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**NOTE**

From:	Presidency
To:	Delegations
Subject:	Draft Council Conclusions on Telework in the context of remote work

With a view to the meeting of the Social Questions Working Party on 16 April 2021, delegations will find attached a set of draft Council conclusions on the above subject, as prepared by the Presidency.

## Draft Council conclusions on telework in the context of remote work

THE COUNCIL OF THE EUROPEAN UNION

HAVING REGARD TO

1. Article 151 of the Treaty on the Functioning of the European Union, which provides that the Union and the Member States, having in mind fundamental social rights such as those set out in the European Social Charter signed at Turin on 18 October 1961 and in the 1989 Community Charter of the Fundamental Social Rights of Workers, are to have as their objectives the promotion of employment, improved living and working conditions, so as to make possible their harmonisation while the improvement is being maintained, proper social protection, dialogue between management and labour, the development of human resources with a view to lasting high employment and the combating of exclusion.
2. The fact that the European Parliament, the Council and the Commission affirmed their shared political commitment to deliver on the European Pillar of Social Rights (hereinafter ‘the Pillar’), including on the fundamental rights of workers and improved living and working conditions. Principle 9 of the Pillar emphasises the importance of work-life balance for parents and people with caring responsibilities and Principle 10 refers to the need for a healthy, safe and well-adapted work environment<sup>1</sup>.
3. The European Pillar of Social Rights Action Plan, in which the Commission sets out concrete initiatives to deliver on the Pillar in a joint effort by the Member States and the EU, with close involvement of social partners and civil society and with employment, skills and social protection headline targets for the EU to be achieved by 2030<sup>2</sup>.

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<sup>1</sup> OJ C 428, 13.12.2017

<sup>2</sup> COM(2021) 102 final

4. The Council of Europe's revised European Social Charter of 3 May 1996, and in particular Article 2 (regarding the right to just conditions of work, including to reasonable working hours and to rest periods), Article 3 (regarding the right to safe and healthy working conditions), Article 6 (regarding the right to bargain collectively) and Article 27 (regarding the right of workers with family responsibilities to equal opportunities and equal treatment) thereof<sup>3</sup>.
5. The UN Sustainable Development Goals, in particular Goal 8, which includes the promotion of decent work for all<sup>4</sup>, and the 2019 ILO Centenary Declaration for the Future of Work<sup>5</sup>.
6. The European social partners' framework agreements on telework (2002) and digitalisation (2020). The framework agreement of July 2002 establishes a general framework of rules on telework, aiming to promote the development of this new form of work while safeguarding the protection of workers and the interests of employers. It stresses that teleworkers enjoy the same legal protection as employees working permanently at the employer's premises and identifies the aspects that are specific to distance working and which call for adaptation or special attention, such as employment conditions, data protection, privacy, equipment, health and safety, organisation of work, training and collective rights. The framework agreement of June 2020 aims to optimise the benefits of digitalisation in the world of work and covers four areas: digital skills and securing employment; modalities of connecting and disconnecting; artificial intelligence (AI) and guaranteeing the human in control principle; respect of human dignity and surveillance<sup>6</sup>.

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<sup>3</sup> ETS No. 163, available at:  
<https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007cf93>

<sup>4</sup> UN General Assembly, Resolution adopted by the General Assembly on 25 September 2015, A/RES/70/1, available at:  
[https://www.un.org/ga/search/view\\_doc.asp?symbol=A/RES/70/1&Lang=E](https://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E)

<sup>5</sup> [https://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@relconf/documents/meetingdocument/wcms\\_711674.pdf](https://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_711674.pdf)

<sup>6</sup> Social dialogue texts database, available at:  
<https://ec.europa.eu/social/main.jsp?catId=521&langId=en>

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

## RECALLING THAT

8. The Council conclusions of 26 November 2019 on the economy of wellbeing acknowledge the mutually reinforcing effect of well-being and economic prosperity<sup>9</sup>; the Council conclusions of 8 June 2020 on enhancing well-being at work acknowledge that well-being at work can lead to higher productivity and participation in the labour market and reduced public health expenditure<sup>10</sup>; and the Council conclusions of 10 December 2019 on a new EU Strategic Framework on Health and Safety at Work call for a new EU Strategic Framework on Health and Safety at Work for the years 2021 to 2027<sup>11</sup>.
9. The Council conclusions of 17 December 2020 on digitalisation for the benefit of the environment underline the potential of the green transition and the digital transformation to create new green and digital jobs necessary for the economic recovery after the COVID-19 pandemic and stress that the digital transformation should be fair and inclusive and should leave no one behind<sup>12</sup>.

