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# IMPLEMENTATION OF THE EUROPEAN FRAMEWORK AGREEMENT ON TELEWORK

REPORT BY THE EUROPEAN SOCIAL PARTNERS

ADOPTED BY THE SOCIAL DIALOGUE COMMITTEE ON 28 JUNE 2006

SEPTEMBER 2006

# FOREWORD

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On 16 July 2002 the European social partners ETUC (and the liaison committee Eurocadres-CEC), UNICE, UEAPME and CEEP signed a framework agreement on telework. This agreement was innovative in many regards, and opened up new perspectives for the European social dialogue as practised for the previous twenty years.

The European social partners chose for the first time to implement their European framework agreement using their own means, under the procedures and practices specific to social partners and Member States, as provided for in article 139 paragraph 2 of the EC Treaty.

The agreement recalls that teleworkers enjoy the general protection afforded to employees. Hence, the intention was to define a general framework for the use of telework in such a way as to meet the needs of employers and workers. The agreement identifies the key areas requiring adaptation or particular attention when people work away from the employer's premises, for instance data protection, privacy, health and safety, organisation of work, training, etc.

At national level, members of the signatory parties agreed on the instruments and procedures for implementation. They also disseminated, explained and transposed the European text in their national context between 2002 and 2006.

This report describes a large number of initiatives which have enabled the agreement to be implemented in virtually every country in the European Union and EFTA. The acceding countries have also started to give thought to how to implement the agreement. It marks an innovative stage in the process of underpinning the autonomy of the European social dialogue.

This agreement has also opened the way to other European framework agreements of the same type. These are now being implemented.

In their content, the autonomous European framework agreements concluded so far on telework and stress at work reflect the diversity of themes they address. The European social dialogue is made richer by these differences, as it is by the range of implementing instruments chosen by the social partners in each Member State. As part of their joint work programme for 2006-2008, the European social partners have decided to develop further their shared understanding of these instruments and how they can have a positive impact at various levels of social dialogue.



For ETUC

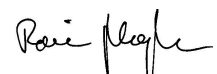
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For UNICE/UEAPME

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UNICE

Hans Werner Müller  
Secretary General  
UEAPME



For CEEP

Rainer Plassmann  
Secretary General

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## ● INTRODUCTION

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On 16 July 2002, ETUC, UNICE/UEAPME and CEEP signed a framework agreement on telework. The negotiations began following an official consultation of the European social partners by the European Commission on the modernisation of employment relations. They lasted eight months. For the first time, ETUC, UNICE/UEAPME and CEEP aimed at concluding an EU framework agreement to be implemented directly by their members, in accordance with the procedures and practices specific to management and labour in the Member States as defined in Article 139 of the EC Treaty.

The agreement recalls that teleworkers benefit from the same legal protection as employees working at the employer's premises and defines a general framework for using telework at the workplace, in a way which corresponds to employers' and workers' needs. It concentrates on the aspects which are specific to working at a distance from the employer's premises and highlights key areas requiring adaptation or specific attention such as employment conditions, data protection, privacy, equipment, health and safety, work organisation, training, and collective rights.

Telework is defined as a form of organising and/or performing work, using information technology, where work, which could also be performed at the employers premises, is carried out away from those premises on a regular basis. The agreement concerns teleworkers with an employment contract and does not deal with self-employed telework. Neither does it concern employees of call centres who are performing their work at the premises of the call centre employing them. The EU framework agreement deals both with workers who are directly recruited as teleworkers and those who wish to opt for this form of work organisation during the course of their employment relationship and highlights that when telework is not part of the initial job description, the passage to telework is voluntary both for the employer and the employee.

Implementation had to be carried out within three years after the date of signature of the agreement – July 2005. An ad hoc group working under the responsibility of the social dialogue committee was set up by the signatory parties to prepare a joint report on the actions of implementation taken. The present joint implementation report was adopted by the European social dialogue committee on 28 June 2006 and transmitted to the EU Commission in September 2006.

When the EU framework agreement on telework was concluded, the EU had only 15 members. However, social partners from the ten countries who joined the European Union in May 2004, as well as Romania and Bulgaria were invited to implement the agreement.

By June 2006, joint national implementation reports had been received from 23 EU Member States and EEA countries. Final joint reports have not yet been received from Cyprus, Estonia, Lithuania and Slovakia. The joint implementation process has not yet started in Bulgaria and Romania but social partners in these countries are reflecting on how to join in the implementation process.

The number of teleworkers concerned by the agreement, was estimated at 4.5 million employees in 2002 (Dublin Foundation, 2002). There are no comparable cross-border data to measure its development since then. It is generally considered that telework is more widespread in some sectors of activity, such as in telecommunications, and for qualified workers. Moreover, the importance of telework varies greatly from one country to another. Some estimates indicate a rate close to 8% of the working population in the Netherlands or the UK, around 5% in Spain, Germany and France and just above 2% in the Czech Republic or Hungary, while telework seems to be less developed in the new Member States.

## ● DISSEMINATION ACTIVITIES

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The implementation process started in all countries by the translation of the EU framework agreement, followed by dissemination activities.

### ✓ TRANSLATION OF THE EU FRAMEWORK AGREEMENT

The EU framework agreement was negotiated and drafted in English which is the only original version adopted by the signatory parties. The first step taken in several countries in the implementation process consisted in agreeing on the translation of the EU framework agreement in the national language(s) of each country concerned.

This important first step was sometimes carried out as a purely technical exercise. In other instances, it overlapped with negotiations and gave rise to difficult discussions revealing sensitive points in the national implementation.

The social partners of some countries such as **Greece, the Netherlands** or **Spain** decided to annex to their agreement / recommendations the jointly agreed translation. The locations where translations are made available are listed in the annex of the report.

### ✓ NATIONAL DISSEMINATION ACTIVITIES

Once the translation was completed, a second step taken by the social partners in most countries consisted in carrying out information and dissemination activities vis-à-vis their affiliates to make the EU framework agreement known to employers and workers in their respective countries. These dissemination and information campaigns were sometimes carried out jointly and sometimes separately by employers and trade unions.

In for example, the **Czech Republic** and **Greece**, social partners informed their respective members through their internal newsletters. Similar dissemination activities took place in **Finland, the UK, Germany** or **Latvia**. They concerned both the EU and the national agreements and included articles in newsletters, organisation of special seminars and conferences, Internet information, etc. In addition, **Spanish social partners** organised seminars and agreed to publish different studies on telework in their country. **Dutch employers** made a brochure entitled “Telework, something for you?” to promote good practices in companies with regard to the introduction of telework. They also decided to engage at the highest decision-making level in a Foundation called the Telework Forum, which aims at stimulating telework in the Netherlands. **Dutch trade unions** have also developed a range of activities to promote the take-up of telework as an issue in collective bargaining. In **Sweden**, dissemination activities have taken place both at national and sectoral level, with the aim to inform employers of the provisions of the framework agreement so as to serve as guidance when concluding an individual agreement on telework. In **Denmark**, the trade union LO prepared a “paper of understanding” for use by their members in collective bargaining. In **Latvia**, further information activities targeting a wider audience (society at large as well as public authorities) are planned for the future.

In some countries, employers and trade unions decided to make the promotion of telework an important priority and engaged in initiatives which have a high political value and visibility in their countries. In **Germany**, for example, the chairman of the trade union confederation DGB and the president of the German employers' confederation BDA issued a joint statement on 16 July 2002 to welcome the EU framework agreement as a good example of successful social dialogue between employers and trade unions at European level. They have publicly called for and encouraged initiatives by the social partners and in companies to implement the principles of the EU framework agreement on telework.

Telework is also seen by social partners as a way to facilitate the integration of some disadvantaged groups on the labour market such as disabled people in **Ireland**. It was also seen as a tool to overcome mobility problems or maintain employment in regions facing difficulties. These topical issues were part of the motives which induced the **Czech social partners** to seek the support of different ministries in order to achieve greater coordination in the promotion of telework. It is also the reason why **Spanish trade unions and employers** decided to set the implementation of the EU and Spanish agreements on telework as a priority for the social partners negotiations since 2003.

