



Teleworking

STATE OF THE ART IN 15 COUNTRIES

White Paper - 2nd edition



With the participation of:

Grant Thornton Société d'Avocats France

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Introduction

Telework, and for the most part, on a full-time basis, was suddenly thrust upon the world in the context of the Covid-19 pandemic, and firmly established itself.

Many workers found themselves working from home in this way from the very first lockdowns implemented in March 2020. In fact, as many as 40% of all European workers were immediately faced with full-time teleworking, and yet, 50% of the employees who started teleworking during the pandemic had had no previous experience of it.

As we put telework into place both for our clients and for ourselves, our thoughts led to wondering about the practice of telework in other countries: was it a practice that elsewhere had only been moderately used before the pandemic as was the case in France?

What conclusions could be drawn from the practice of telework once the health crisis was over? What was to become of this sudden and considerable recourse to a new way of working?

We therefore decided to write a White Paper on the subject of telework, bringing together our own findings here in France with the experiences of other countries in Europe, and more notably those of our close neighbours Germany, Spain and Italy.

The objective of our White Paper was to present the evolution of telework as a practice in France, Germany, Spain and Italy, both before, during and after the pandemic.

Further to this first version of our White Paper, **we reached out to our peers in other European countries**, and we are now proud to present this updated version with the additional contributions of the Netherlands, Belgium, Austria, Poland, the Czech Republic, Lithuania, Estonia, Georgia, Armenia, Malta and Ukraine.

The main finding remains, that is to say that telework has gone from being a forced upon necessity during the health crisis, to being indispensable even in post-Covid times. It is a practice that is now wanted by the main players in the European labour market, be they employees or employers, and where each player has found this new way of work organization to have definite advantages.

From being a somewhat marginal practice, telework has now evolved into an almost everyday and widespread work model. The enthusiasm for this way of working is now confirmed and telework has become a real driver in social progress. However, the need to ensure both the wellbeing of employees and the performance of companies is arguably still strong as both will see inevitable developments in their concept and meaning.

Presented below are the main rules as applied in 15 European countries before the Covid-19 crisis, during the pandemic but also in the aftermath. We leave it to you to discover the differences as well as the many similarities that are in place in the framework of our different national legislations.

Enjoy your reading...

¹Source : Joint Research Centre – “Telework in the EU before and after the Covid-19: where we were, where we head to”.

Teleworking

Before Covid-19

Was teleworking regulated prior to the Covid-19 health crisis?



France

Teleworking was first introduced in France by a National Interprofessional Agreement of 19 July 2005, the provisions of which were subsequently integrated into the Labour Code in 2012.

This legal framework was modified and made more flexible by an ordinance of 22 September 2017 and its resulting

ratification. The 2005 National Interprofessional Agreement remained in force however, resulting in the need to combine the different provisions.

Despite the existing legal framework, the recourse to teleworking was relatively low and was generally limited to specific jobs.



Germany

Under German law and already prior to the Covid pandemic, the practice of working in a place other than that of the company's office had been carefully considered, defined and included as a usual mode of working and a difference was made between Telework (Telearbeit), Mobile Work or Flexible Office, and Home Office. Only the concept of Telework has however been defined by statutory law.

Precisions on these different considerations of working outside the office are made below:

1. Telework

The term Telework can be found in the German Workplace Ordinance ("Arbeitsstättenverordnung"; "ArbStättV") and defines a place of Telework as that where a specific workstation is permanently set up by the employer in a private area belonging to the employee, and where both a weekly working schedule and an applicable duration are specified by mutual agreement between the employer and the employee. These conditions must be established by the employer in the employment contract or in an additional agreement. Further to such an agreement, the employer has the obligation to provide the employee with all the equipment necessary to ensure the correct performance of Telework, i.e., office furniture, IT devices, access to networks, and that said equipment is installed in the private premises of the employee either by the employer or by a qualified contractor (Sec. 2 para. 7 of the German Workplace Ordinance). The Workplace Ordinance serves to ensure that the health and safety of the employee is respected in the context of Teleworking.

2. Mobile Work or Flexible Office

Unlike Telework, the practice of Mobile Work/Flexible Office is not defined by German law and is characterised by the fact that no agreement is necessarily made between the employer and the employee either in terms of specified working premises or working time schedule. This practice is understood to relate to the performance of work on mobile devices (smartphone, tablet, laptop) outside of the office, as in the case of business trips or at other external locations including the employee's home. The employee can determine independently his or her own place of work and enjoy the associated benefits of such. The German Workplace Ordinance is not applicable in this mode of working and the employer is therefore less liable to the obligations of employee workplace safety as the overseeing of a regularly changing place of work is rendered difficult.

3. "Home Office"

«Home Office» is a familiar term that is often used for both forms of work previously described, but which remains limited to the employee's home environment. There is no legal basis for the definition of this term and it is essentially considered as a version of Mobile/Flexible Work. According to common usage, Home Office is understood to be occasional or permanent work that is performed in the private premises of the employee.



Spain

Before the Covid-19 pandemic, teleworking was already regulated by the Spanish Worker's Statute. However, this legislation was insufficient in the extent that it did not cover certain important legal issues relating to the practice of

teleworking, and more particularly in the need to draw up a minimum framework in a telework agreement, and in the covering of expenses incurred when working from home.



Italy

Prior to the Covid-19, remote working (or smart working) in Italy was already regulated by Law No. 81 of 22 May 2017 (art. 18-24) on "Measures for the protection of non-entrepreneurial self-employment and measures to encourage flexible times and places in employment contracts".

This type of working benefits both companies and workers as it increases company competitiveness and makes it easier for employees to reconcile their working and personal lives leading to increased productivity.

The Covid-19 epidemic saw a rapid and inevitable use of remote working which proved to be indispensable in ensuring business continuity and in protecting workers' health.

Article 18 of Law No. 81/2017 defines remote work as a new and flexible way of organising employment which does not require the exact definition of workplace and time and which is established by agreement between the parties. It requires

remote working to be carried out partly inside company premises and partly outside, without a fixed location, but under the maximum daily and weekly working hours dictated by law and the National Collective Labour Agreement.

Telework was also in place in the private sector, and was governed by the National Multisectoral Agreement of 9 June 2004 and collective labour agreements. Telework 'constitutes a form of organisation or performance of work with the aid of information technology within the framework of an employment contract or relationship in which work, which could be performed on company premises, and which is regularly performed outside the company premises' (article 1).

Telework and teleworking do not entail any change in the general working conditions or the legal status of the employees concerned, nor do they entail different economic and regulatory conditions from those of an employee performing similar tasks on the company's premises.



The Netherlands

Before the Covid-19 pandemic, the Netherlands lacked a legal framework for teleworking. Consequently, the entitlement of employees in the Netherlands to telework depended on the

individual agreements between employers and employees (and, where applicable, the collective labour agreements).



Belgium

Teleworking was already regulated by law prior to the Covid-19 crisis. There were (and still are) two forms of teleworking, each with different legal requirements:

- Structural teleworking, which has been regulated in Belgium since the collective labour agreement ("CLA") n°85 of 9 November 2005 on teleworking;
- Occasional teleworking, which was introduced by the law of 5 March 2017 on workable and agile work.



Austria

The term «teleworking» is defined in §36a of the Civil Service Law 1979, stating that telecommuting occurs when a civil servant regularly performs specific official tasks in their home or a location of their choice which is not their official workplace, and where the necessary information and communication technology is used by the employee.

In Austria, teleworking is an umbrella term. Home office is a form of teleworking in which the employee's private residence serves

as the agreed-upon, either permanent or temporary place of work instead of the employer's workplace. This arrangement typically involves the use of information technology and telecommunications to facilitate remote work. Prior to the health crisis, there was no specific legal definition of home office in labour and social law. The term was first explicitly used in relevant legislation through the 3rd Covid-19 Act.



Poland

Starting in 2007, telework (Pl. telepraca) was regulated in the Act of 26 June 1974, Labour Code (Articles 675-6717 of the Polish Labour Code). Until the outbreak of the Covid-19 pandemic, no significant changes had been made to the provisions of the Labour Code.

Remote work was also introduced individually by employers in various ways that deviated from the provisions of the Labour Code concerning the working or teleworking regulations.



Czech Republic

Prior to a significant amendment of the Czech Labour Code effective from 1st October 2023, the regulation of teleworking before the Covid-19 crisis was outdated and insufficient and provided only for the limited and vague situation of "employees who do not work in the workplace of the employer". The practice of teleworking was therefore open to issues of

interpretation. More notably, the regulations in place did not adequately reflect or cover the regular and usual recourse to teleworking which resulted from the Covid-19 crisis, and no provisions had been established regarding the costs incurred by employees when teleworking.



