2021 of 6 December 2021, if the functions performed by the employee requesting telework are compatible with the telework regime, the employee's request can only be refused by the employer in writing and with a justification for such refusal. In addition, the same regulation has set up the right to telework for workers with children up to eight years of age in specific situations. In this case, 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 micro-companies.

### Right to disconnect

EU Member States have legal coverage that guarantees workers the right to compulsory rest outside of their working hours. Moreover, several EU Member States such as **Spain** have also developed regulations on recording working time that support the enforcement of and compliance with working time regulations. However, there are debates as to whether it is enough to apply the traditional right to rest provided in labour regulations to ensure that employers make certain of correct use of ICT devices and 'flexible working arrangements', thus allowing employees to effectively plan their own working hours and leisure time (Bell et al., 2021; Lerouge & Trujillo Pons, 2022). In a context characterised by the extension of telework, debates on the right to disconnect are high in the political agenda at the EU and national levels to enhance work–life balance rights and better protect workers' health and safety against adverse effects in an 'always on' working culture.

As explained in a previous EU-OSHA report (EU-OSHA, 2021), before the outbreak of the pandemic crisis there were only four countries that regulated the right to disconnect (**Belgium, France, Italy and Spain**). Since 2020, new legislation on the right to disconnect has been passed in **Belgium, Croatia,**



**Greece, Ireland (Code of Practice, Portugal, Slovakia and Spain** (new regulation modified minor aspects compared to previous regulation approved). In all these countries except for **Greece** and **Slovakia**, the right to disconnect formally applies to all employees. In **Greece** and **Slovakia**, the right is circumscribed mainly to teleworkers. Below is a summary of the main provisions approved in each country:

- In **Belgium**, the right to disconnect was introduced within an Act regarding the strengthening of economic growth and social cohesion of 26 March 2018 (EU-OSHA, 2021). In September 2022, the federal government came to an agreement to implement changes on the right to disconnect as of 1 January 2023. According to this new regulation, employers with 20 or more employees are obliged to work out the modalities of a right to disconnect on company level. The law provides a minimal framework that employers at least need to implement in their policies. This framework is composed of three pillars: overview of the practical modalities for the application of the right to be unavailable outside working hours; guidelines for using digital tools in such a way as to safeguard rest periods and holidays; and education and awareness campaigns for employees on the sound use of digital tools and the risks associated with an 'always on' culture. Moreover, in February 2022 a new law was introduced regulating the right to disconnect for civil servants.
- In **Croatia**, the right to disconnect was regulated through the amendments to the Labour Act that were passed on 16 December 2022 and entered into force on 1 January 2023. According to this regulation, the employer should not contact the employee outside working hours, unless: there is an urgent matter; this is required due to the nature of the work; or if such a possibility has been envisaged under the collective agreement or individual employment agreement.
- In **Greece**, the right to disconnect was approved through Law No. 4808-19-06-2021. The right to disconnect is defined as a worker's right to completely refrain from carrying out any work-related activities or communication outside working time. Moreover, the law has also envisaged new measures to reinforce enforcement. It has approved the creation of a special monitoring division for teleworking at the Labour Inspectorate.
- In **Ireland**, a Code of Practice for Employers and Employees on the Right to Disconnect was approved in 2021. The Code of Practice does not include a precise definition of the right to disconnect but provides a general obligation for employers to allow people to disconnect, for example, reminders not to check emails out of working hours. The Code of Practice also states that employers should draw up a policy on the right to disconnect in consultation with staff.
- In **Portugal**, the right to disconnect was regulated within a law that modified the telework regime (Law no 83/2021, of 6 December 2021) even though the term is not explicitly mentioned. The right to disconnect is defined as a duty of absence of contact by the employer (Pinto Ramos, 2022). Employers must refrain from contacting employees, regardless of the place they work from, during rest periods, except in cases of force majeure (new Article 199-A of the Labour Code). As in Greece, the law has also introduced enforcement measures aiming to reinforce compliance with the new right. Failure to comply with the employer's obligation to refrain from contacting the employee during the rest period may be considered an administrative offense. Moreover, any less favourable treatment given to a worker, in particular with regard to working conditions and career advancement for exercising the right to a rest period, is considered discrimination (Lerouge & Trujillo Pons, 2022).
- In **Spain**, regulation on the right to disconnect resulted from the transposition in 2018 of the EU General Data Protection Regulation (GDPR). Moreover, the 2020 regulation on telework (Royal Decree-Law 28/2020) has strengthened the pre-pandemic provisions concerning the right to disconnect (mainly in terms of risk prevention and psychosocial risks). As in the case of Greece and Portugal, the regulation also pays attention to enforcement. The lack of a right to disconnect policy can lead to two types of sanctions. On the one hand, sanctions for non-compliance with working conditions and legal obligations, which are serious infractions, are punishable with fines of up to €6,250. On the other hand, failing to have a disconnection policy can be sanctioned