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<sup>7</sup> The Employment Committee - The Social Protection Committee: 'Monitoring Report on the Employment and Social Situation in the EU Following the Outbreak of the COVID-19 Pandemic', Winter 2020/21 Report, available at:

<http://ec.europa.eu/social/BlobServlet?docId=23592&langId=en>

<sup>8</sup> <https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8349&furtherPubs=yes>

<sup>9</sup> OJ C 400, 26.11.2019, p. 9

<sup>10</sup> ST 8688/20 INIT

<sup>11</sup> ST 14942/19 INIT

<sup>12</sup> ST 14169/20 INIT

10. The European Parliament resolution of 21 January 2021 on the right to disconnect calls on the Commission to present a legislative framework with a view to establishing minimum requirements for remote work across the Union ensuring that teleworking does not affect the employment conditions of teleworkers, and stresses that such framework should clarify working conditions, including the provision, use and liability of equipment, such as of existing and new digital tools, and should ensure that such work is carried out on a voluntary basis and that the rights, workload and performance standards of teleworkers are equivalent to comparable workers<sup>13</sup>.
11. The EESC opinion on the challenges of teleworking: organisation of working time, work-life balance and the right to disconnect' calls for the implementation of the European social partners' framework agreements on telework (2002) and digitalisation (2020) and considers that the organisation of working time, the risks to health and safety at work, work-life balance, the right to disconnect and the effectiveness of labour rights when teleworking must be given special attention<sup>14</sup>.
12. The EESC opinion on teleworking and gender equality' draws attention to the risk that teleworking can pose for gender equality if women are expected to bear the double burden of paid and unpaid work, which would exacerbate existing inequalities<sup>15</sup>.

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<sup>13</sup> P9\_TA-PROV (2021)0021

<sup>14</sup> SOC/660, 'Challenges of teleworking: organisation of working time, work-life balance and the right to disconnect', available at: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/challenges-teleworking-organization-working-time-work-life-balance-and-right-disconnect>

<sup>15</sup> SOC/662, 'Teleworking and gender equality – conditions so that teleworking does not exacerbate the unequal distribution of unpaid care and domestic work between women and men and for it to be an engine for promoting gender equality', available at: <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/teleworking-and-gender-equality-conditions-so-teleworking-does-not-exacerbate-unequal-distribution-unpaid-care-and>

13. The communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions entitled ‘2030 Digital Compass: the European way for the Digital Decade’ sets out objectives for achieving the EU’s vision for the digital future. It underlines that people should benefit from, among other things, non-discriminatory access to online services and work-life balance in a remote working environment.

#### CONSIDERING THAT

14. The ever-evolving world of work has undergone some major changes in the last few years, giving rise to new forms of work that often challenge the traditional principles of standard employment. The emergence of these new forms of work comes with opportunities, but also with many challenges and risks, particularly for workers, labour relations and working conditions, for companies and their adaptability in rapidly changing markets, and also for society at large and for public policies and services, as well as social protection systems. Since the COVID-19 outbreak, teleworking has been particularly accentuated and accelerated. According to a Eurofound survey, in July 2020, 34 % of respondents were working solely from home<sup>16</sup>, compared to 5.4 % of those employed in the EU-27 who worked from home in 2019<sup>17</sup>.

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<sup>16</sup> Eurofound (2020), ‘Living, working and COVID-19’, COVID-19 series, Publications Office of the European Union, Luxembourg.

<sup>17</sup> European Commission, ‘Telework in the EU before and after the COVID-19: where we were, where we head to’, Science for Policy Briefs, 2020.