Lithuania

In Lithuania, teleworking was regulated to a certain extent before the Covid-19 pandemic. In 2010, the Lithuanian Labour Code was amended (based on the 2002 General Telework agreement between the European social partners) and teleworking was introduced. Such regulation was however relatively unfavorable to the employee since teleworking was accorded under terms and conditions of a new type of employment contract (contrary to the general teleworking

agreement) and was not simply considered as an alternative work organization method. It was considered that the employee was for exceptional reasons performing their work on an exceptional remote basis as opposed to having an actual telework agreement in place. Although teleworking agreements had been introduced, the concept of teleworking was not defined, and as a result, the legal regulation was neither clear nor comprehensive.



Estonia

The Employment Contracts Act which regulates the employment relationship between the employee and employer had included the term “teleworking” from the enactment of the law in 2009. However, teleworking was not regulated

until November 2022 when specific rights and obligations applicable to both the employer and the employee were stipulated under the Occupational Health and Safety Act.



Georgia

Teleworking was not regulated in Georgia prior to the Covid-19 health crisis. Georgia’s legal framework lacks a precise definition of telework, leaving the rights of individuals under such arrangements to be regulated by the provisions of Georgia’s Labour Code. Essentially, teleworkers are subject

to the general regulations concerning working hours. Despite the considerable increase in remote work in Georgia from the onset of the pandemic, it still remains unregulated to date at the legislative level and pending the introduction of specific laws and regulations.



Armenia

Prior to the Covid-19 crisis, no specifications, definitions or regulations regarding telework had been established, be this

under the Armenian Labour Code or other legal statutes of the Republic of Armenia.



Malta

From over half a century prior to the Covid-19 health crisis, Maltese law had already acknowledged the concept of employment in which work or the provision of services could be performed on premises, including the employee’s home, other those under an employer’s control and management. Indeed , under the Employment and Industrial Relations Act (Chapter 452 of the Laws of Malta, in force in 2002 and amending earlier legislation from the middle of the twentieth century), the legal definition of an «outworker» was that of a person provided with articles, materials or services of any nature by an employer for the performance of any type of work or service to be carried out either in the home of the outworker or in premises other

than those under the direct control and management of the employer.

The terms and definition of an outworker were further amended under the abovementioned legislation framework, providing for a national standard order to regulate the employment conditions of employees working under telework arrangements and where the reciprocal rights and obligations between employer and employee were detailed .

The present and detailed legal provisions on teleworking date back to 28 November 2008.



Ukraine

Issues related to the performance of employment duties remotely (outside employer’s main office and other premises) are governed first of all by the Labour Code of Ukraine (hereinafter – the Labour Code) and a range of other regulatory legal acts. Ukrainian Labour Code did not include provisions on teleworking or any other kind of remote work prior

to the Covid-19 crisis. However, Ukrainian legislation in general stipulated a special regime of work out of the employer’s premises for specific categories of employees. These specific legislative provisions were subsequently used to develop a mechanism which introduced a more general recourse to remote work modes in 2020.

How was this mode of working regulated?



France

Until 2017, and in order for teleworking to be performed, it had to be implemented on a voluntary basis and provided for in the employment contract or an addendum to this.

The 2017 law on the reinforcement of the social dialogue simplified to the setting up of telework by a company.

With the application of this law, it was no longer necessary to make amendments to the employment contract in order to allow an employee to telework.

Furthermore, telework could be implemented in three different ways:

- (i) by a simple agreement established with the employee and via any means (oral agreement, email, letter, etc.),
 - (ii) by a collective agreement,
 - (iii) by a charter drawn up by the employer and after consulting the social and economic committee where one existed.
- In the case where the employer refused to allow an employee to telework despite the job position lending itself to this,

reasons had to be given to substantiate the decision. Since the implementation of the 2017 law, the following precisions have all had to be stated in either a collective agreement or a company charter:

- the conditions for switching to teleworking, in particular in the case where high pollution levels allow for increased working from home;
- the conditions to be fulfilled for the return to a work contract that no longer allows teleworking;
- the conditions of acceptance to be fulfilled by the employee concerning the conditions of telework implementation;
- the modalities of control of the working time or regulation of the workload;
- the determination of the times in the day during which the employer can usually contact the teleworking employee;
- the terms of access to a teleworking organization for disabled workers.



Germany

As previously mentioned, certain regulations regarding telework were already in place before the Covid crisis under the German Workplace Ordinance. Employers in Germany essentially had three main conditions to comply with:

- (i) When assessing the working conditions and the workplace for the first time, the employer must carry out a risk assessment, i.e., identify and eliminate any occupational hazards present in the place of telework (Sec. 3 of the German Workplace Ordinance).
- (ii) The employer must instruct the employees (Sec. 1 para. 3 no. 2 and Sec. 6 of the German Workplace Ordinance). This means that he must provide employees with sufficient and appropriate information regarding potential occupational hazards present when teleworking at home, and this should be based on a risk assessment.
- (iii) Annex 6 of the Workplace Ordinance (“Bildschirmarbeitsverordnung”) sets out specific requirements for VDU (“Visible Display Unit”) workstations. As an example, the employer must ensure that the workplace provides sufficient space for the employee to change his/her working postures, that computer screens are positioned to reduce bright light and reflections, and that the work surface in front of the keyboard allows the heel of the hand to rest on it. Laptops, notebooks and tablets should be used for short periods of time only, or when the work tasks cannot be performed with any other display device. If such mobile devices are used permanently at workplaces without any

particular reason, separate keyboards and screens must be connected that comply with the requirements of the VDU Work Ordinance.

However, in comparison to workplaces in the employer’s offices these obligations remain considerably smaller in scope. In the practice of mobile work as opposed to telework, «only» the less specific provisions of the German Occupational Health and Safety Act (“Arbeitsschutzgesetz”; “ArbSchG”) are applied, and not the provisions under the German Workplace Ordinance. Pursuant to Sec. 5 para. 1 of the German Occupational Health and Safety Act, the employer must determine which occupational health and safety measures are required by assessing the specific occupational hazards of each employee. Due to the very nature of mobile work where flexibility and the absence of an actual fixed place of work is the norm, there is however, a real need for the occupational risk assessments and resulting instructions to change. As it stands under Sec. 15 para. 1 of the German Occupational Health and Safety Act, it is the employees who bear a large part of the responsibility in ensuring compliance with occupational health and safety regulations as it is they who determine a large part of the nature and circumstances of the work to be performed. Furthermore, the work performed is for the most part done so outside the employer’s own «area of control» although an obligation still falls on the employer to fulfil his duties of protection in taking all the organizational measures necessary as well as giving the employees clear instructions on the correct work methods and approach to apply when mobile working.



Spain

Article 13 of the Spanish Workers' Statute (in the original version of the text published on 14 October 2015) already contemplated the possibility of concluding a remote working agreement, either from the start of the employment relationship or at a later date. In addition, the same article required a written agreement between the employee and the employer and regulated the right of remote workers to have adequate health and safety protection, as well as the right to collective representation. With the exception of certain references to the principle of equality between on-site employees and remote-working employees however, this provision left many issues unresolved from a practical standpoint. Many essential issues that should have been covered in a remote-working relationship agreement were omitted and left

to the discretion of the parties involved, leading to an unequal and unprotected situation for employees in terms of working conditions. This was particularly true on the crucial question of who should bear the costs incurred when practising telework. Until the Covid-19 pandemic, the implementation of telework had only been covered under Article 34.8 of the Spanish Workers' Statute under the practice of flexible working modes for family reasons.

The outcome of this provision has been to allow employees to work from home when they have a justified obligation to give care to a family member. This is just one measure among others that had been put in place under Spanish law with the aim of improving the work-family balance.



Italy

Remote working in Italy is regulated by Law 81/2017 and the Memorandum of Understanding between the government and the social partners (employers' and employees' trade unions at national level), signed on 7 December 2021.

Under Art. 19 of Italian Law 81/2017 recourse to remote working must be stipulated in a written agreement (as evidence and administrative compliance) between the company and the worker. The agreement must be notified to the Ministry of Labour within 5 days of the start of the service, stating the name of the employee concerned and the start and end dates of the remote work. The agreement must be kept by the employer for 5 years (Ministry of Labour Decree No. 149 of 22 August 2022). Failure to do so will result in an administrative fine of between 100 and 500 euros per worker.

