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NOTE

From: Permanent Representatives Committee (Part 1)
To: Council

Subject: Draft Council conclusions on telework
- *Approval*

Delegations will find attached the draft Council conclusions on telework.

The text was approved by the Committee of the Permanent Representatives (Part 1) on 2 June 2021.

The Council (EPSCO) is invited to approve these Council Conclusions at its session on 14 June 2021.

Draft Council conclusions on telework

THE COUNCIL OF THE EUROPEAN UNION

HAVING REGARD TO

1. Article 151 of the Treaty on the Functioning of the European Union, which provides that the Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, are to have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to ensuring lasting high employment and the combating of exclusion.

2. The fact that the European Parliament, the Council and the Commission affirmed their shared political commitment to deliver on the European Pillar of Social Rights (hereinafter ‘the Pillar’), which includes principles on the fundamental rights of workers and improved living and working conditions. Delivering on the European Pillar of Social Rights is a shared political commitment and responsibility. The European Pillar of Social Rights should be implemented at both Union level and Member State level within their respective competences, taking due account of different socio-economic environments and the diversity of national systems, including the role of social partners, and in accordance with the principles of subsidiarity and proportionality. Principle 2 of the Pillar stresses that equality of treatment and opportunities between women and men must be ensured and fostered in all areas, and that women and men have the right to equal pay for work of equal value. Principle 3 refers to the right to equal treatment regarding employment regardless of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation. Principle 4 refers to the active support to employment. Principle 5 stresses that regardless of the type and duration of the employment relationship, workers have the right to fair and equal treatment regarding working conditions, access to social protection and training. Principle 9 emphasises the importance of work-life balance for parents and people with caring responsibilities. Principle 10 refers to the need for a healthy, safe and well-adapted work environment and Principle 12 stresses that, regardless of the type and duration of their employment relationship, workers, and, under comparable conditions, the self-employed, have the right to adequate social protection¹.
3. The European Pillar of Social Rights Action Plan, in which the Commission sets out concrete initiatives to deliver on the implementation of the Pillar in a joint effort by the Member States and the EU, with close involvement of social partners and civil society and with EU headline targets on employment, skills and social protection to be achieved by 2030².

¹ OJ C 428, 13.12.2017

² COM(2021) 102 final

4. The Council of Europe’s revised European Social Charter of 3 May 1996³, and in particular Article 2 (regarding the right to just conditions of work, including to reasonable working hours and to rest periods), Article 3 (regarding the right to safe and healthy working conditions), Article 6 (regarding the right to bargain collectively), Article 27 (regarding the right of workers with family responsibilities to equal opportunities and equal treatment) and Article 20 (regarding the right of all workers to equal opportunities and equal treatment without discrimination on the grounds of sex) thereof⁴.
5. The UN Sustainable Development Goals, in particular Goal 8, which includes the promotion of decent work for all⁵, and the 2019 ILO Centenary Declaration for the Future of Work⁶.
6. The European social partners’ framework agreements on telework (2002) and digitalisation (2020) and the work achieved among sectoral social dialogue committees on those topics. The framework agreement of July 2002 establishes a general framework of rules on telework, agreed on a voluntary basis between the worker and the employer concerned, aiming to promote the development of this new form of work while safeguarding the protection of workers and the interests of employers. It stresses that teleworkers enjoy the same legal protection as employees working permanently at the employer’s premises and identifies the aspects that are specific to distance working and which call for adaptation or special attention, such as employment conditions, data protection, privacy, equipment, health and safety, organisation of work, training and collective rights. The framework agreement of June 2020 aims to optimise the benefits of digitalisation in the world of work and covers four areas: digital skills and securing employment; modalities of connecting and disconnecting; artificial intelligence (AI) and guaranteeing the human in control principle; respect of human dignity and surveillance⁷. The European social partners agreement on digitalisation stresses that any legislative initiative must respect the autonomy of social partners.

³ The revised European Social Charter, which updated and extended the list of guarantees included in the original instrument, has not yet been ratified by all Member States.