### ✓ TRANS-NATIONAL DISSEMINATION ACTIVITIES

When implementing a European framework agreement simultaneously in several different countries, it is useful to learn from each other. **German social partners** therefore took the initiative to organise, in 2003, in cooperation with the **Danish, Austrian and French employer confederations**, a transnational conference on telework and the practical application of European framework agreements.

**Cross-industry European social partners** also engaged in dissemination activities during the implementation period, notably when participating in conferences, seminars where they explained the rationale and the content of the framework agreement on telework to different types of audiences. They also jointly and separately conducted promotion activities for the implementation of the text towards their members, for example the ETUC widely disseminated its own interpretation guide on the agreement.

A further example of the joint European social partner promotional activities included the series of joint seminars aimed at facilitating the full integration of the social partners of the new Member States into the EU social dialogue which took place from 2002 to 2006 as part of a project benefiting from financial support of the EU. Implementation of the EU framework agreement on telework was discussed as part of the joint texts negotiated in the EU social dialogue and telework identified as an issue on which discussions between national social partners should be engaged. This had a direct effect on the kick-off of negotiations in several countries, for example in **Latvia**.

The agreement had also an impact on European sectoral social dialogue activities. Various sectoral social partners echoed the cross-sectoral agreement notably the local and regional government and electricity social dialogue committees. The locations where activities at this level are reported are listed in the annex of the report.

## ● THE CHOICE OF INSTRUMENTS: RANGING FROM SOCIAL PARTNER AGREEMENTS TO TRIPARTITE ACTIVITIES

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By June 2006, the EU framework agreement had been implemented in a majority of EU Member States and EEA countries. Implementation is under way but not fully completed in a number of countries, including Austria, Czech Republic and Slovenia. Social partners from Bulgaria and Romania have expressed an interest in following the telework agreement in view of their forthcoming accession to the EU but had not yet started their work.

The tools and procedures of implementation chosen by social partners varied in accordance with national practices. They include, for example, social partner agreements in Spain or collective agreements in France, other joint texts negotiated by the social partners such as the joint recommendation prepared in the Dutch Labour Foundation. In some cases, implementation involved public authorities as was the case for the guidelines prepared in the United Kingdom. In other cases, the agreement leads to changes in national legislation, for example to clarify the extent to which labour law covers the situation of telework.

The choice of the tools and procedures of implementation was made jointly by employers and trade unions and was often the occasion of in-depth and sometimes difficult discussions between them. The difficulty of the exercise was sometimes linked to issues of substance, of procedure, or of the status of the implementation tool. This was probably due to the fact that it was the first time ever that the national social partners were asked to find a consensus on how to implement an EU framework agreement through their own means.

A further challenge to the national social partners was to develop a common understanding of what the joint approach to telework meant for both employers and workers in each country concerned and to reach a consensus on contentious aspects in light of the EU agreement. For example, within the National Labour Council in **Belgium**, social partners conducted extensive preparatory work to help them fully grasp the phenomenon, including interviews of social partners from the sectors most concerned to understand why telework had been introduced and for what purposes. In **Finland** and **Norway** social partners made a thorough analysis of their national labour legislation and existing collective agreements before coming to the joint conclusion that no legislative amendment was necessary. In **Slovenia**, these discussions are not finalised yet and social partners still have to decide whether the framework agreement will be implemented through amendments to the labour relations act or through sectoral collective agreements.

It is worthwhile noting that the implementation of the EU framework agreement through social partners' own means was seen as an opportunity to boost bilateral social partner discussions at national, sectoral and company levels in some countries. For example, **French, Polish, Italian and UK social partners** explicitly welcomed the possibility to mirror at national level the bipartite commitment achieved at EU level. Similarly, the promotion of the EU agreement was set as a priority of the general bilateral agreement concluded by **Czech social partners** in November 2004.

As can be seen below, the implementation of the EU framework agreement has been carried out in different ways across Europe. For the purpose of this report, the results have been grouped into two broad categories: collective agreements or other bilateral social partners' agreements on the one hand, and legislation or other types of tripartite activities on the other hand.



## ✓ SOCIAL PARTNER AGREEMENTS

Depending on the way industrial relations systems are organised in Member States, the implementation of the EU framework agreement has in some cases been ensured through a general social partner agreement, which does not have the same legal status as a collective agreement. However, in some cases highlighted below such as in Spain or Sweden, the social partner agreement reached at national level has prompted the signature of collective agreements at sectoral or company levels. The way in which these different implementation instruments are combined depends on the national industrial relations systems.

On 23 May 2005, a social partner agreement was adopted together with guidelines to negotiators at local level in **Finland** by the representative organisations of both the public and the private sectors. The agreement recommends to takeover the key principles of the EU agreement in employment contracts as from 23 May 2005 and to take account of telework when conducting collective bargaining. The guidelines to negotiators take both the EU agreement and the existing Finnish legislation into account. They are a response to the need for guidance of local players identified by the national level social partners during their preparatory work. No sectoral agreement on telework has been adopted following the EU framework agreement as most of them are still valid until end-September 2007.

Since 2003, the **Spanish** national agreements on collective bargaining have incorporated the EU framework agreement on telework into the Spanish labour relations system. These agreements serve as guidelines for collective agreement negotiators throughout the country, set priorities for negotiations at other levels and foresee a bipartite commission in charge of the follow-up. The first Spanish national agreement on collective bargaining which mentioned the EU framework agreement on telework was concluded in 2003, it was extended in 2004 and has been renewed since then. So far, ten different collective agreements on telework exist at sectoral, regional and company levels in Spain. Half of them were concluded after 2002 and they take account of the EU framework agreement either through similar negotiated provisions or by referring directly to the original text of the EU agreement. They concern the chemicals industry, the daily press sector, the region of Valencia, the companies Telefonica de España, Telefonica Moviles España and Ibermatica. Moreover, in the region of Catalonia, social partners have agreed to promote collective bargaining at sectoral and company levels on telework and to promote legislative changes if needed. Public authorities have no taken into account the transposition of the EU framework in Spain. The action guide of the Spanish labour inspectorate mentions the EU framework agreement and refers to it when detailing the different aspects of the labour relationship between the teleworker and his/her employer.

On 12 April 2006, **Latvian social partners** concluded a social partner agreement committing the parties to implementing the EU framework agreement on telework.

In September 2003, the EU framework agreement on telework was implemented by a recommendation of the Labour Foundation in **the Netherlands**. This recommendation, which is the instrument the national social partners use to promote dialogue and agreement on issues concerning working conditions in collective bargaining at company or sectoral level and/or with works councils and individual workers, is addressed to companies and sectoral social partners. The text of this recommendation includes a reference to the agreement of the European social partners, a description of the development of telework in the Netherlands in qualitative and quantitative terms and a description of the main elements to consider with respect to agreements on telework in collective bargaining and/or in dialogue with works councils and individual workers. The main elements highlighted are the definition of telework, its voluntary character, the principle of equality of teleworkers and other workers with respect to working conditions as well as training and career development opportunities. Social partners agreed to annex to their recommendation



the full text of the European agreement, a description of the relevant Dutch legislation with respect to telework and some examples of provisions on telework in existing collective agreements.

Also in **Germany**, a recommendation on telework has been concluded by social partners of the chemicals industry. This recommendation takes over the key elements to pay attention to when introducing telework which are described in the EU framework agreement.

**Swedish social partners** reached agreement on common guidelines regarding the implementation of the EU framework agreement on telework on 28 May 2003. The document states that the EU text should serve as a guideline when telework agreements are reached in Sweden and that due consideration should be given to the key elements highlighted by the EU framework agreement. As a consequence, addenda have been made to collective agreements in certain branches of industry. In other cases, the matter has been discussed between social partners and employers have taken the responsibility of informing their members of the provisions of the EU framework agreement so that they serve as guidance when concluding an individual agreement on telework.