The agreement, which may be for a fixed term or open-ended, should stipulate:

- (a) the manner in which the work outside the premises is to be carried out, including alternate periods of work inside and outside the premises;
- (b) any places external to the employer's premises which are excluded from remote work;

In any case, the worker must identify a place that has characteristics that allow the regular performance of the service in conditions of security and confidentiality, both for their person and for the company's information and systems. To this end, Art. 22 of Law no. 81/2017 requires the employer to provide workers with written information outlining general and specific risks related to the work performed, at least once a year. Accidents and illnesses suffered by the worker while

working outside the company premises in the place of his choice are covered by INAIL only if they are caused by a risk related to the performance of the work. If the work is carried out in places that are forbidden by the employment contract or unsuitable, protection in the event of an accident is excluded; the rules governing the use of work equipment in order to avoid any security risks to the company's systems and access to the employee's personal data relating to their private life;

- (c) the rest periods and technical and organisational measures in place to ensure a worker's disconnection from work devices, although provisions may be made for specific periods where the worker must be available or on call in respect of the work objectives established, unless otherwise stated by a CBA or national or company rules;
- (d) the modalities for the exercise of the employer's power of direction and control, with reference to Article 4 of the Workers' Statute and data protection legislation. Covert and/or intrusive checks are therefore prohibited;
- (e) behaviour that may give rise to disciplinary sanctions;
- (f) the training activities necessary for the performance of remote work;
- (g) the forms and modalities for exercising trade union rights.

The individual agreement may be for a fixed term or for an indefinite period. For the latter, the parties may terminate an open-ended agreement subject to a notice period of no less than 30 days or 90 days for disabled workers (Article 19, paragraph 2, Law no. 81/2017) except for just cause.

No information or official notification is required from the social security and insurance organisations.

A trade union agreement is not necessary but it may be useful for large companies to conclude a collective agreement

regulating remote work in order to clarify the employer's tasks and ensure the equal treatment of employees.

The inter-confederal agreement contains guidelines for national, territorial and company collective bargaining.

The key points covered by this Protocol are:

- an individual's voluntary agreement to telework ;
- the organization of remote work and regulations concerning disconnection;
- the place of telework ;
- the working tools to be used;
- health and safety at work;
- accidents and occupational diseases;
- trade union rights;
- equal treatment and equal opportunities for employees concerned;
- at-risk and disabled workers;
- welfare and inclusiveness;
- the protection of personal data and confidentiality;
- the provision of training and information;
- bilateral monitoring of the agreed to telework;
- incentives for collective bargaining.



The Netherlands

Due to the absence of a legal framework for teleworking, the same responsibilities under the principle of good employer practices were applied whether an employee worked from home or another location, as when the employee worked at

the employer's premises. These responsibilities included, and not exhaustively, the obligation to ensure a safe working environment was used in accordance with occupational health and safety regulations.



Belgium

• Structural telework

CLA n°85 of 9 November 2005 defines structural telework as “a form of organisation and/or performance of work in which, using information technology, within the framework of an employment contract, work that could also be performed at the employer’s premises is performed on a regular and non-occasional basis outside those premises”.

The essential elements of this agreement are: the use of technology, the performance of work activities at a workplace of one’s own choosing (outside the company premises), and on a regular basis.

CLA n°85 regulates the modalities and conditions under which telework can be introduced but leaves it to the employer

to draft a concrete policy tailored to its own organisation’s culture, needs and expectations.

• Occasional telework

Occasional teleworking is a form of telework that is carried out “occasionally and not on a regular basis outside the premises of the company”. It involves telework in response to a specific unexpected event (e.g. train strike...) or as a result of a personal situation that prevents the employee from performing their work at the premises of the company (e.g. a medical appointment, the illness of a child...).

Overview of the most important rules

	Structural telework	Occasional telework
Formalities	<ul style="list-style-type: none"> • Written agreement (with mandatory specifications). • Obligation to provide additional information (e.g. reporting arrangements...). 	<ul style="list-style-type: none"> • No legal requirement to lay down arrangements for occasional telework in writing. • Requirement for the employer and employee to mutually agree on certain details of occasional telework.
Facilities and technical support	<ul style="list-style-type: none"> • Employer is responsible for equipment needed for telework and must provide technical support if needed. 	<ul style="list-style-type: none"> • No obligation for the employer to provide equipment and technical support.
Reimbursement costs	<ul style="list-style-type: none"> • If equipment is provided by the employer: the employer reimburses or pays (only) the cost of connections and communications related to telework. • If the employee uses his own equipment: all costs associated with teleworking in terms of installation of computer programmes, operation and maintenance as well as the cost of depreciation of the equipment are to be borne by the employer. 	<ul style="list-style-type: none"> • No obligation for the employer to reimburse expenses.
Working time	<ul style="list-style-type: none"> • Free organisation of working time within the framework of the working hours applicable in the company. • Excluded from provisions on working time (except for the rules on working hours applicable in the company). 	<ul style="list-style-type: none"> • The teleworker organises his work within the framework of working hours applicable in the company (without strict compliance with his work schedule). • Provisions on working time do apply.



Austria

As previously mentioned, teleworking was only regulated for civil servants. § 36a of the Civil Service Law 1979 mandates that telework is only allowed if the following requirements are met:

- (h) the civil servant has proven themselves in terms of professional achievement, commitment, and the ability to work independently,
- (ii) the achievement of the civil servant's objectives can be determined through results-oriented assessments, and

(iii) the civil servant is committed to taking the necessary precautions for maintaining data security, confidentiality obligations, and other secrecy requirements.

Furthermore, §36a states that teleworking can also be ordered for a specific official task on a day-to-day basis and that the employer must provide the necessary equipment.



Poland

The telework regulations in the Labour Code stipulated that:

- telework was work performed regularly away from the workplace using electronic means of communication,
- the conditions for the use of telework by the employer were set out in agreements between the employer and the company's trade union organization or regulations agreed with employee representatives,
- it was possible to agree individually on the performance of telework at the request of the employee (regardless of the conclusion of an agreement or the adoption of regulations),
- an agreement on telework could be made at the conclusion of the employment contract or in the course of employment,
- temporary assignment of duties in the form of telework was not permitted,
- within 3 months from the date of the agreement on teleworking during employment, either party could make a binding request to stop teleworking and to restore the previous conditions of work performance; in such cases, the parties agreed on the date from which the restoration of the previous conditions of work performance would take place, and this no later than 30 days from the date of receipt of the request,
- after the expiry of the 3-month period, or in the case of an agreement on telework at the conclusion of the employment contract, for the withdrawal of telework, it was necessary to conclude an agreement on changing the working conditions (in the absence of the employee's consent – termination of the working conditions for telework); however, the employer

should, as far as possible, take into account the employee's request to withdraw the telework even if it was made after the expiry of the 3-month period,

- the employee's failure to consent to the withdrawal of telework could not constitute grounds for termination of the employment contract,
- the employer was obliged to provide the teleworker with the equipment necessary for teleworking and the appropriate insurance, to cover the costs associated with the installation, servicing, operation and maintenance of the equipment, and to provide the teleworker with technical assistance and the necessary training in the use of the equipment (unless an agreement was concluded specifying the employer's obligations otherwise),
- in the agreement, the employer and the employee could specify the scope of coverage and the rules for the teleworker's use of the equipment necessary for teleworking (and the amount of the employee's allowance for this), the rules for the employer's communication with the teleworker, including the method of confirming the teleworker's presence at the workplace, and the method and form of monitoring the teleworker's work performance,
- the employer had the right to inspect the employee's work performance (if the work was performed at the employee's home, then only with the employee's consent),
- the employer performs health and safety obligations towards the employee (not in the full scope).



Czech Republic

The former regulation of teleworking assumed that those employees who did not work in the employer's premises scheduled their working hours on their own and were thus, excluded from the provisions on the scheduling of working hours by the employer. Teleworking employees did not have the right to remuneration or compensatory time off for either overtime worked or for work performed during bank holidays. No compensatory remuneration was provided for either in

cases where the performance of their duties was prevented or restricted as the assumption was that the teleworking employee was free reschedule their work autonomously and suitably. These provisions were essentially intended for more so-called «domestic help employees» who are remunerated on a task-performed basis (e.g. for a manufactured product) and for whom interaction with other employees and clients of the employer is not necessary.



Lithuania

As previously mentioned, teleworking itself as we understand it today, was not specifically established, however, a type of teleworking contract existed to cover remote work, was. This meant that either a separate telework contract had to be concluded or that the existing employment contract was amended by mutual agreement. Employees were given the opportunity to perform all or part of their work functions in places other than the usual workplace, and the place itself could be chosen by the employee.