⁴ ETS No. 163, available at:

<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007cf93>

⁵ UN General Assembly, Resolution adopted by the General Assembly on 25 September 2015, A/RES/70/1, available at: https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

⁶ 2019 ILO Centenary Declaration for the Future of Work, available at: [International Labour Conference \(ilo.org\)](https://www.ilo.org/public/libdoc/iloorg/iloorg.htm)

⁷ Social dialogue texts database, available at: <https://ec.europa.eu/social/main.jsp?catId=521&langId=en>

7. The EMCO-SPC monitoring report on the employment and social situation in the EU following the outbreak of the COVID-19 pandemic (winter 2020/2021)⁸ and the 2020 annual report of the Social Protection Committee. The SPC report highlights the significant risk of widening economic and social disparities between and within the Member States and emphasises that the European Pillar of Social Rights should continue to guide Member States' reform efforts and its principles should continue to be systematically implemented⁹.

RECALLING THAT

8. The Council conclusions of 26 November 2019 on the economy of wellbeing acknowledge the mutually reinforcing effect of well-being and economic prosperity¹⁰; the Council conclusions of 8 June 2020 on enhancing well-being at work acknowledge that well-being at work can lead to higher productivity and participation in the labour market and reduced public health expenditure¹¹; and the Council conclusions of 10 December 2019 on a new EU Strategic Framework on Health and Safety at Work call for a new EU Strategic Framework on Health and Safety at Work for the years 2021 to 2027¹².
9. The Council conclusions of 17 December 2020 on digitalisation for the benefit of the environment underline the potential of the green transition and the digital transformation to create new green and digital jobs necessary for the economic recovery after the COVID-19 pandemic and stress that the digital transformation should be fair and inclusive and should leave no one behind¹³.

⁸ The Employment Committee - The Social Protection Committee: 'Monitoring Report on the Employment and Social Situation in the EU Following the Outbreak of the COVID-19 Pandemic', Winter 2020/21 Report, available at: <http://ec.europa.eu/social/BlobServlet?docId=23592&langId=en>

⁹ 2020 Annual Report of the Social Protection Committee, available at: <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8349&furtherPubs=yes>

¹⁰ OJ C 400, 26.11.2019, p. 9

¹¹ 8688/20 INIT

¹² 14942/19 INIT

¹³ 14169/20 INIT

10. The European Parliament resolution of 21 January 2021 on the right to disconnect calls on the Commission to present a legislative framework with a view to establishing minimum requirements for remote work across the Union ensuring that teleworking does not affect the employment conditions of teleworkers, and stresses that such framework should clarify working conditions, including the provision, use and liability of equipment, such as of existing and new digital tools, and should ensure that such work is carried out on a voluntary basis and that the rights, workload and performance standards of teleworkers are equivalent to comparable workers¹⁴.
11. The European Economic and Social Committee (EESC) opinion on the challenges of teleworking: organisation of working time, work-life balance and the right to disconnect' calls for the implementation of the European social partners' framework agreements on telework (2002) and digitalisation (2020) and considers that the organisation of working time, the risks to health and safety at work, work-life balance, the right to disconnect and the effectiveness of labour rights when teleworking must be given special attention¹⁵.
12. The EESC opinion on teleworking and gender equality draws attention to the risk that teleworking can pose for gender equality if women are expected to bear the double burden of paid and unpaid care work, which would exacerbate existing inequalities¹⁶.
13. The communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled '2030 Digital Compass: the European way for the Digital Decade' sets out objectives for achieving the EU's vision for the digital future. It underlines that people should benefit from, among other things, non-discriminatory access to online services and work-life balance in a remote working environment.

¹⁴ P9_TA-PROV (2021)0021

¹⁵ SOC/660, 'Challenges of teleworking: organisation of working time, work-life balance and the right to disconnect', available at: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/challenges-teleworking-organization-working-time-work-life-balance-and-right-disconnect>

¹⁶ SOC/662, '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', available at: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/teleworking-and-gender-equality-conditions-so-teleworking-does-not-exacerbate-unequal-distribution-unpaid-care-and>

14. Certain elements of the EU labour acquis already address the wellbeing of European workers, including teleworkers, and establish safeguards on, among other things, working conditions, working hours and unpredictable work schedules. These include, among other acts, the Council Directives on the introduction of measures to encourage improvements in the safety and health of workers at work¹⁷, on supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship¹⁸, on certain aspects of the organisation of working time¹⁹, on transparent and predictable working conditions in the European Union²⁰ and on work-life balance for parents and carers²¹.