“Guidelines for telework” were also adopted in December 2005 in **Norway**. The joint document gives concrete recommendations to social partners’ members when introducing telework. This instrument is considered to be the most appropriate by both sides for a full implementation of the EU framework agreement because of its flexibility and wider impact area

In **Poland**, negotiations on a national social partner agreement implementing the EU framework agreement are still in process. Social partners intend to finalise both a national agreement (for the first time ever) and a document listing amendments to integrate telework in the Labour Code, which is being revised by public authorities and should be finalised in autumn 2006. The draft national social partner agreement implements all provisions of the EU framework agreement and promotes an implementation of telework at company level through collective bargaining, as far as possible.

The implementation process has not been finalised in **Austria** either. The social partners are now trying to agree on a common social partner recommendation to be implemented at company level, most probably by the end of 2006. In the meantime, guidelines of the implementation of the EU agreement had already been adopted by Austrian employers in July 2005, which they published on the internet. These guidelines are both addressed to employers and employees. They contain the text of the agreement and comment its provisions in the light of the existing Austrian regulations, giving concrete guidance to enterprises for the introduction of telework.

## ✓ NATIONAL, SECTORAL AND COMPANY LEVEL COLLECTIVE AGREEMENTS

In Belgium, France, Italy, Luxembourg, Greece, Iceland, Denmark and Sweden, social partners chose to implement the EU framework agreement through national or sectoral collective agreements, with the choice between national or sectoral collective agreements reflecting the features of the national industrial relations system.

It should also be noted when the provisions of the EU framework agreement on telework are integrated at the occasion of general bargaining rounds in the country or sector concerned, the bargaining periods are determined by the ending period of pre-existing agreements. When these come to an end after the timeframe foreseen for the implementation of the EU agreement, some delays can be encountered in reaching the full effect of implementation of the EU agreement.

In **Belgium**, a national collective agreement (CNT n°85) was adopted on 9 November 2005. The CNT n°85 details how this new collective agreement relates to the existing rules on work conditions or employment contracts in Belgium. Compared to the EU framework agreement, it also specifies in more details the content of the written individual agreement between the teleworker and his/her employer, the consequences of the absence of such a written agreement, the method of calculation of the costs linked to the equipment and the consequences of equipment breakdowns. In line with the preamble of the EU text which foresees that the EU agreement can be complemented or adapted in order to take into account of the specific needs of the countries concerned, the Belgian agreement also foresees that the implementation modalities of the agreement may be detailed through sectoral, company or individual agreements.

A similar approach has been taken in **France**, with the adoption on 19 July 2005 of a cross-industry national collective agreement. The provisions of the cross-industry national agreement can be completed and/or adapted through agreements at sectoral or company levels. In the absence of such decentralised agreements, the national agreement applies – an erga omnes extension was initiated at the joint request of social partners. The extension decree was published on 9 June 2006 in the Official Journal. The French agreement translates in the French context the provisions of the EU agreement, while detailing further some aspects such as the scope of the notion of teleworker, the possibility for teleworkers to apply for vacant jobs at the employer premises, the aspects on which equal treatment between teleworkers and workers at the employer premises must be ensured.

The same adaptation is foreseen in **Italy**. On 9 June 2004, the Italian social partners agreed on an inter-confederal agreement at national level to transpose the EU framework agreement on telework. This agreement is binding for almost the entire private sector and for local public services in Italy. There again, the provisions of the cross-industry national agreement can be completed and/or adapted through agreements at sectoral or company levels. The national collective agreement therefore inspires agreements at other levels but it also takes into account agreements on telework which were concluded before, notably at sectoral level, for example in the textile industry (28 May 2004), telecommunications sector, electricity, chemicals industry, paper and graphic sector, ceramic industry and for SMEs. An agreement preexisted also in the services sector (concluded in 2001), which was renewed in July 2004, taking into account the provisions on the national cross-industry agreement on telework.

In **Luxembourg** a national collective agreement was adopted on 21 February 2006. This agreement, concluded for a period of three years, implies modifications in Luxembourg's laws on work contracts or health and safety. The agreement mirrors the EU framework agreement and goes beyond on some aspects such as the information to be given in writing to teleworkers before starting their job and the way in which a worker can opt for telework and return to its previous form of work by introducing, within certain limits, an "adaptation period" during which the teleworker has the right to return to work at the employer's premises.

The **Greek** national collective agreement implementing the EU framework agreement was signed on 12 April 2006, with the Greek translation of the EU agreement annexed.

The **Icelandic** collective framework agreement was signed on 5 May 2006. It serves as binding guidelines for the provisions on telework in individual employment contracts and foresees the establishment of a joint committee to deal with potential conflicts of interpretation.

In the state sector in **Denmark** and **Sweden**, the EU framework agreement on telework was implemented during the general collective bargaining rounds for the state sector employees in 2005. The new collective agreements build upon existing agreements or guidelines on telework agreed for the state sector in both

countries. Also in the Danish local and regional public sector, a collective agreement had existed since 1997 which matched the requirements of the EU framework agreement. Concerning the central government sector in Sweden, a collective agreement was reached on 15 December 2005, which recognises a role of guidelines to the EU framework agreement.

In the **Danish** private sector, the social partners for industrial activities, amended a pre-existing collective agreement in the autumn 2005, to implement the EU framework agreement. Following on the EU agreement, the retail and wholesale trade sectors also concluded new sectoral collective agreements on telework. In order to ensure a total coverage of the private sector, the Danish confederations of employers DA and trade unions are currently negotiating an agreement which will implement the European framework in sectors and workplaces not yet covered.

In a company in the **German** telecommunications sector, social partners agreed on a collective regime which takes into account the different telework forms that exist in the sector, i.e. alternating telework and mobile telework.

### ✓ STANDARD COMPANY AND SECTOR AGREEMENT MODELS

In **Germany**, social partners provide, either jointly or separately, models of collective agreements for further use in bargaining at sector, company and/or establishment level.

Regimes for telework at establishment or company level are usually enshrined in works agreements, group agreements or company agreements. They are usually more specific than the European framework agreement and go beyond its provisions. A wide range of agreements also exists across a variety of sectors ranging, from banks, the chemicals industry, the metal industry, the telecommunications sector, skilled crafts through to the public sector. Some of these agreements were concluded before the European framework agreement and are in line with it. Others have been prompted by the European framework agreement.

Works council agreements also exist in Germany, for example in the metal industry. The agreement existing in the metal industry entails provisions which are in line with the EU framework agreement and concern in particular the definition of telework, its voluntary nature, the way in which data and information protection is ensured, the employer's responsibility for the installation, maintenance and availability of equipment and communication tools, health and safety, working time, career development and training measures and the participation to establishment and department meetings as well as in the works council. Similarly, in order to ease the conclusion of company level collective agreements on telework, the German confederation for local administrations and companies working in the public sector published for its members a model for a service or company agreement. The aim is to enable social partners in administrations and public sector companies to make suitable arrangements for introducing and managing telework. All of the key elements of the EU framework agreement are reflected in the standard text proposed, with some additional details. The model for example proposes that the division of working time between the employer's premises and the teleworker's home should be agreed to meet individual needs. In individual agreements, a suitable range of times should be agreed when the alternating teleworker can be personally contacted. Surveys have shown that local administrations and companies have overwhelmingly put in place telework arrangements via a service or company agreement. Individual contractual arrangements are only in place in the smallest organisations with little need for telework.

## ✓ GUIDES AND CODES OF GOOD PRACTICE

A joint guide on telework was produced by social partners in **the UK** in August 2003. This guide is the result of the discussions between the national level social partners in the UK on the way to best implement and promote the EU framework agreement. There is no formal system of cross-sector collective bargaining at national level in the UK. The guide has been designed to provide employers, employees and other parties with information, advice and guidance on telework, an issue where employers and trade unions share a common appreciation and understanding of the value of this form of flexible working.

The stated aim of the UK guide is to “provide a useful checklist of issues to consider when implementing teleworking and explain how the text of the European agreement might best operate in the context of the UK labour market.” As such, it expands on the EU framework agreement, with extensive use of quotations from the original agreement, helpful practical advice on implementation and information on UK-specific legislation such as the right to request flexible working. The guide also follows the same structure and covers the same issues as the framework agreement. UK social partners believe that their guide has served as a useful checklist to help explain the issues surrounding telework, which is a growing phenomenon in the UK. They received feedback which suggests that many employers and employees have benefited from the guidance.