from the standpoint of prevention of occupational risks if there is a connection between the lack of this protocol and psychosocial risks such as burnout, stress and related impacts.

- In **Slovakia** (76/2021), the right to disconnect was introduced into comprehensive labour market reforms. The law provides that employees working from home are entitled to not use work equipment (i.e. be logged in or connected) during their daily rest or holidays.

### Compensation for the costs of telework

The topic of compensation of the costs incurred by the teleworker is partially addressed by the EU Framework Agreement on Telework (EU-OSHA, 2021). More recently, the European Economic and Social Committee (EESC) has addressed this topic in its opinion titled '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, the question of compensation of the cost of telework is also relevant from an OSH perspective, as it is crucial to ensure that workers have an adequate work environment when working outside the employers' facilities (EU-OSHA, 2021).

New provisions on cost compensation for teleworkers have been introduced in **Austria, Poland, Portugal, Romania, Slovakia** and **Spain**. Although they all introduce some new requirements in terms of cost compensation or provision of equipment, there are some ambiguities in some of the new provisions that may hinder its proper implementation.

- In **Austria**, new regulation provides that the employer is obliged to provide the employee with the 'necessary digital work equipment'. This especially includes IT hardware and also a data connection (Internet). Alternatively, if the employee makes use of their own equipment, the employer is obliged to cover 'appropriate' related costs, potentially in the form of a flat-rate compensation. However, the law does not define in more detail what is meant by 'appropriate' costs and, accordingly, there are some doubts on the actual compensation that can be provided.
- In **Poland**, the amendment of the Labour Code that entered into force on 7 April 2023 provides that the employer must also determine what costs will be reimbursed to the employee in connection with the remote work. However, it obliges the employer to provide reimbursement for electricity (to the extent it is used for the work tools) and telecommunications services such as internet service.
- In **Portugal**, new regulation on telework provides that the employer must fully compensate the employee for all 'additional expenses' incurred with the teleworking regime. This includes all the expenses incurred with the acquisition or use of equipment and computer or telematic systems necessary to carry out the work, including the addition of costs of energy and the network installed in the workplace at speed conditions compatible with the service communication needs, as well as the maintenance costs of equipment and systems. However, some doubts arise about its implementation because of the lack of criteria for the quantification of additional expenses. It has been argued that there may be situations in which workers within the same professional category, within the same company, and using the same work instruments in the performance of their activity will receive compensation for increased expenses of very unequal amounts (TWING, 2023).
- In **Romania**, Law 296/2020 on certain amendments and additions to the Fiscal Code provides that employers are able to offer employees who work remotely up to RON 400 per month, to pay utility bills, as well as to purchase ergonomic furniture or work equipment. The sums of money that can be granted in this way are not subjected to taxation and are not part of the monthly calculation basis for social contributions, but they can be deducted by the employer from the calculation of the profit tax.
- In **Slovakia**, the new amendment provides that if employees, when performing telework, use their own equipment with the consent of the employer, the employer must reimburse them for related costs under conditions agreed upon in the employment agreement or the collective

bargaining agreement. However, some doubts arise regarding the manner and extent of reimbursement of employee costs related to remote working (e.g. for Internet, electricity).

- In **Spain**, the Royal Decree-Law 28/2020 provided that the teleworker must not bear the costs related to the provision of services. This provision is, however, assessed as very ambiguous (Torres García, 2021) and may require jurisprudence (Pérez del Prado, 2020). As in most of the provisions, the regulation makes a reference to collective bargaining to regulate this issue.