15. This recent massive increase in remote work<sup>18</sup> highlights the need to consider the potential, limits and risks of teleworking. While teleworking is, exceptionally, compulsory in some Member States during the pandemic, Eurofound expects that at least one in five European employees will telework regularly or occasionally under a hybrid model after the pandemic<sup>19</sup>. Along the same lines, the Joint Employment Report 2021 states that the adaptation of working conditions towards more flexible forms of work and telework will remain key after the pandemic, requiring investment in the workplace and reforms to enhance the availability of flexible working arrangements<sup>20</sup>. The preferences of many workers point to a hybrid model with a combination of remote work and face-to-face work, given that 78 % of employees in the July round of the Eurofound e-survey indicated a preference for working from home at least occasionally if there were no COVID-19 restrictions<sup>21</sup>.
16. As the widespread use of telework is a new and very rapid development triggered by the pandemic, the internal rules of enterprises, collective agreements and labour laws have often not yet been adapted to take into account this change. Therefore, steps must be taken, including at national level, to develop adequate regulatory frameworks for voluntary telework, with particular attention given to the hybrid model, in order to better address the problems associated with the increased use of the various arrangements for remote work.

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<sup>18</sup> While social partners have collectively agreed on what constitutes ‘telework’, there is no agreed definition of ‘remote work’. ‘Telework’ refers to standard employment occasionally or regularly performed from home, based on a traditional, contract-bound work schedule. ‘Remote work’, on the other hand, is a broader term that arguably includes telework but also encompasses alternative, highly flexible and ICT-based work, which can be performed anywhere and at almost any time. The ILO definition of telework includes two key elements: (1) the use of information and communications technologies (ICTs) and (2) performing work from outside the employer’s premises.

<sup>19</sup> ‘Telework, ICT-based mobile work in Europe: Trends, challenges and the right to disconnect’, 11 March 2021 - EMCO virtual meeting hosted by the Portuguese Presidency of the Council of the European Union, presentation by Oscar Vargas Llave, Research Manager, Eurofound, available at: <https://www.eurofound.europa.eu/publications/presentation/telework-ict-based-mobile-work-in-europe-trends-challenges-and-the-right-to-disconnect>

<sup>20</sup> ST 7144/1/21 REV1, paragraph 14

<sup>21</sup> Eurofound (2020), ‘Living, working and COVID-19’, COVID-19 series, Publications Office of the European Union, Luxembourg.

17. According to recent findings, the opportunities offered by telework include, for workers, the possibility to improve their work-life balance, achieve greater productivity and autonomy, and reduce the time needed for commuting, as well as related costs<sup>22</sup>. For companies, it can promote productivity and efficiency, allow for savings on the direct and associated costs of premises and offices, and foster result-oriented organisation of work<sup>23</sup>. It can also encourage the development of IT skills, facilitate access to employment and strengthen the inclusiveness of labour markets for certain categories of workers (e.g. those with care and family responsibilities or disabilities)<sup>24</sup>, contribute to significant environmental gains through reducing CO<sub>2</sub> emissions and other environmental impacts<sup>25</sup>, and promote territorial cohesion and regional distribution of jobs between cities and rural areas through a better match between demand for and supply of labour without the need for workers to move physically<sup>26</sup>.
18. On the other hand, telework also brings with it several risks for workers, including, among others, excessive control exercised through monitoring of the use of corporate IT equipment, blurring of lines dividing work and private life, higher levels of work intensity, virtual presenteeism, social and professional isolation, high demand for self-management and self-organisation, lack of physical activity, difficulties ensuring collective representation and reduced participation of employees in workplace decision-making<sup>27</sup>.

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<sup>22</sup> Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age', July 2020

<sup>23</sup> Eurofound and ILO 2017; Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age'

<sup>24</sup> Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age', July 2020

<sup>25</sup> 'How COVID-19 working routines can save emissions in a post-COVID-19 world', IZT-Institute for Future Studies and Technology Assessment

<sup>26</sup> Horizon magazine, 'Teleworking is here to stay – here's what it means for the future of work', September 2020, <https://horizon-magazine.eu/article/teleworking-here-stay-here-s-what-it-means-future-work.html>

<sup>27</sup> Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age'; Eurofound, 'Further exploring the working conditions of ICT-based mobile workers and home-based teleworkers', working paper, 2020