This guide has been developed with the full support of public authorities. The production costs for the UK guide were met by the UK’s Department of Trade & Industry and the UK government helped in the dissemination of the document.

In **Ireland**, social partners representing the private sector engaged in the revision of their pre-existing code of practice on e-working (a synonym of telework). Their new “code of practice on teleworking” which was finalised on 15 December 2004 takes account of the EU framework agreement and implements it. The code of practice highlights key elements to consider when introducing telework and advises employer to draw up a written policy which specifies how telework arrangements will operate in the company. In order to help drawing up such a policy, concrete guidance with practical examples, a sample telework agreement and an overview of the minimum legal entitlements for Irish employees are set out in the code.

It should be noted that in a few countries, the joint implementation of the EU framework agreement has been preceded by unilateral activities. For example, in **Norway**, guidelines were developed by the main employer organisations in Norway. Once finalised, trade unions were invited to adopt them, which they all agreed to do. These guidelines have been adopted in December 2005. In **Latvia** too, employers released guidelines for implementation of the EU agreement for their members, following which Latvian social partners negotiated with the Ministry of Welfare and members of the Latvian parliament a set of common guidelines on the implementation of telework.

## ✓ IMPLEMENTATION THROUGH NATIONAL LEGISLATION

Social partners decided in some cases to call on public authorities to implement the EU framework agreement through legislation. Either they asked to fully integrate the text in national laws or to act on some precise aspects which they considered as falling outside the social partners’ remit.

The first solution has notably been chosen in the **Czech Republic**, where, after several months of negotiations, social partners decided that the EU framework agreement on telework would be best implemented through the new Labour Code. The new Labour Code should enter into force on 1st January 2007. In the new Article 317, the possibility to agree of new form of work organisation is foreseen, which

includes telework. Teleworkers enjoy the same rights and duties as employees working at their employer's premises.

In **Poland** too, social partners wish to take advantage of the current revision of the Labour Code. They intend to introduce jointly agreed amendments to the new Labour Code with the effect to integrate telework in the legislation on the terms negotiated by social partners in their bipartite agreement.

In **Hungary**, the provisions of the EU framework agreement on telework were introduced into the labour code and apply since May 2004 to the public and private sector. This method of implementation has been proposed by the government and social partners agreed to it. In this revision of Hungarian labour law, the EU framework agreement and the amendments proposed by the Hungarian social partners have been taken into account, thereby ensuring the implementation of the EU framework agreement. The discussions on the draft Labour Code have taken place within the National Interest Reconciliation Council which is the usual body for tripartite discussions in Hungary. The main points of debate between social partners were the definition of telework, the bearing of the costs related to telework, the responsibility for compensation in case of damages to the equipment and the definition of working time. It should also be noted that in order to promote telework, in 2004 the government set up a specific Telework Council.

In **Portugal**, the transposition of the EU framework agreement on telework was made by law (Law 99/2003 from 27 August 2003, articles 233 to 243 of the Labour Code). Social partners disagreed on the opportunity to implement the EU framework agreement through legislation at national level. Nevertheless, the government took the decision to integrate the provisions of the EU framework agreement through a revision of the Labour Code in 2003. Trade unions wish to enter negotiations with employers on two further issues, namely the organisation of work in call centres and the status of self-employed teleworkers. However, employers are not in favour of doing so since these two forms of telework were not covered by the EU agreement.

In **Belgium** and **Luxembourg** in addition to their respective national collective agreements, social partners called on public authorities to act on some aspects which they considered as falling outside the remit of social partners exclusive competences. In their opinion (avis n°1.528) adopted on 9 November 2005, Belgian social partners asked the government to propose a number of legislative changes in order for the new collective agreement on telework to be harmoniously integrated in the pre-existing regulations. These changes concern for example the recognition of the fact that telework is exercised in the framework of a normal work relation and is not a separate legal status (there exists in Belgium a special status for workers working at home) or how to distinguish work accidents from private accidents. In Luxembourg, social partners called on public authorities to review existing rules of the social security affiliation and tax regime of cross-border workers, in order not to hamper the development of telework. These rules being defined to a large extent at European level, social partners asked their government to convince their European partners to modify the existing EU regulations on these aspects.

Obstacles to the development of telework due to taxation were also discussed in the UK. The **UK** guide on telework recalls that a measure introduced in the UK Budget in 2003 enables employers to meet some or all of the incidental household costs incurred by employees who work at home (heating, electricity, etc.) without it giving rise to a tax charge for the employee.



## ✓ OTHER TRIPARTITE ACTIVITIES

Finally, in some countries, social partners called upon the public authorities to help ensure a common understanding of the challenges created by telework, which led to a range of different tripartite activities.

The **Latvian social partners** negotiated with the Ministry of Welfare and members of the Latvian parliament a set of guidelines on the implementation of telework.

In **the UK**, the government financed the publication of the joint social partners' guide on telework. In **Malta**, ground work is under way by the Maltese social partners and the government to review the existing status of teleworkers in the Labour Code and to tackle cultural and mentality obstacles to the development of telework.

# ● KEY ISSUES IN THE IMPLEMENTATION

In terms of content, the key features of the follow up and implementation of the EU framework agreement on telework in the 27 European countries concerned can be summarised as follows. They are presented in accordance with the structure of the EU agreement.

## ✓ DEFINITION AND SCOPE

### 2 DEFINITION AND SCOPE

Telework is 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 employer's premises, is carried out away from those premises on a regular basis.

This agreement covers teleworkers. A teleworker is any person carrying out telework as defined above.

The EU framework agreement on telework 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 employer's premises, is carried out away from those premises on a regular basis”. Social partners in most countries adopted this definition or a very similar one, as for example in the recommendation on telework adopted by German social partners in the chemical or the Irish code of practice on telework from 2004. In a Spanish collective agreement for the daily press adopted on 22 July 2005, social partners welcomed the clarity of this definition as it eliminates pre-existing uncertainties on the employee status of the teleworker.

In some countries, the EU definition and scope of the agreement were changed. For example, the Hungarian legal provisions define a teleworker as someone who communicates the result of his/her work via electronic devices.

Social partners themselves have sometimes changed the EU definition of teleworker. In France for example, the notion of teleworker includes “nomad workers”. In Italy, two different types of telework are defined: the teleworker working from home and the teleworker working at a distance. The Irish code of practice stipulates explicitly that the notion of teleworker is synonymous with e-worker and that the code also applies to telecommuters and mobile e-workers. In a company in the telecommunications sector in Germany, the collective regime agreed by social partners takes into account the different telework forms that exist in the sector i.e. alternating telework and mobile telework.



### 3 VOLUNTARY CHARACTER

Telework is voluntary for the worker and the employer concerned. Teleworking may be required as part of a worker's initial job description or it may be engaged in as a voluntary arrangement subsequently.

In both cases, the employer provides the teleworker with relevant written information in accordance with directive 91/533/EEC, including information on applicable collective agreements, description of the work to be performed, etc. The specificities of telework normally require additional written information on matters such as the department of the undertaking to which the teleworker is attached, his/her immediate superior or other persons to whom she or he can address questions of a professional or personal nature, reporting arrangements, etc.

If telework is not part of the initial job description, and the employer makes an offer of telework, the worker may accept or refuse this offer. If a worker expresses the wish to opt for telework, the employer may accept or refuse this request.

The passage to telework as such, because it only modifies the way in which work is performed, does not affect the teleworker's employment status. A worker refusal to opt for telework is not, as such, a reason for terminating the employment relationship or changing the terms and conditions of employment of that worker.

If telework is not part of the initial job description, the decision to pass to telework is reversible by individual and/or collective agreement. The reversibility could imply returning to work at the employer's premises at the worker's or at the employer's request. The modalities of this reversibility are established by individual and/or collective agreement.