### Occupational safety and health

OSH has been one of the main areas of concern in relation to telework since the outbreak of the pandemic crisis. In the pandemic context, several studies consistently showed that teleworkers are particularly exposed to psychosocial risks, musculoskeletal disorders (MSDs) and other physical health problems such as eye strain (EU-OSHA, 2021). As indicated in the 2021 EU-OSHA report (EU-OSHA, 2021), a key problem in the context of telework concerns the practical implementation and enforcement of OSH standards.

Although there is increasing awareness of OSH problems in the context of telework, it appears that only seven countries have developed new legislation on telework and OSH since the outbreak of the pandemic crisis: **Austria, Croatia, Greece, Estonia, Poland, Portugal and Spain**.

New provisions address issues such as risk assessment and enforcement (**Croatia, Estonia, Portugal and Spain**), coverage of employers' accident insurance (**Austria**), and new rules aiming to prevent psychosocial risk and other physical health problems such as eye strain (**Greece, Portugal and Spain**).

It is however worth highlighting that reforms in the field of OSH have followed different directions in relation to some key topics such as risk assessment and enforcement. While in some countries OSH enforcement has been strengthened by providing company's OSH professionals with access to teleworkers' workplaces to inspect workers' compliance with OSH (e.g. Croatia and Portugal), there are countries where employers have been exempted from previous OSH obligations (Poland). Below is a summary of the main OSH provisions developed since the outbreak of the pandemic crisis:

- In **Austria**, an amendment approved through the so-called Home Office Law provides that an employer's accident insurance must cover teleworkers, as well as certain accidents that occur outside of the worker's home.
- In **Croatia**, new Article 17(b) (6) of the Act of 16 December 2022 amending the Labour Code allows the employer to enter the employee's home or other premises for the purpose of monitoring the employee's working conditions, provided that this has been contractually agreed.
- In **Greece**, Law No. 4808-19-06-2021 provides that the employer must inform the teleworker regarding the company's policy on safety and health at work, including on specifications for areas where telework is permitted, rules for the use of visual display screens, breaks, and organisational and technical means.
- In **Estonia**, new amendments specific to telework and OSH were added in 2022 (Estonian Labour Inspectorate, 2022). The employer is obligated to conduct a risk analysis of the place of work, reflecting on the potential risks associated with the nature of the work, as well as taking into account the peculiarities of remote work. The employer must then take measures to prevent or reduce employee health risks identified in the risk assessment. However, the employer is not obliged to go to the employee's home and check the set-up. Thus, the risk assessment can be done through conversation and doesn't require a physical visit to the place of work, but it must be recorded in writing.
- In **Poland**, new regulation has exempted employers from some of their OSH obligations that apply when work is performed at the employers' facilities in the context of hybrid work (e.g. organising the workplace in accordance with OSH regulation). According to new regulation,

which entered into force on 7 April 2023, the employer is only required to exercise due diligence and provide the employee with OSH guidance and instructions. The information provided to the employee must include the principles and methods of proper organisation of the remote workstation, taking into account the requirements of ergonomics and the rules of conduct in emergency situations that pose a threat to human life or health.

- In **Portugal**, Law No. 83/2021, of 6 December 2021, modified several aspects of the telework OSH legislation. First, the regulation forbids telework for activities involving the use of or contact with substances and materials hazardous to the health or physical integrity of the employee, except if carried out in facilities certified for this purpose. Second, the regulation obliges the employers to comply with the minimum health and safety requirements regarding work and equipment with screen display. Third, the regulation obliges the employee to give access to the place where they work to professionals designated by their employer who are responsible for the evaluation and control of health and safety conditions at work, during a previously agreed upon period, between 9.00 and 19.00, always within the working schedule.
- In **Spain**, the Royal Decree-Law 28/2020 of 22 September 2020 on remote work has strengthened existing provisions regarding risk assessment in the context of telework. The regulation obliges the employer to carry out a risk assessment of the place of telework (e.g. residence or other place selected by the teleworker), and to inform the employee of the risks existing in their place of telework. To obtain information about occupational risks, the company (or OSH-related services) may visit the place of work chosen by the teleworker (only with the permission of the teleworker, if they work from home). Risk assessment relates only to the space used for telework. If permission by the worker for a company visit is not granted, a risk assessment should be carried out on the basis of the information collected by the teleworker themselves, in accordance with the operating instructions of risk prevention. Moreover, the law establishes that the employer must also take protective measures to support particularly vulnerable employees, such as pregnant employees.