CONSIDERING THAT

15. Telework, for the purposes of these Conclusions, is understood as work using ICT performed outside the employer's premises²².

¹⁷ Council Directive 89/391/EEC of 12 June 1989. OJ L 183, 29.6.89, p. 1.

¹⁸ Council Directive 91/383/EEC of 25 June 1991. OJ L 206, 29.7.91, p. 19.

¹⁹ Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003. OJ L 299, 18.11.2003, p. 9.

²⁰ Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019. OJ L 186, 11.7.2019, p. 105.

²¹ Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019. OJ L 188, 12.7.2019, p. 79.

²² ILO (2020), COVID-19: Guidance for labour statistics data collection: Defining and measuring remote work, telework, work at home and home-based work, ILO technical note (p.6). This definition from ILO does not include the specific case when the work is performed in employer's premises other than those where the employee is assigned to, which is considered in some Member States as telework.

16. The ever-evolving world of work has undergone some major changes in the last few years and the recent increase in the use of telework comes with opportunities, but also with many challenges and risks, particularly for workers in both the public and the private sector, labour relations and working conditions, for employers and their adaptability in rapidly changing markets, and also for society at large and for public policies and services, as well as social protection systems. Since the COVID-19 outbreak, teleworking has been particularly accentuated and accelerated. According to a Eurofound survey, in July 2020, 34 % of respondents were working solely from home²³, compared to 5.4 % of those employed in the EU-27 who worked from home in 2019²⁴. In July 2020, 46.4% of women worked exclusively or partially from home compared to 43.1% of men²⁵.
17. This recent massive increase in telework highlights the need to consider the potential, limits and risks of teleworking. While teleworking is, exceptionally, compulsory in some Member States during the pandemic, Eurofound expects that at least one in five European employees will telework regularly or occasionally under a hybrid model after the pandemic²⁶. Along the same lines, the Joint Employment Report 2021 states that the adaptation of working conditions has become central during the pandemic and will remain key afterwards, requiring investment in the workplace and reforms to enhance the availability of flexible working arrangements²⁷. The preferences of many workers point to a hybrid model with a combination of telework and work at the employers premises, given that 78 % of employees in the July round of the Eurofound e-survey indicated a preference for working from home at least occasionally if there were no COVID-19 restrictions, with similar preferences for women (77,6%) and men (76,4%)²⁸.

²³ Eurofound (2020), ‘Living, working and COVID-19’, COVID-19 series, Publications Office of the European Union, Luxembourg.

²⁴ European Commission, ‘Telework in the EU before and after the COVID-19: where we were, where we head to’, Science for Policy Briefs, 2020.

²⁵ Eurofound (2020), ‘Living, working and COVID-19’, COVID-19 series, Publications Office of the European Union, Luxembourg (p.32)

²⁶ ‘Telework, ICT-based mobile work in Europe: Trends, challenges and the right to disconnect’, 11 March 2021 - EMCO virtual meeting hosted by the Portuguese Presidency of the Council of the European Union, presentation by Eurofound, available at: <https://www.eurofound.europa.eu/publications/presentation/telework-ict-based-mobile-work-in-europe-trends-challenges-and-the-right-to-disconnect>

²⁷ ST 7144/2/21 REV1, paragraph 14

²⁸ Eurofound (2020), ‘Living, working and COVID-19’, COVID-19 series, Publications Office of the European Union, Luxembourg.