The voluntary character of telework is affirmed clearly by the EU framework agreement when it states "telework is voluntary for the worker and the employer concerned". This principle is reaffirmed in all social partners' transposition measures across Europe.

The provision of the EU framework agreement has even been used by the Spanish Supreme Court in a case from 11 April 2005 as an interpretation criterion to highlight the importance of the worker's willingness to opt for telework, if telework is not part of the initial job description.

Two situations are envisaged: "teleworking may be required as a part of a worker's initial job description or it may be engaged in as a voluntary arrangement subsequently". All implementation tools mention this distinction as it has important consequences and the possibility for the worker to return to or get a job at the employer's premises.

In both cases, the EU framework agreement foresees the obligation for the employer to provide the teleworker with relevant written information in accordance with directive 91/533/EEC, including information on applicable collective agreements, description of the work to be performed, etc. The EU framework agreement also states that the specificities of telework normally require additional written information on matters such as the department of the undertaking to which the teleworker

is attached, his/her immediate superior or other persons to whom she or he can address questions of professional or personal nature, reporting arrangements, etc.

These indications have been followed in all countries. In some of them, it is specifically stated that this implies an addendum to the work contract (France, Belgium, Poland). The UK guide on telework recalls the obligation for employers to provide the worker with a written statement of particulars within two months of commencement for teleworkers recruited as such and within one month for teleworkers changing work organisation subsequently.

In some countries, social partners have been even more specific. This is for example the case in Belgium. The Belgian national collective agreement CCT n°85 from 9 November 2005, foresees in its Article 6 that the individual agreement, to be concluded before starting to telework, must contain in writing the following:

- ✓ The frequency of telework and possibly the days at which telework is done and if needed the days and/or hours where the worker is present in the enterprise
- ✓ The periods of time during which the teleworker can be contacted et by which means
- ✓ When the teleworker can ask for technical support
- ✓ The way in which the employer covers the costs linked to the equipment and breakdowns
- ✓ The conditions at which a teleworker can return to working at the employer premises, the notice period and/or the duration of the telework and its renewal modalities.

It also stipulated that in case there is no written agreement on those points, the teleworker has the right to work at the employer's premises.

Also in Luxembourg, social partners have listed in great detail the mandatory written information to be provided to teleworkers. In addition to what is foreseen at EU level, article 4 of the national collective agreement states that should be mentioned in writing:

- ✓ The place from which the teleworker performs the work
- ✓ A detailed description of the tasks to be accomplished in a way which allows the teleworker to compare him/herself to similar workers working at the employer premises
- ✓ The classification of the worker in the classification grid of the collective agreement
- ✓ Days and hours where the teleworker can be contacted by the employer
- ✓ The exact description of the equipment provided and installed by the employer
- ✓ Information concerning the insurances contracted by the employer to guarantee the equipment in case of fire, flooding, theft, etc.

Finally, in the Polish draft social partner agreement, it is mentioned that a written document should entail information on the work system and schedule, the form and manner of reporting for

work, the form and manner of explaining absence from work, the work arrangements, including the form and manner of assigning tasks and reviewing their fulfilment and the rules for sending the teleworker on a business trip and refunding business trip expenses.

Detailing further the consequences of the voluntary character of telework, the EU framework agreement states that “if telework is not part of the initial job description, and the employer makes an offer of telework, the worker may accept or refuse this offer. If a worker expresses the wish to opt for telework, the employer may accept or refuse this request. The passage of telework as such, because it only modifies the way in which work is performed, does not affect the teleworker's employment status. A worker's refusal to opt for telework is not, as such, a reason for terminating the employment relationship or changing the terms and conditions of employment of that worker”.

On this point, the UK joint guide on telework recalls the UK legislation regarding the right for employees to request flexible working for parents with disabled children or children under six and the corresponding duty for employers to give serious consideration to such requests (page 8). The Italian national collective agreement mentions one exception to the above-mentioned principles, in the case where telework is the only way to perform a particular job (article 2 of the national collective agreement). This exception aims at securing the possibility for the employer, in a process of reorganization, to assign the worker to a similar post in the enterprise even if the execution of the tasks requires teleworking.

The next issue mentioned by the EU framework agreement is the reversibility of the choice of telework by individual and/or collective agreement. This applies in case telework is not a part of the initial job description: “the decision to pass to telework is reversible. The reversibility could imply returning to work at the employer's premises at the worker's or at the employer's request. The modalities of this reversibility are established by individual and/or collective agreement”.

In some countries, the conditions in which a worker who opted for telework can return to his/her previous form of work organisation has gone beyond what was foreseen in the EU framework agreement.

The provisions of the French national cross-industry agreement can be completed and/or adapted through agreements at sectoral or company levels. Certain provisions apply directly to lower level agreements without the possibility to be amended; others foresee a greater flexibility for social partners at other levels. For example, the principle of reversibility from telework to working at the employer premises is obligatory. However, the modalities of application of this principle can be adapted at sector or company level. In case of passage to telework, the French collective agreement foresees in its article 2 that an adaptation period should be created during which the worker and the employer can unilaterally end the telework arrangements. The period of notice should be defined in advance. A job, in accordance with the worker's qualifications and at the employer's premises, shall be proposed to the worker. After the end of this adaptation period, returning to work at the employer's premises is subject to an agreement between the employer and the teleworker.

In Poland, the draft national social partner agreement foresees an adaptation period of three months, during which unilateral termination of telework is possible.

A similar adaptation period, of 3 to 12 months, is foreseen in the Luxembourg national collective agreement (article 5 of the national collective agreement). The exact length of the adaptation

period must be defined in agreement between both parties. A unilateral decision to opt out of telework cannot occur within the two first weeks. The exact ways to put an end to the adaptation period as well as the notice period to do so are regulated in all details in the national collective agreement. After the adaptation period, the return to work at the employer premises requires an agreement between the employer and the teleworker (article 17 of the national collective agreement). The teleworker is informed in priority of the job opportunities within the enterprise which correspond to his/her qualifications. In case of such a return, the national collective agreement entails a list of information to be delivered without delay to the worker and notably his/her location of work, working hours and working conditions.

The Danish collective agreement for the local and regional public sector foresees that individual agreements with teleworkers can only be agreed in the framework of a local collective agreement. Furthermore, if the agreement is terminated the employee has a right to return to the same job or, in the event that this is not possible, to another job with the same or similar specifications.

Irish social partners have agreed in their code of practice that where telework is entered into voluntarily there should be provision for suspending or terminating the telework arrangement and returning to previous employment at the previous location, at the employer's or the employee's request. The modalities/procedure for returning from telework, including adequate notice, should be agreed between the parties i.e. the employer and the teleworker, or by collective agreement at the outset.

The UK guide on telework recalls that reversibility is subject to agreement between the employer and the teleworker (page 9). The circumstances in which a decision to telework cannot be reversed (for example, no space at employer's premises or costs of reversal too high) should be spelled out at the beginning, either in collective or individual agreements.

Specific arrangements had not been foreseen at EU level for workers for whom telework is part of the initial job description but who wish to work at the employer premises. However, some implementation measures in Member states did so. For example, in case telework is part of the initial job description, the French social partners have granted the teleworker wishing to work at the employer premises with the possibility to apply to any vacant post and with a priority to get the job (article 3 of the national collective agreement).

In the Luxembourg national collective agreement a special article is devoted to regulating this question (article 16 of the national collective agreement). It states that the passage from telework to working at the employer premises requires agreement between the employer and the worker. The worker for whom telework is part of the initial job description but who wishes to work at the employer's premises is informed in priority of the vacant posts within the enterprise which correspond to his/her qualifications.

#### 4 EMPLOYMENT CONDITIONS

Regarding employment conditions, teleworkers benefit from the same rights, guaranteed by applicable legislation and collective agreements, as comparable workers at the employer's premises. However, in order to take into account the particularities of telework, specific complementary collective and/or individual agreements may be necessary.