### 3.1.2 Regulation through collective bargaining

The experience of the pandemic has given new momentum to the regulation of telework through collective bargaining at different levels, with particular attention paid to OSH issues. A review of a large sample of collective agreements on remote work from 25 countries by UNI Global, most of which were stipulated during the pandemic, show that more than two-thirds of agreements covered provide for some regulation on OSH issues. However, most of these provisions are limited to general statements that employees must follow company OSH regulations, while in very few cases they consider preventive measures regarding specific risks, such as the risk of social isolation or MSDs due to poor ergonomics (UNI Global, 2022).

The most far-reaching collective agreements on telework at the national level are found within the group of countries with a statutory definition of telework. In **Belgium, France and Luxembourg, cross-sectoral agreements** on telework with a binding force have been newly negotiated or updated following the COVID-19 pandemic with increased awareness regarding the risks involved by this work arrangement (Eurofound, 2022).

In **Belgium**, in January 2021, a social dialogue tripartite body, the National Labour Council, concluded negotiations on a new Collective Labour Agreement (No. 149), with specific provisions on employers' responsibility for risk assessment, prior notification and agreement of the employee concerned.

In **France**, social partners at the national level signed a cross-sectoral agreement for the successful implementation of telework (*Accord National Interprofessionnel du 26 novembre 2020 pour une mise en œuvre réussie du télétravail*) in November 2020. The agreement is aimed at clarifying and updating existing regulations, with a view to enhance the role of social dialogue in the implementation of telework arrangements at sector and company levels. Pursuant to its legal extension in April 2021, the agreement became legally binding for most employees and employers in the private sector in France, although some margins for derogation exist where a previous agreement on telework is in force, even if such

agreement is less favourable from the employees' point of view. The agreement provides that both employers and employees' representatives get access to the teleworkers' home office prior to an agreement being reached with the employee concerned.

In **Luxembourg**, social partners agreed on a new interprofessional agreement 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.

**Sectoral-level bargaining** on telework is becoming increasingly prevalent in countries with a statutory regulation of telework. Existing legislation in some of these countries leaves key aspects to be regulated by sector-level agreements (**Austria, the Netherlands, Portugal, Spain, Slovenia and Italy**). By contrast, in other countries, sectoral collective bargaining plays a minor role precisely because of the existence of a comprehensive legislation (**Luxembourg**) or higher-level national collective agreements (**Belgium**) (Eurofound, 2022).

Collective bargaining on telework is more prevalent in **manufacturing** and **knowledge-intensive service sectors such as** ICT and financial activities (Eurofound, 2022). Following the COVID-19 outbreak, new amendments to existing agreements on telework or new agreements were negotiated, particularly in those cases in which sectoral collective agreements already dealt with telework before the crisis. For instance, in **manufacturing**, new provisions on telework were included in the sectoral collective agreement in the electrical and electronics sector in **Czechia** in January 2021, and a new agreement on telework was concluded in the chemical industry in **Spain** in July 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 recent agreement for the renewal of the sectoral collective agreement in April 2023 has been reached after three years of bargaining. This agreement includes a new clause on telework.

It should be noted, however, that in some cases, new sector-level provisions on telework are often limited to general references to statutory provisions. This is the case of **Spain** and **Austria**. For instance, new clauses included in the **Spanish chemical and ICT sector-level agreements** (2021) state that the provisions of the new legislation shall apply and establish a minimum compensation for telework costs of €35 and €17 per month, respectively, but they do not address other aspects of working conditions. The **Austrian sector-level agreement for white collar workers in the ICT and consulting sector** includes recommendations on working time, such as the need to agree on availability timeframes in which the teleworker is reachable and other issues that do not go beyond the requirements set by law. In both countries, a more comprehensive regulation is developed at company level. However, in the case of Austria, information on so-called company agreements between the management and the works council is not always publicly available (Eurofound, 2022).

OSH issues are among the most common issues dealt with in **sector-level bargaining** on telework, particularly in relation to provisions on risk assessments (Box 1) and risk prevention.