In such cases, the work contract had to define:

- the work duties to be performed;
- the workplace - provision of a specific address of the workplace;
- the work equipment provided by the employer and the procedure for providing this together with details of the employee's responsibility for damage;
- the requirements to be respected by both the employer and the employee relating to the health and safety of the workers

(provision of safe equipment, employee training, etc.);

- the employee's procedures of accountability;
- the right for the employee to account for the time worked at their discretion and freely;
- employee equality of teleworker with other employees working at the workplace.

Specific features potentially defined but not mandatory also included:

- agreements to reimburse expenses incurred by the employee for the performance of work, and the possibility for the worker to return to full-time work at the employer's workplace.
- exceptions where the teleworker was not subject to the standard rules of procedure within the company as certain rules were a detriment or discrimination to the remote worker.

In 2017, a provision was introduced into the Lithuanian labour code stipulating that teleworking should in no case whatsoever, entail restrictions on the calculation of seniority, appointment to higher positions, or career evolution.



Estonia

The Employment Contracts Act defines teleworking as work performed outside the usual place of performance, including at the employee's place of residence. Telework must be carried out based on an agreement (the format requirement being unclear) between an employer and employee. The conditions of telework were left to the discretion of the employer and the employee and were regulated by other legal regulations applicable to employment relationships.

In practice however, telework created problems to which

the applicable legal acts in force did not provide a solution. The main issues related to the employer's responsibility and accountability in case of an occupational accident as the employer had neither control over the place of telework, nor any risk-mitigating measures in place, and as such, was fully responsible for all accidents that occurred during remote working. Another considerable issue that related to remote-work expenses the ensuing taxation of these expenses as a fringe benefit.



Georgia

In the absence of specific regulations governing teleworking in Georgia, the mode of working is typically regulated by existing labour legislative acts and agreements between employers and employees. These regulations may include matters such as working hours, rest periods, wages, and occupational health and safety standards. Employment contracts and company policies often outline the terms and conditions of telework,

including expectations regarding work hours, communication methods, and performance evaluation criteria.

It is important to note that the specifics of how telework is regulated in the absence of dedicated legislation may vary depending on individual employment contracts, company policies, and industry practices.



Armenia

No such regulations were in place within the Armenian legislature.

The Telework National Standard Order (Subsidiary legislation S.L. 452.04, issued by Legal Notice 312 of 2008, hereinafter referred to as the 'Telework NSO') was issued in the form of a national standard order. In terms of Maltese law, non observance by an employer of conditions of employment established by a national standard order (or by a sectoral regulation order) amounts to a criminal law offence under the Employment and Industrial Relations Act (Chapter 452 of the Laws of Malta, hereinafter also referred to as the 'Act'), punishable upon conviction in Court in the event of contravention or non-compliance by the imposition of a fine that is currently capped at a maximum of circa €2,330. Such a criminal sanction is applied not only to the direct human resources manager in charge of recruitment, but also potentially to any director or executive officer of the legal entity, who was aware of the act of non-compliance and failed to exercise full due diligence in order to prevent the breach of law.

Maltese law defines "telework" as a form of organising and/or performing work, using information technology, in the context of an employment contract or an ongoing employment relationship, where said work typically performed at the employer's premises, can be carried out away from those premises on a regular basis. An employee with recourse to or required to telework is referred to as "teleworker."

As evoked above, the Telework NSO draws a distinction between telework that may be required as a condition of employment in an employment contract, and that where no specific reference is made to teleworking in the employment contract and a subsequent agreement is reached in the course of the employment relationship. A telework agreement invariably requires a written agreement that essentially complies with the minimum conditions set out in the Telework NSO.

If not bound under the employment contract, either party is free to accept or refuse a telework offer made in the course of employment. A refusal by the employee cannot constitute a good and sufficient cause for terminating employment, nor could it lead to a change in the employment conditions of the employee concerned. The move to telework should not affect the employee's employment status nor their right to return to their previous post of employment or, in the event that this is not possible, to a similar post.

Maltese law also takes into consideration how an already established teleworking arrangement can subsequently be terminated. Either party (i.e., the employer or the teleworker) is entitled to terminate the teleworking agreement, whereby the

employee returns to their pre-telework post, provided that the following due notice periods are satisfied:

- (i) in the first two months of the telework arrangement, by giving three days' notice in writing to the other party, and
- (ii) after the first two months, by giving two weeks' notice in writing, unless a different period is agreed in the written agreement on telework.

Maltese law stresses once more, that any termination of a telework arrangement by the employee may not be cited by the employer as a good and sufficient cause for terminating the employment contract, and neither should it lead to a change in the conditions of employment of the employee concerned.

With respect to the manner of performance and execution of a teleworking arrangement, the agreed terms need to be expressed in writing and among others provide the requisite information required under the Transparent and Predictable Working Conditions Regulations (L.N. 267 of 2022, S.L. 452.126) which transpose Directive (EU) 2019/1152 of the European Parliament and of the Council of 20 June 2019 on transparent and predictable working conditions in the European Union. In particular, a teleworking agreement typically specifies:

- (i) the location where the telework is to be carried out,
- (ii) provisions related to the equipment used for telework including its ownership, maintenance, liability and costs,
- (iii) the amount of working time to be spent at the place of telework and at the workplace,
- (iv) the schedule by which the employee will perform telework, where applicable,
- (v) the description of the work to be performed,
- (vi) the relevant department of the employer to which the teleworker is attached, the teleworker's immediate superior or other persons to whom the teleworker can report, together with any reporting arrangements in place,
- (vii) provisions related to monitoring, if any,
- (viii) notice of termination of telework agreement, and
- (ix) in cases where telework is undertaken in the course of the employment relationship and there is no reference to teleworking in the employment contract, a reference to the right of reversibility by either party, including the right of the teleworker to return to their pre-telework post.

In all teleworking arrangements, teleworkers:

- benefit or continue to benefit from the same rights laid down in the Act, in the regulations issued thereunder, in an applicable individual agreement or in any applicable

collective agreement as comparable employees at the employer's premises; and

- have the same rights of access and rights to participate in training and career development programmes provided by or on behalf of the employer in the same manner as comparable employees at the employer's premises and be subject to the same appraisal policies as comparable employees.

As a general rule, employers are required to respect teleworkers' privacy. Any kind of monitoring system of telework may only be implemented by an employer if and only if:

- it is expressly agreed to in the teleworking agreement; and
- such monitoring system is proportionate to the objective and is introduced in accordance with Council Directive 90/270 on the minimum safety and health requirements for work with display screen equipment, daily work routine with periodic interruptions for breaks or changes of activity reducing workload at the display screen and among others, the protection of workers' eyes and regular eyesight tests.

Unless otherwise agreed in the teleworking agreement, and as a general rule, it is the employer that is responsible for providing, installing and maintaining the equipment necessary for the performance of telework and for providing the teleworker with an appropriate technical support facility. A teleworker on the other hand has a duty to take good care of the equipment and data provided by the employer and should not collect or distribute illegal material via the internet. Under the terms of civil law, costs for loss, damage to and misuse of equipment and data used by the teleworker are incurred by either the employer or the teleworker depending on the circumstances of facts in any particular case, but it is the employer that compensates for or covers the costs relating to communications directly related to telework.

Unless otherwise agreed in the teleworking agreement, a teleworker is responsible for the management of their working time. Teleworking should not lead to any inequalities in respect of workload and performance standards and these should always remain equivalent to those of the comparable employees working at the employer's premises. On the contrary, an employer is required to take the measures necessary to prevent the teleworker from being isolated from the rest of the workforce, such as giving the teleworker the opportunity to meet with colleagues and to have access to information related to their work.



Though telework arrangements were not directly stipulated by the Labour Code prior to 2020, certain acts had been established to regulate issues of working from home for specific categories of employees. The Resolution of the Labour State Committee "On approval of order on conditions of home-based workers" No.275/17-99 as of 29 September 1981 was well-known and applied by employers to introduce "home-based work" for some categories of employees: pregnant women, employees with children under the age of three, or those who

In terms of data protection, the employer is required to take the appropriate measures, particularly with regard to software, and to ensure the protection of data used and processed by the teleworker in the carrying out of their duties. The employer must inform the teleworker of the provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation, or 'GDPR') and Malta's Data Protection Act (Chapter 586 of the Laws of Malta) and of the data protection measures it takes, including any restrictions on the use of IT equipment, internet or other IT tools and any sanction in case of non-compliance. The teleworker is also required to comply with GDPR and Malta's Data Protection Act and with the data protection measures taken by the employer.