This principle has been translated as it stands in all countries. This is for example the case in the labour foundation's recommendation on telework agreed upon in 2003 in the Netherlands or in the Swedish social partner agreement on common guidelines also adopted in 2003. The Irish code of practice recommends that any changes to normal work practices or to the application of the employee's terms and conditions due to telework be agreed from the outset in a collective or individual agreement. Social partners in some countries give further details on the aspects to be taken into account when following this principle. The French national collective agreement for example states that the workload, production norms and result criteria set for the teleworker must be equivalent to those set for similar workers working at the employer premises. These notions and principles are rarely used in collective agreements in France.

Going beyond the EU framework agreement, the national collective agreement in Luxembourg foresees that when the passage to telework implies the loss of a pre-existing benefit in kind for the worker or implies that the worker will no longer be able to make use of this benefit in kind in the same way as comparable workers at the employer's premises, the employer has to grant a compensatory advantage.

Similarly, the legislator has sometimes added to the EU text to specify how to take into account the particularities of telework. The Hungarian labour code for example foresees specific rules with regard to the right for the employer to enter the location where the work is performed, the way to control working and resting time etc.

## 5 DATA PROTECTION

The employer is responsible for taking the appropriate measures, notably with regard to software, to ensure the protection of data used and processed by the teleworker for professional purposes.

The employer informs the teleworker of all relevant legislation and company rules concerning data protection.

It is the teleworker's responsibility to comply with these rules.

The employer informs the teleworker in particular of:

--> any restrictions on the use of IT equipment or tools such as the internet,

--> sanctions in the case of non-compliance.

Social partners in most countries refer to the application to teleworkers of national data protection rules. This is the case in France where the work of the CNIL (National Commission for Informatics and Freedoms) is mentioned. In Italy, the national collective agreement refers to the Code on the protection of personal data and the Code on confidentiality. In Germany, both legislation and company rules are mentioned in the works agreement of a company in the German metal industry. The Irish code of practice and the UK guide detail the provisions of applicable national and European regulations.

Some national implementation measures entail further provisions. The Polish draft social partner agreement for example foresees an obligation for the employer to issue a policy regarding data protection in his/her enterprise and the corresponding responsibility for the employee to respect the rules.

In the collective regime agreed in a company in the German telecommunications sector, it is stipulated that particular attention is to be paid to protection of data and information vis-à-vis third parties. Confidential data and information must be protected in such a way that third parties have no access. Statutory data protection provisions apply, as do the company's central rules for ensuring data protection and data security. The employee is informed in an appropriate manner about statutory and in-house rules governing data protection and data security.

The Irish code of practice lists a number of elements to pay attention to, such as how to deal with secure document waste, locking of the home office/computer, procedures for computer virus checking and password changes, data backups, confidentiality and non-disclosure agreements. The UK guide on telework contains similar provisions and highlights in addition to the above-mentioned elements the potential risks linked to the access to personal data and breaches of integrity.

## ✓ PRIVACY

### 6 PRIVACY

The employer respects the privacy of the teleworker.

If any kind of monitoring system is put in place, it needs to be proportionate to the objective and introduced in accordance with Directive 90/270 on visual display units.

In most cases, this provision has been taken over in extenso in national implementation measures. A right to information on any checking facility is for example enshrined in the Irish code of practice. The use of a monitoring system is however not specifically regulated by the Hungarian labour code.

## ✓ EQUIPMENT

### 7 EQUIPMENT

All questions concerning work equipment, liability and costs are clearly defined before starting telework.

As a general rule, the employer is responsible for providing, installing and maintaining the equipment necessary for regular telework unless the teleworker uses his/her 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.

The employer provides the teleworker with an appropriate technical support facility.

The employer has the liability, in accordance with national legislation and collective agreements, regarding costs for loss and damage to the equipment and data used by the teleworker.

The teleworker takes good care of the equipment provided to him/her and does not collect or distribute illegal material via the internet.

The EU framework agreement stipulates that “all questions concerning work equipment, liability and costs are clearly defined before starting telework”. Social partners in some countries have translated this provision by introducing it in the list of mandatory written information to be given to the teleworker.

“As a general rule, the employer is responsible for providing, installing and maintaining the equipment necessary for regular telework unless the teleworker uses his/her own equipment”. This question is considered an important one as in most countries the rules applicable have been detailed in national instruments.



In several countries, social partners decided that the employer should bear the entire responsibility of the provision, installation and maintenance of the equipment. This is for example the case in the Belgian national collective agreement or the specimen of service or company agreement agreed for local administrations and public sector companies in Germany. Specific rules are very often foreseen in case the teleworker uses his/her own equipment.

However, the Hungarian labour code, which takes into account an amendment of national social partners' is more nuanced. The responsibility for providing the equipment and communication facilities is subject to an agreement between the employer and the employee. Only if there is no agreement shall the employer bear this responsibility.

Some countries detail more precisely the responsibilities of both sides. For example, the French national collective agreement from July 2005 foresees that, in case the teleworker works from home, the responsibility of the employer to provide, install and maintain the equipment is subject to the conformity of the electricity and work space at the worker's home (article 7 of the national collective agreement). In the German collective regime of a company in the telecommunication sector it is stated that, in the case of telework from the worker's home, private office furniture which meets health and safety requirements can be used with the worker assuming the costs and risks. However, for the social partners in Luxembourg, the employer bears also the responsibility of controlling the conformity of the electricity and work space of the teleworker (article 11 of the national collective agreement). A similar provision is entailed in the Irish code of practice which recalls that the employers are obliged by law to undertake a health and safety risk assessment to ensure that teleworker's workstation complies with all legislation. This is linked to health and safety questions and has been in some instance dealt with in relation to the section 8 on health and safety of the EU framework agreement. In the Polish draft social partner agreement, the conditions under which the teleworker uses its own equipment are narrowly regulated. It is foreseen that the employer and the teleworker may agree that the teleworker will use its own equipment. However, in such case, the teleworker is entitled to a lump sum which amount and payment procedure should be agreed beforehand between the two parties. Furthermore, parties may agree that the employer covers the costs for installation, repairs and maintenance.

Another important question concerns who bears the costs related to communication, for example internet connection. In most member states, it was decided that the employer should compensate or cover the costs directly caused by the work, in particularly those relating to communication, in accordance with the EU framework agreement.

However, the Belgian national collective agreement CCT 85 from 9 November 2005 is quite detailed on this aspect. It stipulates in its article 9 that the costs bared by the employer are calculated before the start of telework proportionately to the amount of telework done or following an allocation rule to be determined by the parties to the agreement.

The implementation of the provision according to which "the employer provides the teleworker with an appropriate technical support facility" has not led to any controversy and has been integrated as such in all implementation instruments.

The EU framework agreement foresees that "the employer has the liability, in accordance with national legislation and collective agreements, regarding costs for loss and damage to the equipment and data used by the teleworker". In most countries, social partners explicitly made reference to the duty of the worker to inform immediately the employer in the case of problems with the equipment. This is also

linked to the last provision under this section of the EU framework agreement which states that “the teleworker takes good care of the equipment provided to him/her and does not collect or distribute illegal material via the internet.”

In Belgium, the national collective agreement from November 2005 also regulated the respective responsibilities of the employer and the teleworker in the case of an equipment breakdown. In its article 13, it stipulates that in the case of such a breakdown, the teleworker must inform the employer immediately and that the teleworker is paid during that period. Specific arrangements can be foreseen such as the replacement of the equipment or a temporary assignment at the employer’s premises.

## ✓ HEALTH AND SAFETY

### 8 HEALTH AND SAFETY

The employer is responsible for the protection of the occupational health and safety of the teleworker in accordance with Directive 89/391 and relevant daughter directives, national legislation and collective agreements.

The employer informs the teleworker of the company’s policy on occupational health and safety, in particular requirements on visual display units. The teleworker applies these safety policies correctly.

In order to verify that the applicable health and safety provisions are correctly applied, the employer, workers’ representatives and/or relevant authorities have access to the telework place, within the limits of national legislation and collective agreements. If the teleworker is working at home, such access is subject to prior notification and his/her agreement.

The teleworker is entitled to request inspection visits.