#### Box 1: Risk assessment in the Czech electronics sector

Sectoral collective bargaining set general requirements to carry out a risk assessment but the sectoral agreement of the Electrical and Electronic Association of the Czech Republic, agreed in January 2021, places the responsibility for OSH compliance on the employee, which contradicts the existing legal framework (Eurofound, 2022).

Provisions are also found regarding prevention and awareness of physical and psychosocial risks, the latter emphasising the need to build on a relationship of trust among the teleworker and co-workers and managers to avoid the risk of isolation (Boxes 2 and 3).

### Box 2: Risk prevention in the Romanian financial sector

The 2022 Romanian finance sectoral agreement asserts that companies should ‘protect the physical and mental health of employees and ensure that there is a balance between their work and private lives.’

In addition, the agreement specifies that companies must provide employees with training on how to remain active during the day and take steps so that employees have regular communication with their colleagues to reduce psychosocial risks associated with isolation. This active consideration of employees’ health and safety, including mental health, and subsequent implementation of training and facilitated communication to prevent social isolation is especially robust among the health and safety clauses we reviewed (Uni Global, 2022).

### Box 3: Prevention of isolation risks in the Offices sector in the Region of Valencia (Spain)

The ‘Prevention of isolation risks in the Offices sector in the Region of Valencia (Spain)’ agreement was signed in 2022 and includes specific provisions for the scheduling of meetings within working hours and the promotion of face-to-face interactions to avoid the risk of isolation.

At **company level**, the most common provisions of telework refer to conditions for access to telework, the frequency and duration of telework, and expenses and coverage of costs. Other prominent provisions are working time patterns (Box 4), risk assessment (Box 5) and general OSH issues (Eurofound, 2022).

### Box 4: Organisation of working time and the right to disconnect in company-level agreements

Examples of company-level clauses in insurance companies in Spain and the Netherlands provide teleworkers with more flexibility in the organisation of their working time and rest periods than ‘regular’ on-site work.

The company agreement of Aegon Insurance (2020-2022) in the Netherlands states that: ‘Working hours are extended to provide more flexibility to workers in terms of when they want to work.’

The company agreement of Allianz Spain (2021) establishes the right to disconnect and flexible work in telework arrangements.

In regard to OSH, provisions on the risk assessment of teleworkers’ home offices are relatively common (Box 5), while provisions on the prevention of psychosocial risks are rather rare (Box 6).

### Box 5: Risk assessment in company-level agreements

A provision in the company agreement of the French SUEZ Group (2020) set out that employees’ homes must fulfil certain safety criteria for the employee to be eligible for telework.

*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).*

Other company agreements’ provisions foresee that the employer or trade union representatives get access to the employee’s home office for checking compliance with OSH standards.

The collective agreement on telework at West German Broadcasting (2018) states that: ‘Within one day’s notice, employees need to grant access to the telework station in their homes, if requested by the employer.’

### Box 6: Psychosocial risk prevention clauses in company-level agreements

The French PSA Group agreement (2021) on motivation and wellbeing states that: ‘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.’



## 3.2 Countries without statutory definition and specific legislation

Nordic countries without statutory definitions of telework stand out for strong collective bargaining institutions, but this contrasts with the relatively small numbers of sectoral agreements with relevant provisions on telework. This apparent contradiction is explained by the existence of enough legislation for health and safety and working time that provides a regulatory framework for telework (Eurofound, 2022).

Provisions dealing with telework and working time in sectoral agreements assimilate telework to 'regular' work, as for overtime compensation, while granting some flexibility of working hours (Boxes 7 and 8).

### Box 7: Working time guidelines in the sectoral collective agreement for the Finnish financial sector

The Collective Agreement for the Financial Sector 2022-2024 in Finland comprises guidelines on the organisation of working time in accordance with Working Time Act provisions (TWING, 2023):

*The parties must agree on the daily and weekly regular working time and on the times when the employee is available to be contacted by the employer. ... If the employee is free to decide when the employee carries out the work, no increments are paid for remote work. Any overtime work must be agreed with the employer. If the parties agree on other additional work during the validity period of the remote work agreement, its effects on working time and remuneration must also be agreed in connection with the same.*

### Box 8: Working time provisions in the trade sector in Norway

The national sectoral collective agreement for the trade sector in Norway (2020-2022) sets telework as equal to 'regular' work in terms of working time (Eurofound, 2022):

*The employee follows the working hours in force in the company at any given time and which appears from laws 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.*

With regard to OSH issues, sectoral-level agreements' provisions stress the employers' duty to provide workers with adequate guidance and instructions, as well as the employees' responsibility for compliance. Special attention is also placed on psychosocial risk prevention (Box 9).