18. As the widespread use of telework is a new and very rapid development triggered by the pandemic, the internal rules of employers, collective agreements and labour laws have often not yet been adapted to take into account this change. Therefore, it should be reviewed whether steps must be taken with the involvement of the Social Partners, including at national level, to develop adequate policies for telework in order to better address the problems associated with the increased use of the various arrangements for telework, while taking into account existing research, experiences and expertise on telework.
19. According to recent findings, the opportunities offered by telework include, for workers, the possibility to improve their work-life balance, achieve greater productivity and autonomy, and reduce the time needed for commuting, as well as related costs²⁹. For employers, it can promote productivity and efficiency, allow for savings on the direct and associated costs of premises and offices, and foster result-oriented organisation of work³⁰. It can also encourage the development of IT skills, facilitate access to employment and strengthen the inclusiveness of labour markets for certain categories of workers (in particular those with disabilities or with care and family responsibilities)³¹, contribute to significant environmental gains through reducing CO₂ emissions and other environmental impacts³², and promote territorial cohesion and regional distribution of jobs between cities and rural areas through a better match between demand for and supply of labour without the need for workers to move physically³³.

²⁹ Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age', July 2020

³⁰ ILO, Working anytime, anywhere: The effects on the world of work, 2017; Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age', 2020

³¹ Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age', July 2020

³² 'How COVID-19 working routines can save emissions in a post-COVID-19 world', IZT-Institute for Future Studies and Technology Assessment

³³ Horizon magazine, 'Teleworking is here to stay – here's what it means for the future of work', September 2020, <https://horizon-magazine.eu/article/teleworking-here-stay-here-s-what-it-means-future-work.html>

20. On the other hand, telework also brings with it several risks for workers, including, among others, challenges regarding efficient exercise of management of human resources, excessive control exercised through monitoring of the use of corporate IT equipment, blurring of lines dividing work and private life, higher levels of work intensity, virtual presenteeism, social and professional isolation, high demand for self-management and self-organisation, lack of physical activity, psychosocial, musculoskeletal and other disorders resulting from inadequate work environments³⁴, difficulties ensuring collective representation and bargaining, and reduced participation of employees in workplace decision-making³⁵.
21. Telework can also reinforce inequalities such as those related to skills or to the unbalanced distribution of care responsibilities. In particular, telework has the potential to reinforce gender inequalities in unpaid care work, as women are more likely to combine employment with domestic work³⁶. At the same time, if properly used, telework could foster the equal distribution of paid work and unpaid care work between men and women. For this reason, it is important to prevent it from becoming an alternative to office work only for women, thus reinforcing stereotypes and discriminatory practices. In a digital age, equal access to connectivity and digital technologies, in particular for certain groups of women (e.g. older women, women from disadvantaged socio-economic groups), could help bridge the digital skills gap³⁷.

³⁴ See, for example, EU-OSHA, Participatory ergonomics and preventing musculoskeletal disorders in the workplace, April 2021; EU-OSHA, Working with chronic musculoskeletal disorders, March 2021

³⁵ Eurofound, ‘Telework and ICT-based mobile work: flexible working in the digital age’; Eurofound, ‘Further exploring the working conditions of ICT-based mobile workers and home-based teleworkers’, working paper, 2020

³⁶ Gender Equality Index 2020: Digitalisation and the future of work, EIGE

³⁷ OECD, ‘Bridging the digital gender divide: include, upskill, innovate’, <https://www.oecd.org/going-digital/bridging-the-digital-gender-divide-key-messages.pdf>

23. Telework is not equally available for everyone everywhere, whether due to the nature of the work performed, housing and other conditions such as lack of network connectivity, access to equipment and/or digital skills, or a lack of infrastructure or investment in infrastructure. Therefore, the increasing use of telework may accentuate the different lived realities experienced by high-skilled and low-skilled workers and may increase the digital gap between and within regions. This may lead to new and growing inequalities, including between men and women, in terms of income and quality of life, as well as regarding patterns of participation in the labour market and long-term career prospects, thus also indirectly increasing the risk of poverty and social exclusion for low-skilled workers.
24. In this context, lifelong learning, appropriate management and feedback and specifically access to digital skills are critical for allowing workers and employers to take advantage of the potential arising from telework while preventing inequalities and exclusion based on lack of the skills and means needed to perform telework.
25. Telework also poses significant challenges for the effective implementation of labour law, as well as the enforcement thereof by labour inspectorates, whose instruments and inspection procedures may need to be reviewed in order to adapt to these new working patterns, while continuing to respect the privacy of workers.
26. In a dynamic evolving and more diversified world of work, telework can also raise challenges concerning access to social protection: roughly one quarter of workers in telework and ICT-based mobile work arrangements, including medium-level and highly qualified workers, report a combination of low wages, job insecurity, a lack of access to training and limited career prospects, which puts them in a precarious employment situation³⁸.