As for data protection (section 5) national implementation measures recall in most cases that the general rules on health and safety are applicable to teleworkers. The UK guide and the Irish code of practice for example make reference to the applicable national and European regulations. In these two countries employers are obliged by law to undertake a health and safety risk assessment to ensure that a teleworker’s workstation complies with all legislation. The UK guide on telework gives further details on the hazards that can arise from electrical equipment and visual display units as well as on the special protection due to new or expectant mothers (page 17).

Limitations to the application of health and safety rules are also mentioned. The UK guide recalls that the employer is responsible for the safety of the equipment they supply but that teleworker’s domestic electrical system is their own responsibility. The Hungarian Labour Code stipulates that the general health and safety rules apply to teleworkers in the case where their equipment is owned by the employer. The Polish draft social partner agreement foresees that the teleworker must receive health and safety training before starting teleworking, in particular on the use of visual displays. However, general health and safety rules do not apply to the work place of the teleworker if it is situated at home.

## 9 ORGANISATION OF WORK

Within the framework of applicable legislation, collective agreements and company rules, the teleworker manages the organisation of his/her working time.

The workload and performance standards of the teleworker are equivalent to those of comparable workers at the employer's premises.

The employer ensures 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.

The EU framework agreement states that “within the framework of applicable legislation, collective agreements and company rules, the teleworker manages the organisation of his/her working time”.

The issue of working time has been explicitly dealt with in all countries. Most countries referred to the application of the existing legislation covering workers as for instance in Italy or Ireland. Some social partners have also detailed particular aspects. The Irish code of practice mentions for example the obligation to include mechanisms to avoid unfair extra workload on those working at home or left back at the office. The Luxembourg national collective agreement stipulates that employer and worker must agree on the way to take account of overtime.

The EU framework agreement adds “the workload and performance standards of the teleworker are equivalent to those of comparable workers at the employer premises”. In the UK guide on telework, it is explained that direct productivity comparisons should acknowledge potential for extra administration requirements of office-based workers such as answering telephones, generalised procedural requirements, etc. Feedback on performance is very important for distant workers. Mechanisms for the delivery of feedback should also be clearly defined. In France, the national collective agreement mentions in particular the fact that teleworkers should have similar evaluation meetings as workers at the employer's premises.

A great number of implementation instruments mention the need to pay attention not to isolate the teleworker from his colleagues at the employer's premises. This is done in accordance with the provisions of the EU framework agreement i.e. “the employer ensures 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”. The works agreement in a company active in the German metal sector mentions in addition a need to ensure participation in establishment and department meetings. The UK guide gives examples of innovative organisational practices such as establishing “social club facilities”, “soft seating areas” for informal conversations and “hot desking”.

## 10 TRAINING

Teleworkers have the same access to training and career development opportunities as comparable workers at the employer's premises and are subject to the same appraisal policies as these other workers.

Teleworkers receive appropriate training targeted at the technical equipment at their disposal and at the characteristics of this form of work organisation. The teleworker's supervisor and his/her direct colleagues may also need training for this form of work and its management.

In most countries, the provisions of the EU framework agreement on training have been taken over without adding further details. The implemented provisions foresee that teleworkers have the same access to training and career development opportunities as comparable workers at the employer's premises and are subject to the same appraisal policies as these other workers. They receive appropriate training targeted at the technical equipment at their disposal and at the characteristics of this form of work organisation. Moreover it is mentioned that the teleworker's supervisor and his/her direct colleagues may also need training for this form of work and its management.

However, the UK guide on telework lists, in addition to the above, the core areas in which the teleworker may need training such as job-related skills, generic skills in IT and communication methods as well as self-management skills including training in time management. The specimen of service or company agreement developed by social partners for the local administration and public sector companies in Germany as well as the collective regime agreed by social partners in a company in the German telecommunications sector specify that the teleworker cannot be put at a disadvantage regarding his/her participation to training compared with his/her colleagues working at the employer's premises.

## 11 COLLECTIVE RIGHTS ISSUES

Teleworkers have the same collective rights as workers at the employer's premises. No obstacles are put to communicating with workers' representatives.

The same conditions for participating in and standing for elections to bodies representing workers or providing worker representation apply to them. Teleworkers are included in calculations for determining thresholds for bodies with worker representation in accordance with European and national law, collective agreements or practices. The establishment to which the teleworker will be attached for the purpose of exercising his/her collective rights is specified from the outset.

Worker representatives are informed and consulted on the introduction of telework in accordance with European and national legislations, collective agreements and practices.

All implementation instruments recognise the fact that teleworkers have the same collective rights as workers at the employers premises and that no obstacles can be put to communicating with workers representatives. They also recognise that the same conditions for participating in and standing for elections to bodies representing workers or providing worker representation apply to teleworkers.

The other provisions of the EU framework agreement concerning the inclusion of teleworkers in calculations for determining thresholds for bodies with worker representation in accordance with European and national law, collective agreements or practices and the fact that the establishment to which the teleworker will be attached for the purpose of exercising his/her collective rights is specified from the outset, were also implemented.

Finally, it is generally agreed that worker representatives must be informed and consulted on the introduction of telework in accordance with European and national legislation, collective agreements and practices.

## 12 IMPLEMENTATION AND FOLLOW-UP

In the context of article 139 of the Treaty, this European framework agreement shall be implemented by the members of UNICE/UEAPME, CEEP and ETUC (and the liaison committee EUROCADRES/CEC) in accordance with the procedures and practices specific to management and labour in the Member States.

This implementation will be carried out within three years after the date of signature of this agreement.

Member organisations will report on the implementation of this agreement to an ad hoc group set up by the signatory parties, under the responsibility of the social dialogue committee. This ad hoc group will prepare a joint report on the actions of implementation taken. This report will be prepared within four years after the date of signature of this agreement .

In case of questions on the content of this agreement, member organisations involved can separately or jointly refer to the signatory parties.

The signatory parties shall review the agreement five years after the date of signature if requested by one of the signatory parties.

This section refers to the fact that the European social partners have agreed that, for the first time, an EU framework agreement signed by ETUC, UNICE/UEAPME and CEEP would be implemented directly by their members, in accordance with the procedure defined in Article 139 of the EU Treaty. It foresees an implementation period of three years and specifies the reporting procedure, the procedure in case of questions on the content of the agreement and the possibility to review the framework agreement after five years if so requested by one of the signatory parties.

This section did not require as such an implementation by the national social partners. Nevertheless, the Italian and French collective agreements mention their commitment to report in time to the European social partners on the actions they took to implement the EU framework agreement on telework.

In several countries, the procedure to follow in case of questions or disagreement regarding the interpretation of the EU text was specified. The Italian social partners recalled the possibility given by the EU framework agreement to address queries, jointly or not, to EU level social partners on interpretation. In Iceland, a joint committee was established to deal with conflicts that may arise from the agreement, including conflicts in interpretation that shall be resolved in coherence with the EU framework agreement. The Danish collective agreements on telework are, as are all other collective agreements in Denmark, subject to arbitration.

Finally, in almost all countries, reference is made to the fact that telework is a developing phenomenon the precise assessment of which is difficult to make after such a short period of time since the adoption of the EU framework agreement.

## ● CONCLUSION

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To sum up, ETUC, UNICE, UEAPME and CEEP consider that the present report clearly demonstrates the wealth of social partner initiatives to follow-on the EU framework agreement on telework.

It illustrates the commitment of the national social partners to back up the commitments made on their behalf in the European social dialogue. Many of the social partners across Europe have shown that they can successfully come to grips with an important issue for the future in autonomous negotiations.

The reporting exercise shows the heterogeneity both in reporting and implementation. This is partly due to the fact that it is the first time that member organisations have had to do this. It is also partly due to the novelty of the issue itself and partly due to the diversity of industrial relations systems. However, some challenges had to be overcome, for example, the translation of the EU framework agreement or the development of a common understanding on the nature of the autonomous EU framework agreement.

These elements will feed into the discussions European social partners will have, according to their work programme 2006-2008, in order to further develop their common understanding of these instruments and how they can have a positive impact at the various levels of social dialogue.