### Box 9: Psychosocial risks awareness in the financial sector in Finland

The Collective Agreement for the Financial Sector 2022-2024 in Finland shows awareness of the prevalence of psychosocial risks in the context of telework (TWING, 2023):

*Psychosocial stress factors mean factors related to work content and arrangements and the social functioning of a work community, which may cause detrimental stress to employees. A model for monitoring occupational well-being may be developed in cooperation with occupational health care services and the occupational health and safety personnel, with the special features of remote work taken into account.*

## 4 Concluding remarks

This report updates a previous EU-OSHA report analysing the regulation of telework in Europe at the time of the COVID-19 pandemic (EU-OSHA, 2021), based on the analysis of the contributions from the Eurofound Network of National Correspondents and additional desk research.

The report shows that in several countries the experience of extensive and prolonged telework during the pandemic has fuelled changes in legislation aimed at better adapting the regulation of telework in a

post-COVID-19 scenario. At the time of writing (June 2023), 12 countries have implemented permanent legal changes in the statutory legislation of telework since the outbreak of the COVID-19 pandemic: Austria, Belgium, Croatia, Estonia, Greece, Latvia, the Netherlands, Poland, Portugal, Romania, Slovakia and Spain. The legislative changes have encompassed five main aspects: (1) statutory legislation; (2) the right to request telework; (3) the right to disconnect; (4) compensation for the costs of telework; and (5) OSH provisions.

New statutory definitions have been introduced in Austria, Croatia, the Netherlands, Portugal, Romania, Slovakia and Spain. New definitions tend to follow the wording used in the EU Framework Agreement on Telework or follow a similar approach except in relation to the criteria of regularity. With regard to this principle, different directions have been followed in some of the reforms identified: in some cases, the requirement of regularity has been removed (Portugal) or made more flexible by removing the requirement for a certain number of days to be worked remotely (Romania). In contrast, in other countries, it has been introduced (Slovakia) or been more precisely defined (Spain). In a context of growing debates about hybrid work arrangements, further regulatory developments can be expected on this matter (Eurofound, 2023).

The right to request telework has been regulated in six EU Member States (Croatia, Greece, Ireland, the Netherlands, Poland and Portugal) either to support access to telework for certain workers (e.g. pregnant women or employees with care needs or health problems) or to make such requests more difficult for employers to reject in cases where jobs are 'teleworkable'.

The right to disconnect is currently in force in nine countries: Belgium, Croatia, France, Greece, Ireland (Code of Practice), Italy, Portugal, Slovakia and Spain. From these countries, only Belgium, Italy, France and Spain had passed legislation on the right to disconnect before the pandemic crisis. In all cases, the right to disconnect intends to improve the OSH of teleworkers and other employees using ICT for work purposes by preventing the risks of permanent connectivity. However, the definitions and approaches to implement the right widely varies across these countries. Moreover, the report has shown that only a few countries (Greece, Portugal and Spain) have regulated enforcement measures aiming to ensure compliance with this right.

New provisions on cost compensation for teleworkers have been introduced in Austria, Poland, Portugal, Romania, Slovakia and Spain. In this regard, the report has shown there are some ambiguities in some of the new provisions that may hinder their proper implementation.

In terms of OSH legislation, the report has shown that only Austria, Croatia, Greece, Estonia, Poland, Portugal and Spain have regulated new provisions. Generally, new provisions deal with issues such as risk assessment and enforcement and new rules aiming to prevent psychosocial risk and other physical health problems such as eye strain.

Finally, the report has analysed the role played by collective bargaining in the regulation of telework. Generally, it appears that collective bargaining has played a more prominent role in some of the countries that have statutory legislation. In several of these countries, statutory legislation only provides a general regulatory framework and leaves the development of more precise principles to sectoral and company collective bargaining. Accordingly, the report has identified new cross-sectoral, sectoral and company collective agreements regulating different aspects of telework (OSH, working time organisation, etc.) in several countries having statutory legislation (Austria, Belgium, Czechia, France, Luxembourg, Spain and the Netherlands).