Last but not least, a teleworker continues to benefit from protection for the constitutional human right and freedom of association, and in this regard has the same collective rights as comparable employees at the employer's premises. The teleworker has the right to participate in, and to stand for elections to bodies representing employees. Moreover a teleworker is included in the calculations for determining thresholds for the purposes of worker representation, for the purposes of information and consultation rights in terms of article 38 of the Employment and Relations Act, the Transfer of Business (Protection of Employment) Regulations (S.L. 452.85 transposing Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses), and of the Employee (Information and Consultation) Regulations (S.L. 452.96, transposing Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees), and for the purpose of determining a collective redundancy in terms of Article 37 of the said Employment and Industrial Relations Act and the Collective Redundancies (Protection of Employment) Regulations (S.L. 452.80 transposing Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies).

had to take care of children under the age of 6 with medically certified conditions, employees with two or more children under the age of 15, or who had to take care of a disabled child, or who were parents and guardians for disabled persons of A I category. This was accorded in the context where the work to be performed could actually be done remotely, and where the employer could provide the necessary resources and equipment to achieve this).

Practically speaking, was teleworking actually practised before Covid, and if so, by which type of companies/employees and in which conditions?



France

Prior to the Covid-19 health crisis, teleworking only took place in a handful of cases in France, with only 7% of all employees having recourse to this practice. This was further broken down into only 3% being regular teleworkers and 4% occasionally teleworking.

The use of teleworking varied more by occupation and socio-professional category than by sector. In France, 61% of regular teleworkers were in managerial positions. In terms of occupation, sales executives and computer engineers were the most likely professionals to practise it. Needless to say, occupations in certain activities such as agriculture,

construction work, hotels and restaurants, and the provision of personal domestic services, were not suitable for teleworking. It is considered that only 37% of workers in France are actually able to telework on a full-time basis, although other professionals could do it on a part-time basis.

No disparity was observed between women and men, although employees with children under three years of age were more likely to telework. Teleworking was more «used» in the metropolitan Île-de-France area than in the regions of France, and more specifically by those living in the suburbs with long commutes.



Germany

Teleworking / Home Office was frequently used for practical reasons and more notably in the example of sales representatives who worked in an area far from their

company's head office, or in cases where the employer had only a few employees in Germany and no physical work premises in the country.



Spain

Companies in Spain had generally been reluctant to implement teleworking arrangements and given the lack of regulation in place before the Covid-19 pandemic, employees were usually required to bear all the costs associated with teleworking. Furthermore, most companies in Spain were simply not prepared for the practical implications that teleworking could entail (e.g., IT problem-solving processes, material resources etc).

It should be noted that although working from home had not been a reality for employees in Spain prior to Covid, some

companies (mostly start-ups) had already been considering the implementation of flexible working policies and hybrid models of work.

A certain integration of teleworking into working practices had emerged as a way of offering a conciliation of family and work needs (Article 34.8 of the Spanish Worker's Statute) allowing employees to adopt a more flexible and hybrid way of working (on-site and remotely).



Italy

In Italy, teleworking prior to Covid-19 was only implemented by companies when their employees had actual tasks that had to be carried out outside the usual place of work through a

business trip and this concerned more particularly white-collar workers, managers and executives.



The Netherlands

Based on data from the Dutch Central Planning Bureau, employees in the Netherlands worked from home for an average of 4 hours per week before the Covid-19 pandemic. This teleworking trend was particularly prevalent in the financial

and business services sectors, as well as among those working in the ICT industry, where remote working was more common (with remote working team members from outside of the EU).



Belgium

Before the Covid-19, telework was already being practised, but not as frequently as during and after the pandemic. Teleworking has been increasing steadily for 20 years, from less than 10% in the early 2000s to almost 20% in 2019.

This percentage varied depending on the following factors:

- Professional category: teleworking was already more commonplace for managers and for professionals in intellectual, scientific and artistic activities;

- Industry: in the industries of education, information and e-communications, financial activities and insurance, teleworking was already quite common;
- Educational level: mainly highly educated employees were making use of teleworking;
- Region: the number of teleworkers was the highest in the Brussels-Capital Region.



Austria

Teleworking was not a usual work organization before the Covid-19 crisis. Less than 10% of employees were teleworking on a regular basis. Most companies which allowed or even supported teleworking were either technology companies or

firms whose employees had to travel a lot for work and were therefore working on the train or plane, or in the premises of cafés or hotels.



Poland

According to a survey conducted by the Polish Agency for Regional Development in 2010, only just over 3% of small and medium-sized enterprises confirmed that they employed people in a telework arrangement (in accordance with the provisions of the Labour Code). The data showed that more than 88% of companies (640 companies were surveyed) were not interested in this form of employment practice. Workers that had the potential to telework were not enthusiastic to do so - only 11% of the 800 respondents said they were willing

to work remotely and online. The percentage of employers working remotely did not increase significantly in the 10 years that followed.

Complicated and inflexible legislation, the employees' lack of interest in working exclusively off-site, and the concerns in place related to psychological barriers of both employers and employees were cited as reasons for the low popularity of telework.



Czech Republic

Teleworking was already on the rise pre-Covid, thanks to the development of digital technologies. According to the data of the Czech Statistical Authority, more than 50% of employers had occasionally allowed their employees to work from home even before the Covid-19 pandemic. The scope of teleworking offered ranged from fully remote work (rare; used predominantly in IT), to teleworking granted as a benefit to office workers in the services sector, or to the temporary granting of telework from home and on an individual basis in exceptional circumstances.

However, employers offering such telework arrangements, did so in a situation of legal uncertainty insofar as both their own rights and the rights of their employees were unclear. To compensate for the lack of legislative guidelines, most employers concluded individual written agreements with the employees and issued internal regulations which both included rules for teleworking such as a specific telework address to be given, the hours during which the employee would have to be available, as well as the prohibition of night-time and weekend working.

The approach of the employers to compensating for teleworking related costs varied greatly as the Labour Code did not prescribe a specific mechanism of compensation. Solutions to this uncertainty concerning costs varied greatly across the market: some employers would offer compensation against proof of expenses, whereas others, particularly the larger IT companies would often propose more generous compensation schemes in order to attract talent. A significant percentage of employers however, chose to define teleworking as a benefit to the employee – and thus left it uncompensated.

Due to the abovementioned lack of specific mechanisms of compensation, the employers also faced tax-related challenges as the financial authority was entitled to request proof of telework costs from the employee before recognising any compensation as a deductible cost. In addition, higher levels of compensation could be subject to income tax and social security and health insurance contributions for the employee.



Lithuania

Before the pandemic, teleworking was not particularly popular. Of the total working individuals (1.32 million individuals), 4.2% were full-time workers at home, and 1.44% were part-time workers from home - a total of around 74.4 thousand employees worked remotely. Teleworkers were mainly engaged in creative or analytical work.

In 2018, an important step was made by the Municipality of the Capital of Lithuania regarding teleworking – it was one of the first, specifically state, institutions, to establish the possibility of working from home for several days at a time.



Estonia

Telework was not a common practice in Estonia, however a selected number of employers offered the opportunity. The start-up community was a forerunner in the telework front with

flexible and hybrid work principles being implemented before the Covid-19 crisis.



Georgia

Teleworking has been commonly used for practical reasons, particularly exemplified by sales representatives operating in distant regions from their company’s headquarters. It was similarly adopted by companies that had minimal presence in Georgia, with few or no physical workspaces established

in the country. This organization of work provided flexibility and efficiency for employees working remotely, bridging geographical gaps and enabling seamless collaboration between people and entities despite physical distance.



Armenia

Before Covid-19, teleworking was generally not widely practiced in Armenia due to the absence of regulatory frameworks supporting this method of working. Nevertheless,

no legislation specifically prohibited teleworking, so isolated instances of such a practice occurred on a case-by-case basis particularly in the IT sector.