The report also shows that the EU social dialogue can be a source of development of innovative social dialogue practices across Europe.



# ANNEX





## FRAMEWORK AGREEMENT ON TELEWORK

### 1. GENERAL CONSIDERATIONS

IN THE CONTEXT of the European employment strategy, the European Council invited the social partners to negotiate agreements modernising the organisation of work, including flexible working arrangements, with the aim of making undertakings productive and competitive and achieving the necessary balance between flexibility and security.

The European Commission, in its second stage consultation of social partners on modernising and improving employment relations, invited the social partners to start negotiations on telework. On 20 September 2001, ETUC (and the liaison committee EUROCADRES/CEC), UNICE/UEAPME and CEEP announced their intention to start negotiations aimed at an agreement to be implemented by the members of the signatory parties in the Member States and in the countries of the European Economic Area. Through them, they wished to contribute to preparing the transition to a knowledge-based economy and society as agreed by the European Council in Lisbon.

Telework covers a wide and fast evolving spectrum of circumstances and practices. For that reason, social partners have chosen a definition of telework that permits to cover various forms of regular telework.

The social partners see telework both as a way for companies and public service organisations to modernise work organisation, and as a way for workers to reconcile work and social life and giving them greater autonomy in the accomplishment of their tasks. If Europe wants to make the most out of the information society, it must encourage this new form of work organisation in such a way, that flexibility and security go together and the quality of jobs is enhanced, and that the chances of disabled people on the labour market are increased.

This voluntary agreement aims at establishing a general framework at the European level to be implemented by the members of the signatory parties in accordance with the national procedures and practices specific to management and labour. The signatory parties also invite their member organisations in candidate countries to implement this agreement.

Implementation of this agreement does not constitute valid grounds to reduce the general level of protection afforded to workers in the field of this agreement. When implementing this agreement, the members of the signatory parties avoid unnecessary burdens on SMEs.

This agreement does not prejudice the right of social partners to conclude, at the appropriate level, including European level, agreements adapting and/or complementing this agreement in a manner which will take note of the specific needs of the social partners concerned.

## 2. DEFINITION AND SCOPE

TELEWORK is 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.

This agreement covers teleworkers. A teleworker is any person carrying out telework as defined above.

## 3. VOLUNTARY CHARACTER

TELEWORK is voluntary for the worker and the employer concerned. Teleworking may be required as part of a worker's initial job description or it may be engaged in as a voluntary arrangement subsequently.

In both cases, the employer provides the teleworker with relevant written information in accordance with directive 91/533/EEC, including information on applicable collective agreements, description of the work to be performed, etc. The specificities of telework normally require additional written information on matters such as the department of the undertaking to which the teleworker is attached, his/her immediate superior or other persons to whom she or he can address questions of professional or personal nature, reporting arrangements, etc.

If telework is not part of the initial job description, and the employer makes an offer of telework, the worker may accept or refuse this offer. If a worker expresses the wish to opt for telework, the employer may accept or refuse this request.

The passage to telework as such, because it only modifies the way in which work is performed, does not affect the teleworker's employment status. A worker refusal to opt for telework is not, as such, a reason for terminating the employment relationship or changing the terms and conditions of employment of that worker.

If telework is not part of the initial job description, the decision to pass to telework is reversible by

individual and/or collective agreement. The reversibility could imply returning to work at the employer's premises at the worker's or at the employer's request. The modalities of this reversibility are established by individual and/or collective agreement.

## 4. EMPLOYMENT CONDITIONS

REGARDING employment conditions, teleworkers benefit from the same rights, guaranteed by applicable legislation and collective agreements, as comparable workers at the employers premises. However, in order to take into account the particularities of telework, specific complementary collective and/or individual agreements may be necessary.

## 5. DATA PROTECTION

THE EMPLOYER is responsible for taking the appropriate measures, notably with regard to software, to ensure the protection of data used and processed by the teleworker for professional purposes.

The employer informs the teleworker of all relevant legislation and company rules concerning data protection.

It is the teleworker's responsibility to comply with these rules.

The employer informs the teleworker in particular of:

--> any restrictions on the use of IT equipment or tools such as the internet,

--> sanctions in the case of non-compliance.

## 6. PRIVACY

THE EMPLOYER respects the privacy of the teleworker.

If any kind of monitoring system is put in place, it needs to be proportionate to the objective and introduced in accordance with Directive 90/270 on visual display units.

## **7. EQUIPMENT**

ALL QUESTIONS concerning work equipment, liability and costs are clearly defined before starting telework.

As a general rule, the employer is responsible for providing, installing and maintaining the equipment necessary for regular telework unless the teleworker uses his/her 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.

The employer provides the teleworker with an appropriate technical support facility.

The employer has the liability, in accordance with national legislation and collective agreements, regarding costs for loss and damage to the equipment and data used by the teleworker .

The teleworker takes good care of the equipment provided to him/her and does not collect or distribute illegal material via the internet.

## **8. HEALTH AND SAFETY**

THE EMPLOYER is responsible for the protection of the occupational health and safety of the teleworker in accordance with Directive 89/391 and relevant daughter directives, national legislation and collective agreements.

The employer informs the teleworker of the company's policy on occupational health and safety, in particular requirements on visual display units. The teleworker applies these safety policies correctly.

In order to verify that the applicable health and safety provisions are correctly applied, the employer, workers' representatives and/or relevant authorities have access to the telework place, within the limits of national legislation and collective agreements. If the teleworker is working at home, such access is subject to prior notification and his/her agreement.

The teleworker is entitled to request inspection visits.

## **9. ORGANISATION OF WORK**

WITHIN the framework of applicable legislation, collective agreements and company rules, the teleworker manages the organisation of his/her working time.

The workload and performance standards of the teleworker are equivalent to those of comparable workers at the employers premises.

The employer ensures 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.

## **10. TRAINING**

TELEWORKERS have the same access to training and career development opportunities as comparable workers at the employer's premises and are subject to the same appraisal policies as these other workers.

Teleworkers receive appropriate training targeted at the technical equipment at their disposal and at the characteristics of this form of work organisation. The teleworker's supervisor and his/her direct colleagues may also need training for this form of work and its management.

## **11. COLLECTIVE RIGHTS ISSUES**

TELEWORKERS have the same collective rights as workers at the employers premises. No obstacles are put to communicating with workers representatives. The same conditions for participating in and standing for elections to bodies representing workers or providing worker representation apply to them.

Teleworkers are included in calculations for determining thresholds for bodies with worker representation in accordance with European and national law, collective agreements or practices. The establishment to which the teleworker will be

attached for the purpose of exercising his/her collective rights is specified from the outset.

Worker representatives are informed and consulted on the introduction of telework in accordance with European and national legislations, collective agreements and practices.

## 12. IMPLEMENTATION AND FOLLOW-UP

IN THE CONTEXT of article 139 of the Treaty, this European framework agreement shall be implemented by the members of UNICE/UEAPME, CEEP and ETUC (and the liaison committee EUROCADRES/CEC) in accordance with the procedures and practices specific to management and labour in the Member States.

This implementation will be carried out within three years after the date of signature of this agreement.

Member organisations will report on the implementation of this agreement to an ad hoc group set up by the signatory parties, under the responsibility of the social dialogue committee. This ad hoc group will prepare a joint report on the actions of implementation taken. This report will be prepared within four years after the date of signature of this agreement.

In case of questions on the content of this agreement, member organisations involved can separately or jointly refer to the signatory parties. The signatory parties shall review the agreement five years after the date of signature if requested by one of the signatory parties.

16 July 2002

More details on national and sectoral implementation measures can be found by consulting the dedicated websites of the European social partners.

In particular, national joint social partners' implementation reports from the following countries can be consulted:

- Austria
- Belgium
- Czech Republic
- Denmark
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Slovenia
- Spain
- Sweden
- United Kingdom

Employers' Resource Centre: [www.unice.org/erc](http://www.unice.org/erc)

ETUC European Resource Centre: [www.resourceetuc.com](http://www.resourceetuc.com)