Nevertheless, the report has also identified several cases where clauses developed are particularly vague or merely refer to the general statutory framework. In the Nordic countries, the little available evidence does not allow for the identification of new patterns of collective bargaining in telework. New



sectoral collective agreements identified only provide general guidelines and there is no evidence of new company collective agreements. In any case, the analyses of regulation resting on collective bargaining clearly shows that further research is needed, particularly at company level, to better understand how managers and workers' representatives are implementing existing regulation (e.g. the right to disconnect) or adapting work organisation practices to new changes brought by telework or new flexible working arrangements (such as hybrid work).

## 5 Bibliography

- Andersen. (2020). *European guide to support employers: Teleworking in Europe*.  
<https://es.andersen.com/en/publications-and-news/european-guide-to-support-employers-teleworking-in-eu.html>
- Bell, M., Lasek-Markey, M., Eustace, A., & Pahlen, T. (2021). *A right to disconnect: Irish and European legal perspectives*. Covid-19 Law and Human Rights Observatory, Trinity College Dublin. <http://www.tara.tcd.ie/handle/2262/96632>
- Centro de Relações Laborais. (2018). *Relatório Anual Sobre a Evolução Da Negociação Coletiva Em 2017*. <https://www.crlaborais.pt/documents/10182/13326/CRL+-+Relat%C3%B3rio+Anual+NC+-+2017+-+%28vers%C3%A3o+atualizada+em+08.08.2018%29/2f65f793-0178-4a7a-8bed-2a01d01e0b85>
- Cetrulo, A. (2021). *Early adoptions of remote work in Italian collective bargaining agreements: From flexible working time to the risk of surveillance and unpaid overtime. Lessons for the post-Covid agenda*. <https://wageindicator.org/documents/eng-powerpoint-cetrulo.pdf>
- Chung, H. (2022). *The flexibility paradox. Why flexible working leads to (self-)exploitation*. Bristol University Press.
- DARES. (2019, 4 November). *Quels sont les salariés concernés par le télétravail?* DARES Analyses, No 051. <https://dares.travail-emploi.gouv.fr/publications/quels-sont-les-salaries-concernes-par-le-teletravail#:~:text=Les%20%C3%A9l%C3%A9travailleurs%20sont%20majoritairement%20des,mode%20d'organisation%20du%20travail>
- Estonian Labour Inspectorate. (2022). *Kaugtöötaja töötervishoid ja ohutus*.  
[https://tooeu.ee/sites/default/files/2022-12/Kaugt%C3%B6taja%20t%C3%B6tervishoid%20ja%20ohutuse%20juhis\\_uuendatud.pdf](https://tooeu.ee/sites/default/files/2022-12/Kaugt%C3%B6taja%20t%C3%B6tervishoid%20ja%20ohutuse%20juhis_uuendatud.pdf)
- ETUC, UNICE-UEAPME, & CEEP. (2006). *Implementation of the European Framework Agreement on Telework — Report by the European social partners*. <http://erc-online.eu/wp-content/uploads/2014/04/2006-01429-EN.pdf>
- EU-OSHA – European Agency for Safety and Health at Work (2021), *Regulating telework in a post-COVID-19 Europe*. Available at: <https://osha.europa.eu/en/publications/regulating-telework-post-covid-19-europe>
- Eurofound. (2010). *Telework in the European Union*. Publications Office of the European Union.
- Eurofound. (2018). *Measuring varieties of industrial relations in Europe: A quantitative analysis*. Publications Office of the European Union.
- Eurofound. (2020a). *Regulations to address work-life balance in digital flexible working arrangements*. Publications Office of the European Union.
- Eurofound. (2020b). *Employee monitoring and surveillance: The challenges of digitalisation*. Publications Office of the European Union.
- Eurofound. (2022). *Telework in the EU: Regulatory frameworks and recent updates*. Publications Office of the European Union.
- Eurofound. (2023). *Hybrid work in Europe: Concept and practice*. Publications Office of the European Union.
- Hall, P. A., & Soskice, D. (2001). An introduction to varieties of capitalism. In P. A. Hall & D. Soskice (Eds), *Varieties of capitalism* (pp. 1-68). Oxford University Press.
- Koslowski, A., Blum, S., Dobrotic, I., Kaufman, G., & Moss, P. (Eds) (2021). *17th International review of leave policies and related research 2021*. International Network on Leave Policies and Research.