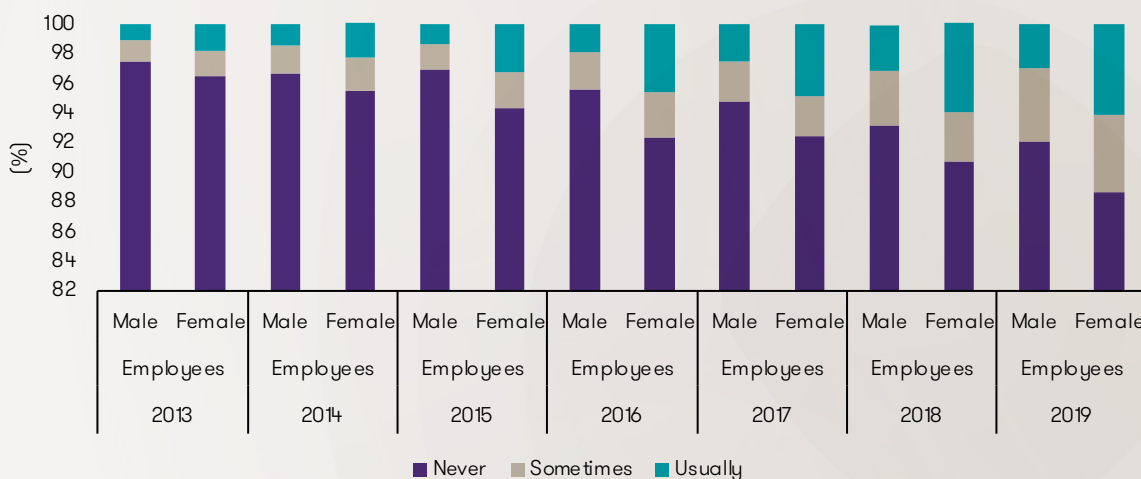
Malta

The Malta National Statistics Office regularly processes official Labour Force Survey data and has been doing so for more than the last decade.

From published data, it can be concluded that in Q1 2020 before the Covid-19 pandemic, only a modest 4% of the total Maltese workforce in 2013 had recourse to teleworking.

This increased steadily over the years to 2019 when 11.5% of all employees benefited from teleworking (the graph below provides data from 2013 to 2019, together with a percentage breakdown between salaried employees and the self-employed, and between male and female workers).

Evolution of teleworking in Malta from 2013 till 2019



“Never” means have never resorted to telework; “Sometimes” means occasional telework; “Usually” means a regular use of telework.



Ukraine

For a number of professions, remote work arrangements were applicable before the introduction of quarantine restrictions and remained so after the term had expired (for example, web

developers, editors, copywriters, graphic designers, translators and others).

During the Health crisis itself

Did the use of teleworking increase/ evolve during the Covid-19 crisis?



France

During the health crisis, and considering the resulting emergency measures (lockdown, travel restrictions, safety distance, etc.), the use of telework increased significantly, and the digitalisation process was massive and radical, forcing companies and their employees to adapt quickly to remote work.

According to the studies released, an increase of between 25% and 44% of employees were concerned as a result of lockdowns. Differences were observed according to the different socio-professional categories and the sectors of

activity.

Teleworking was more commonly practised in large companies (29%) than in small companies (18%) and was particularly high in the information and communication sectors (63% of employees), as well as in the financial and insurance sectors (55%).

It was naturally less prevalent in the accommodation and food services (6% of employees), construction (9,5%), food processing (12%) and transport (13%) sectors.



Germany

During the pandemic, recourse to all methods of working remotely from the office was adopted and increased significantly.



Spain

The Covid-19 crisis was undeniably a huge factor in an acceleration of this method of working.

Article 5 of the Royal Decree, Law 8/2020, on the urgent measures to put in place as a response to the Covid-19 pandemic, established that where possible, companies should do the necessary to ensure that teleworking was implemented by their employees; a measure that meant a large number of

employees began working remotely and from home during the crisis.

This legislation was finally extended over a period of almost one year, establishing a precedent in Spanish legislation that pushed many companies to reconsider their traditional and rigid working models that had prevailed up to that moment.



The use of teleworking increased substantially in Italy during the crisis.

During the pandemic, the Legislator gave employers the possibility to put teleworking in place without the need to amend the individual employment agreement, and the sole obligation on the employer was to provide employees with the necessary information on health and safety in the workplace.

The employer also had the obligation to submit certain information to the Ministry of Labour regarding the company's recourse to teleworking.

In addition, the government has incentivized remote work for the benefit of fragile workers, female workers who were in the

three years following maternity leave, and those who had children under the age of 14.

As revealed by research conducted by the "Smart Working 2020 Observatory" of the Polytechnic Institute of Milan, during the most acute phase of the health state of emergency, remote work involved 97% of large companies, 94% of public administrations, 58% of small and medium-sized enterprises for a total of 6.58 million workers, equal to one third of Italian workers, a number ten times higher than the 570,000 workers surveyed in 2019.



Throughout the pandemic, there was a significant increase in the average number of hours worked remotely, particularly during periods of government-mandated full lockdowns. During these periods particularly, employers were actively

seeking viable methods to enable their employees to carry out productive work from home when they were in fact prohibited from working on-site by government mandates.



In March 2020, the National Security Council introduced mandatory telework. Only companies of certain crucial sectors or those that provided specific essential services were not subject to this obligation (e.g.: medical care institutions, police, postal services, ...). Consequently, the percentage of teleworking increased to almost 30% by 2020.

During 2020-2021, periods of mandatory telework and highly

recommended telework alternated. In 2021, the percentage of teleworking increased to a peak of almost 40%.

It should also be noted that teleworking has been adopted by new professional categories since the pandemic. The most notable increase in this is the category of administrative staff. 'Technical and related professional categories' has also seen numbers of teleworking employees double in recent years.



Austria

As a result of lockdowns and other government-imposed health measures, the Covid-19 crisis greatly accelerated the introduction and evolution of teleworking practices in Austria.

The only option that many companies had to maintain their business operations was to implement remote work as quickly as possible.



Poland

Due to the outbreak of the Covid-19 pandemic, most office employees were instructed to perform their duties remotely. In a significant number of cases, the instruction to work remotely was mandatory. Employers did not conclude formal agreements with employees on remote working – they acted on the basis of the provisions of the general Labour Code on safe and hygienic working conditions. As of March 2020, there was only a skeletal legal basis for home office [the introduction of a special law adopted extraordinarily in connection with the outbreak of the pandemic].

Globally, however, only 27% of employees declared it would be possible or mandatory to work remotely during the spring months of 2020. In 25% of cases, only individuals in their workplace had the possibility to work remotely, and in 44% of cases there was no such possibility at all. The relatively low overall percentage of remote working at the peak of Covid-19 was due to the economic employment structure in Poland where industry is the dominant sector (according to the OECD, it was for this reason that only about 40% of jobs could be performed remotely).



Czech Republic

During the pandemic, the use of teleworking increased dramatically as a result of governmental regulations setting down the requirement for employers to allow teleworking where practically possible.

According to the data from the Czech Statistical Authority, 96% of large employers (with more than 250 employees) allowed

teleworking, as opposed to only 53% of small employers (with 10 to 49 employees). Although many businesses allowed teleworking in theory, the practical reality was that many jobs could not be carried out remotely; hence, the type of job positions affected by the change was significantly limited.



Lithuania

During the pandemic, teleworking was one of the main possible forms of work organization, and many companies had to adapt. A government decree established that teleworking or

hybrid/blended work was mandatory in the public sector of Lithuania, and further recommended that it be used in the private sector.



Estonia

Teleworking increased during the Covid-19 pandemic in Estonia. According to a report by the OECD, teleworking became a necessity for businesses and their employees in order to continue operating during the pandemic. The information and communication technologies (ICTs) have been crucial in allowing economic activities to continue and in enabling a significant portion of individuals to continue earning an income.

A trend towards teleworking was on the up in Estonia even before the Covid-19 pandemic, however only a very small number of employees actually worked remotely. This number rose dramatically in 2020 and recourse to full or majority remote working included 84% of all employees in the IT sector and 75% in the financial sector. In the hospitality and catering sectors however, only 15% of the employees could work remotely.



Georgia

The primary factor behind the implementation of remote work was the global pandemic. Prior to the onset of this health crisis, opportunities for remote work were relatively scarce.

Maintaining effective labour relations during the pandemic posed a significant challenge. The restrictions imposed to prevent the spread of the Covid-19 pandemic made teleworking

all the more relevant. Moving to remote work became the most effective and minimally disruptive option to maintain business operations, and it offered opportunities to a significant portion of the workforce who could perform their work duties remotely depending on their particular fields of activity and job demands.



Armenia

As the circumstances of the pandemic required remote work, a separate article was introduced under the RA Labour Code in 2020, to include provisions on teleworking during a state of emergency. This new provision greatly increased the use of teleworking in different categories of work. However, even before this was enacted and as a result of the state of emergency declared in the country, a wide range of restrictions had already been imposed, including restrictions on the number of employees allowed to be physically present

in company premises. Several business practices were shut down entirely and many employers therefore introduced their own remote working organisation preceding the amendment to the RA Labour Code. Depending on the procedure and terms of how the new working rules were established, this early recourse to teleworking could be regarded as a violation of applicable labour law as well as a breach of the terms and conditions of the employment contracts in place at the time.