19. Telework can also reinforce inequalities such as those related to skills or to the distribution of care responsibilities. In particular, telework has the potential to reinforce gender inequalities in unpaid care work, as women are more likely to combine employment with domestic work<sup>28</sup>. Additionally, certain groups of women (e.g. older women, women from disadvantaged socio-economic groups, women with lower levels of education) have unequal access to connectivity and digital technologies, which contributes to the digital gender gap<sup>29</sup>.
20. Telework is not available for everyone, whether due to the nature of the work performed, housing and other conditions, access to equipment and/or digital skills. Therefore, the increased use of telework may accentuate the different lived realities of high-skilled and low-skilled workers. This may lead to new or increased inequalities, including between men and women, in terms of income and quality of life, as well as regarding patterns of participation in the labour market and long-term career prospects, thus also indirectly increasing the risk of poverty and social exclusion for low-skilled workers.
21. In this context, lifelong learning and specifically access to digital skills are critical for allowing workers and companies to take advantage of the potential arising from telework while preventing inequalities and exclusion based on lack of the skills and means needed to perform telework.
22. Telework also poses significant challenges for the effective implementation of labour law, as well as the enforcement thereof by labour inspectorates, whose instruments and inspection procedures must be updated in order to adapt to these new working patterns.
23. Telework can also raise challenges concerning access to social protection: roughly one quarter of workers in telework and ICT-based mobile work arrangements, including medium-level and highly qualified workers, report a combination of low wages, job insecurity, a lack of access to training and limited career prospects, which puts them in a precarious employment situation<sup>30</sup>.

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<sup>28</sup> Gender Equality Index 2020: Digitalisation and the future of work, EIGE

<sup>29</sup> OECD, 'Bridging the digital gender divide: include, upskill, innovate',  
<https://www.oecd.org/going-digital/bridging-the-digital-gender-divide-key-messages.pdf>

<sup>30</sup> Eurofound, 'Telework and ICT-based mobile work: flexible working in the digital age'

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

THE COUNCIL OF THE EUROPEAN UNION

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

26. CONSIDER establishing national action plans or national strategies addressing the opportunities and risks related to telework in its different dimensions.
27. CONSIDER amending their labour laws regulating telework where appropriate, in particular with regard to health and safety, including the organisation and control of working time, effective checks by labour inspectorates, physical and IT equipment for home offices and other remote offices, risks related to equality between women and men, allowances to cover the costs of remote working, and particularly of working from home, where applicable, and the promotion of dialogue between employers and workers.
28. STEP UP their efforts to effectively implement the Council recommendation adopted in 2019 on access to social protection for workers and the self-employed and take the dynamic changes in labour relations into account in their national plans for implementation.
29. CONSIDER using available EU funding, including ESF+ and REACT-EU, also to overcome the challenges related to telework.

30. IDENTIFY best practices for making good and balanced use of new models of telework, in particular hybrid teleworking models.
31. CONSIDER establishing or reinforcing initiatives to strengthen labour inspection and occupational health and safety systems regarding the risks arising from remote work.
32. SUPPORT efforts to integrate the right to safe and healthy working conditions into the ILO framework on fundamental principles and rights at work.

CALLS ON THE MEMBER STATES AND THE EUROPEAN COMMISSION, IN  
ACCORDANCE WITH THEIR RESPECTIVE COMPETENCES, TO

33. WORK TOGETHER to foster coherence between national and EU measures regarding remote work, and promote the effective implementation thereof.
34. WORK TOGETHER to raise awareness regarding the risks related to remote work and the key role of social dialogue and collective bargaining on this subject.

CALLS ON THE EUROPEAN COMMISSION TO

35. PROMOTE further research and exchange of experiences on the impacts of telework on a post-pandemic recovery.
36. FACILITATE the exchange of experience and good practices in national approaches to telework.
37. ANALYSE the implications of telework in the EU after the pandemic in order to establish facts which could underpin considerations regarding the need for and feasibility of a legislative proposal at EU level on telework and the right to disconnect.
38. CONSIDER establishing a benchmarking framework on telework, helping to identify legislative and regulatory developments regarding telework.

CALLS ON THE EMPLOYMENT COMMITTEE AND THE SOCIAL PROTECTION  
COMMITTEE TO

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

CALLS ON THE SOCIAL PARTNERS TO

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