[https://www.leavenetwork.org/fileadmin/user\\_upload/k\\_leavenetwork/annual\\_reviews/2021/002\\_Koslowski\\_et\\_al\\_Leave\\_Review\\_2021\\_full.pdf](https://www.leavenetwork.org/fileadmin/user_upload/k_leavenetwork/annual_reviews/2021/002_Koslowski_et_al_Leave_Review_2021_full.pdf)

- Lerouge, L., & Trujillo Pons, F. (2022). Contribution to the study on the 'right to disconnect' from work. Are France and Spain examples for other countries and EU law? *European Labour Law Journal*, 13(3), 450-465. <https://doi.org/10.1177/20319525221105102>
- Meardi, G. (2018). Economic integration and state responses: Change in European industrial relations since Maastricht. *British Journal of Industrial Relations*, 56(33), 631-655. <https://doi.org/10.1111/bjir.12307>
- Pérez del Prado, D. (2020). Retribución y asunción de costes por la empresa. *Teletrabajo y negociación colectiva XXXIII*, 124, 21-58.
- Pinto Ramos, M. (2022, 9 March). *The right to disconnect – or as Portugal calls it – the duty of absence of contact*. Global Workplace Law & Policy. <http://global-workplace-law-and-policy.kluwerlawonline.com/2022/03/09/the-right-to-disconnect-or-as-portugal-calls-it-the-duty-of-absence-of-contact/>
- Prosser, T. (2012). Europeanization through 'procedures and practices'? The implementation of the telework and work-related stress agreements in the UK and Denmark. *Transfer: European Review of Labour and Research*, 18(4), 447-460. <https://doi.org/10.1177%2F1024258912458874>
- Sanz de Miguel, P. (2020). *Exploring the contribution of social dialogue and collective bargaining in the promotion of decent and productive virtual work*. Deep View project, Final Report. [https://drive.google.com/file/d/1JrHgEDU9swF4KM5H74gOJO-u\\_hptKIXK/view](https://drive.google.com/file/d/1JrHgEDU9swF4KM5H74gOJO-u_hptKIXK/view)
- Sanz de Miguel, P., Welz, C., Caprile, M., & Rodríguez Contreras, R. (2020). Industrial democracy in Europe: A quantitative approach. *Labour & Industry*, 30(2), 101-132. <https://doi.org/10.1080/10301763.2020.1774101>
- Sierra Benítez, E. M. (2013). La nueva regulación del trabajo a distancia. *Revista Internacional y Comparada de Relaciones Laborales y Derecho del Empleo*, 1(1), 1-35.
- Sierra Benítez, E. M. (2015). The regulation of telework in Spain's autonomous communities: An overall evaluation. In L. Mella Méndez & L. Serrani (Eds), *Work-life balance and the economic crisis: Some insights from the perspective of comparative law* (pp. 208-227). Cambridge Scholars Publishing.
- Sostero, M., Milasi, S., Hurley, J., Fernández-Macías, E., & Bisello, M. (2020). *Teleworkability and the COVID-19 crisis: A new digital divide?* European Commission, JRC121193.
- Torres García, B. (2021). Spain's Law No. 10/2021 on teleworking: Strengths and weaknesses. *E-Journal of International and Comparative Labour Studies*, 10(2), 41-61.
- TWING. (2023). *National desk research reports for Austria, Estonia, Finland, Portugal, Poland, and Spain*. Exploring the Contribution of Social Dialogue and Collective Bargaining in the Promotion of Decent and Productive Telework in the Post-COVID-19 Scenario. Forthcoming publication on project's website: <https://twingproject.eu/>
- UNI Global. (2022). *Remote work. A review of unions' collective bargaining response*. <https://uniglobalunion.org/report/remote-work-a-review-of-unions-collective-bargaining-response/>
- Visser, J., & Ramos Martin, N. (2008). *Expert report on the implementation of the social partner's Framework Agreement on Telework*. Amsterdam Institute of Advanced Labour Studies, University of Amsterdam.

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