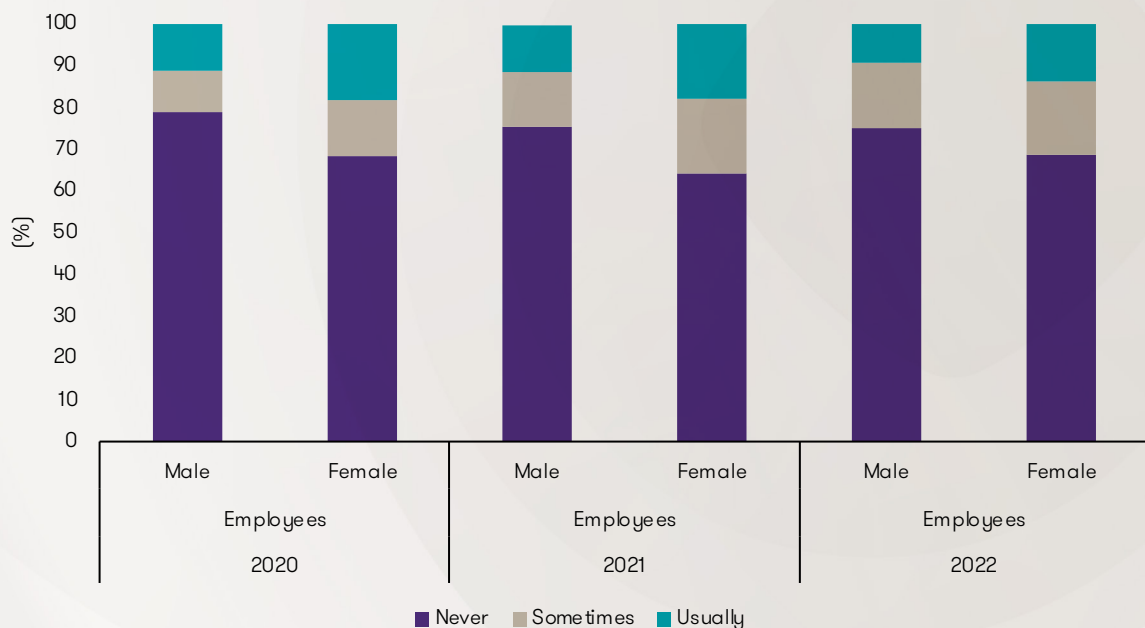


Malta

Within the overriding context of freedom of contract in labour relations between employers and employees, the Covid-19 pandemic and the ensuing public health recommendations led to a significant uptake of teleworking when the circumstances permitted between 2020 and 2022.

The highest recourse to telework was recorded in 2021 when 29.2% of the total workforce in Malta was concerned. The graph below provides breakdowns of the information from 2020 to 2022, and points of comparison between salaried employees, the self-employed, and male and female employees.

Evolution of teleworking in Malta from 2020 till 2022



“Never” means no recourse to telework; “Sometimes” means occasional recourse to telework; “Usually” means regular recourse to telework.



Use of teleworking definitely increased during the Covid-19 crisis. Legislation was amended significantly, and the employers were provided with possibilities to facilitate the introduction of remote work in their entities. Since then, the Labour Code provides for certain types of work to be performed remotely and has established the concepts of home-based work and remote work.

Remote work (in Ukrainian: «дистанційна робота») – a definition which was provided in legislation in 2020 namely for defining a type of organization of work whereby the performance of employment duties by an employee is conducted anywhere outside the employer's main office (including the employee's home). Employees themselves decide where they will perform their employment duties. In cases where remote work is introduced, an employee is responsible for providing safe working conditions in their workplace (Article 602 of the Labour Code). The provisions relating to the equipment, software and hardware, the security of company information, compensation for employee expenses incurred during remote work, and other resources necessary for a remote employee to perform their duties, are to be determined by a specifically drawn up employment agreement. In the case where the employment agreement does not provide such clauses, it is the sole responsibility of the employer to ensure such conditions are respected. In the case of remote work, it is the employee who defines the working hours at their own discretion, and unless otherwise stipulated by the employment agreement, the internal rules of working hours within the company are not applicable. The only applicable provision is that the total amount of working hours may not exceed 40 hours per week. In agreement with the employer, an employee may perform his duties under a combined arrangement of both remote work and work at the premises of the employer.

Home-based work (in Ukrainian: «надомна робота») – a definition which was used in the legislation before 2020, but which was only transposed into the Labour Code in 2020. This term was used to refer to a specific organization of work applied to employees who perform their duties outside the main offices or working premises of the employer, either at the employee's place of residence or at another place specified by them, and where said premises are equipped with the technical facilities necessary for manufacturing products, providing services, or performing work (Article 601 of the Labour Code). The internal rules of the company's working hours are applied to the employees unless otherwise provided by an employment agreement. The employee's place of workplace must be fixed and may not be changed by the employee without the prior consent of the employer as specified by employment agreement. The employer in this arrangement has the legal obligation to provide the employee with safe working conditions i.e. to provide at its cost, any necessary personal protective equipment, to inform the employee of the occupational risks related to the performance of work duties, to provide appropriate training, and to ensure the security and

maintenance of any machines, tools or other equipment used. Employees using their own tools and equipment are entitled to appropriate compensation.

Flexible working time regime (in Ukrainian: «гнучкий режим робочого часу») – although this is neither an actual framework for organizing working time, nor an actual teleworking arrangement, many employers had recourse to this when developing and implementing telework measures in 2020. This regime can be introduced upon written consent between the employer and an employee and aims to regulate conditions of working time (starting time, duration, breaks and end of working time) and does not specify the actual workplace. The performance of the employment duties outside the employer's premises under this regime is not directly provided by legislation. During the Covid-19 pandemic, legislation allowed the employer to introduce a flexible working time regime by giving the employee two days' notice prior to introducing such a regime. More specifically, this regime provides that the employee can at their own discretion, regulate the start time, the duration and the end of the working day. The employee must comply with an established amount of working time per day/week/month/quarter, and the established amount of working time must not exceed 12 hours per day (10 hours in special cases). The employer has the obligation to ensure safe working conditions and has the responsibility to take into account the different working time schedules for the defined periods of each employee in order to coordinate with the working time of other employees.

Employment agreement with unfixed working time (in Ukrainian: «трудоий договір з нефіксованим робочим часом») – a specific type of an employment agreement (the clauses of which do not provide for a fixed quantity of working time for the duties to be performed). The employee's obligation to perform work only arises in the case where the employer actually requests work to be performed by the employee as provided by the specific employment agreement, and where there is no guarantee of work on a permanent or regular basis. Legal provisions on remuneration for the performed work must however be complied with. Under such agreements, the employer independently determines the amount of work to be provided and sets the actual work time during which the work must be performed by the worker. The Labour Code does not establish specific provisions on the place where such work should be performed, and this consequently remains at the discretion of the employee. Although such work is not defined by law as either remote work or telework, it is obvious from the characteristics and requirements of this type of agreement that the workers concerned have the right to work at distance from the employer's premises. Recourse to this type of employment agreement has been significantly restricted and the employer can only conclude such agreements with a maximum of 10% of the total workforce. As an example, with a workforce of 10 employees, the employer can only conclude such an agreement with 1 worker.

Has this move been positive? Was this move to teleworking easily accepted by employers?



France

In France, employers were required as part of their health and safety obligations under Article L. 4121-1 of the Labour Code, to take all appropriate preventive measures with regards to the risk of contamination of their employees by Covid-19.

The government therefore strongly encouraged, even required the use of teleworking during the Covid-19 health crisis on the basis of Article L. 1222-11 of the Labour Code, which stipulates that: «in the event of exceptional circumstances, in particular the threat of an epidemic, or in the event of force majeure, the implementation of telework may be considered as an adaptation of the workstation made necessary to allow the continuity of the activity of the company and to guarantee the protection of the employees».

With the arrival of Covid-19, companies and their employees had to adapt teleworking on an unprecedented scale. Only in certain cases where teleworking was impossible could the company be eligible to emergency measures such as partial activity (furlough), the deferral of social security and fiscal contributions, derogatory sickness allowance schemes, etc.

In addition, and according to the Ministry of Labour, the risk of an epidemic from the very beginning of the Covid outbreaks justified the use of teleworking without any requirement by

the employer to amend the employment agreement. The implementation of remote working in such a context required no specific formalism from a Labour law perspective.