³⁸ [Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age'](#)

27. Given the diversity of business models, sectors and jobs, for which a one-size-fits-all solution is not suitable, social partners play a central role in the negotiation, application and enforcement of rules related to telework.
28. The European Union has made funds available under the new multiannual financial framework and Next Generation EU to support Member States' efforts to overcome challenges related to the changes in the world of work, including telework. The European Social Fund Plus (ESF+) and the REACT-EU initiative will continue to facilitate the adaptation of workers and employers to change, promoting a healthy working environment, including in the context of crisis repair and recovery.

THE COUNCIL OF THE EUROPEAN UNION

CALLS ON THE MEMBER STATES, TAKING INTO ACCOUNT NATIONAL CIRCUMSTANCES AND RESPECTING THE ROLE AND AUTONOMY OF THE SOCIAL PARTNERS, TO

29. CONSIDER establishing national action plans or national strategies addressing the opportunities and risks related to telework in its different dimensions, taking into account the gender perspective, or including this topic in existing or upcoming strategies.
30. CONSIDER amending their policies regulating telework or issuing guidance where appropriate, in particular with regard to health and safety, the organisation and monitoring of working time, effective checks by labour inspectorates, in full compliance with privacy laws, physical and IT equipment for home offices and other remote offices, risks related to equality between women and men, equal training and career opportunities, allowances to cover the costs of teleworking where applicable, and the promotion of dialogue between employers and workers.

31. STEP UP their efforts to effectively implement the Council recommendation adopted in 2019 on access to social protection for workers and the self-employed and take the dynamic changes in labour relations into account in their national plans for implementation.
32. CONSIDER using available EU funding, including ESF+ and REACT-EU, in line with their specific objectives, to overcome the challenges related to telework.
33. IDENTIFY and PROMOTE best practices for making good and balanced use of telework, in particular hybrid teleworking models and SUPPORT the introduction of such practices by employers.
34. CONSIDER establishing or reinforcing initiatives to strengthen labour inspection and occupational health and safety in view of the risks arising from telework.

CALLS ON THE MEMBER STATES AND THE EUROPEAN COMMISSION, IN ACCORDANCE WITH THEIR RESPECTIVE COMPETENCES, TAKING INTO ACCOUNT NATIONAL CIRCUMSTANCES AND RESPECTING THE ROLE AND AUTONOMY OF THE SOCIAL PARTNERS, TO

35. WORK TOGETHER to raise awareness regarding the risks, opportunities and benefits related to telework and the key role of social dialogue and collective bargaining on this subject.

CALLS ON THE EUROPEAN COMMISSION TO

36. PROMOTE further research and exchange of experiences on the impacts of telework on a post-pandemic recovery.

37. FACILITATE the exchange of experience and good practices in national approaches to telework.
38. ANALYSE the context and implications of telework in the EU during and after the pandemic and the extent to which current social and labour law in the EU ensures decent working conditions for teleworkers and responds to their particular situation and challenges, including as regards the right to disconnect.

CALLS ON THE EMPLOYMENT COMMITTEE AND THE SOCIAL PROTECTION
COMMITTEE TO

39. CONTINUE sharing experiences, best practices and lessons learned, in particular as regards telework in the context of the COVID-19 pandemic and beyond.

INVITES THE SOCIAL PARTNERS, WHILE FULLY RESPECTING THEIR ROLE AND
AUTONOMY, TO

40. CONSIDER CONTINUING to engage in social dialogue at all levels on the future of work, and in particular on digitalisation and telework.
41. CONSIDER CONTRIBUTING to the protection of teleworkers' well-being, safety and health, in particular as regards work-life balance, the right to disconnect, appropriate working conditions and workplaces in line with occupational health and safety standards, and the provision of professional training, particularly in digital skills.
42. CONSIDER PROMOTING and raising awareness of the importance of having adequate sectoral and company-level regulation and of respecting the applicable rules on working time for teleworkers to allow them to effectively disconnect.