This rapid transition posed significant challenges in terms of work organisation and employee well-being. In fact, this new way of organising work was imposed in certain sectors of activity without any prior arrangements, particularly with regard to teleworking equipment, working conditions and hours, data protection, social protection or training. During the first lockdown, it was noted that 43% of employees exceeded their reference hours, 22% of them did not have a suitable workspace and 47% were obliged to share their workspace with members of their family.

However, this practice also highlighted potential advantages in terms of flexibility, time saving and efficiency, with 64% of teleworkers estimating that they had saved an average of 4 hours per week thanks to the reduced commuting time, and 60% declared themselves to be more productive than in a face-to-face environment. A majority (58%) of teleworkers believe that this way of working enabled them to achieve a better work-life balance.



Germany

From the very beginning of the pandemic, many employers in Germany spontaneously offered their employees the possibility to mobile work or work in home office. In 2020, the German government amended the German Infection Protection Act (“Infektionsschutzgesetz”; “IfSG”) and included a new regulation in Sec. 28 lit. b para. 7 according to which employers had the obligation to offer working from home (essentially the same as mobile work but limited to the employee’s home) whenever possible. Initially this obligation

ended in July 2021 when the crisis seemed to be ending. This obligation was however renewed when the Covid crisis worsened again, and as from 24 November 2021 to 19 March 2022 (Sec. 28 lit. b para. 4 of the German Infection Protection Act) employers had to allow their employees to work from home. At this moment there is no (more) statutory entitlement for employees to work from home – yet a lot of employers offer it as a benefit.



Spain

On 14 March 2020, a state of emergency was officially declared in Spain with an ensuing long-term lockdown at home. During these months, the only solution possible to maintain the activity of many companies was for the majority of them to adopt telework.

From a legal perspective, Article 5 of the Royal Decree-Law 8/2020 established the so-called “teleworking preference”, as follows: “Organizational systems that permit the maintenance of the activity by alternative mechanisms and processes shall be implemented, particularly by means of teleworking, and, if it is technically and reasonably possible, the company shall adopt the appropriate and proportional measures necessary in order for the results to be delivered. These alternative measures, and particularly that of remote working, must be prioritized over the temporary cessation or reduction of the business activity.”

In short, although the legislation had never directly nor expressly imposed teleworking, most companies decided to follow the recommendations of the approved legislation in the context of Covid-19 (Royal Decree-Law 8/2020 and its extensions), which clearly called for teleworking during difficult times.

Once the state of lockdown was brought to an end and on-site activity progressively resumed, many companies opted to maintain teleworking as a continued preventive health and safety measure for their employees. Others decided on a progressive return to the workplace. More importantly, some companies considered the possibility of maintaining teleworking on a permanent basis.



Italy

In order to avoid the spread of the virus, companies encouraged and used the practice of telework as much as possible and gave additional rights to teleworking for employees who were parents of children under the age of 14 and following schooling remotely.

In Italy, as in other countries, the Legislator provided for the possibility of employers to put telework in place without having to amend the individual employment agreement, and only having the obligation to inform the employee about the relevant health and safety measures to be taken in the workplace.

The administration’s only condition on the employer was the communication of teleworking to the Ministry of Labour.

Companies have come to value remote working as a tool for business continuity, social distancing and protecting people’s health.

By 2023, there will be 3.585 million remote workers, an increase of 541% compared to pre-Covid. Especially in large companies, the number is growing because remote working has been structured with organizational policies, dedicated technologies, space reorganization and leadership styles.

In addition, companies that practiced remote working showed better results in their ability to attract talent, inclusiveness, employee engagement and work-life balance.



The Netherlands

Employers were bound by their duty of care to provide a suitable and healthy workspace for their staff. This had notable implications particularly in sectors less accustomed to or familiar with remote work, as not all roles are conducive

to working from home. During this period, employers were also concerned about their ability to monitor or assess their employees’ productivity or the potential decrease thereof.



Belgium

Given that teleworking was mandatory during certain periods throughout the pandemic, employers had no choice but to accept it. During the pandemic, telework became so well

accepted that even after the mandatory telework was revoked, telework continued to be widely used.



Austria

Increased Teleworking brought both challenges and benefits. Studies suggest that employees experienced improved work-life balance and reduced or no commuting time. The increased flexibility was also considered as a big advantage.

Employers were also able to benefit from teleworking more particularly in potential cost savings of overheads. Furthermore, with the geographical location of a worker no longer being a condition, employers were able to hire people from all over the world making it easier to find talent.

However, challenging situations have also arisen and certain employers in Austria faced difficulties in adapting to a remote work organization where concerns about the monitoring of productivity, team collaboration, and the maintaining

of a company culture were all experienced. Industries that traditionally relied on the physical presence of employees such as in hospitality or manufacturing, also encountered particular challenges in implementing remote work.

The acceptance of teleworking varied greatly among Austrian employers. While many recognized the benefits and adapted quickly, others were initially reluctant due to the previously mentioned concerns.

Overall, the benefits were seen to outweigh the challenges a reassessment of the traditional working models was applied leading to a long-lasting implementation of teleworking in many businesses.



Poland

The majority of employers (especially those in the service sector with office-based workplaces) embraced the general provisions on responsibility for health and safety in the workplace (Article 207 § 1 of the Labour Code) as they witnessed the dramatic increase in the number of employees falling sick at the outset of the Covid-19 pandemic. On these grounds, employers sent employees home to work remotely and some employees were simply not allowed to work at

all when lockdown were introduced. Increased sanitary measures were applied in industrial workplaces, and although the initial recourse to remote working in the early months of the pandemic was carried out in an atmosphere of anxiety, over time both employers and employees became accustomed to working remotely and it became a certain standard.



Czech Republic

Given the speed with which the health crisis and the resulting measures developed, no governmental guidance was offered to employers as to the interpretation of the requirement to implement teleworking. Furthermore, the requirements of the Labour Code in place at the time were not suspended by government regulations and employers could not therefore order their employees to telework without the express agreement of the employee.

The move to teleworking also presented several technical and

organisational challenges for employers. Small businesses in particular, often lacked the technical means and know-how to rapidly implement the technological changes necessary for successful teleworking.

As a result of these difficulties, the move to teleworking was not universally viewed as a positive change and many companies returned to their pre-Covid practices as soon as the pandemic-related restrictions were lifted.



Lithuania

Without any doubt, the move to teleworking in Lithuania has been extremely positive. When the Covid-19 pandemic began in 2020, a situation of quarantine was declared in the territory of Lithuania. The Government of the Republic of Lithuania issued a resolution stating that in the public sector (state and municipal institutions, institutions, enterprises), remote work was to be put in place fully or partially, unless the physical presence of a worker was necessary in the usual workplace to perform functions. These recommendations were equally issued to employers in the private sector. Given the situation at the time - most employers offered employees the possibility to work remotely or in a hybrid way.

In order to reduce the spread the number of cases of Covid-19 and in addition to standard health and measures, a provision was added to Article 49(3) of the Labour Code of the Republic of Lithuania, according to which the employer had the obligation to offer remote work to an employee whose state of health threatens the health of other employees. This offer should be made in writing with justifications given, and in the case where the employee does not consent to telework, he or she risks suspension from work and the right of the employer to suspend the payment of wages.



Estonia

During the Covid-19 pandemic, teleworking helped the economy to continue functioning and saved jobs in Estonia. After a little reticence at the beginning due to the unprecedented situation and the lack of knowledge on how to organise remote work,

both employers and employees embraced telework as a standard practice. Telework has also become a “must have” today, offering a competitive advantage for employers to attract and keep talent.



Georgia

On the one hand, the move to teleworking in Georgia was largely positive, especially among office workers who transitioned easily. Employers quickly adapted to the concept of remote work, recognizing its benefits in terms of maintaining productivity and ensuring employee safety during the Covid-19 health crisis. The ease of transition for office workers underscores the adaptability of businesses in Georgia to embrace teleworking as a viable option for maintaining operations in challenging times.

On the other hand, despite the push for teleworking, there have been significant challenges and resistance from employers in

Georgia. Many employees have experienced the termination of their employment contracts due to the economic downturn that resulted from the pandemic. This trend to terminate work contracts was not always justified on real economic grounds and reasons such as downsizing were given without actual economic necessity.

Overall, despite the fact that teleworking may have been embraced by some employers, a significant part of the economy has not readily accepted the transition, leading to adverse consequences for employees during the challenging times.



Armenia

Since the transition to teleworking was a direct result of a global pandemic, the employers were left with little to no room to resist the change, regardless of their initial opinions. On the one hand, the inclusion of teleworking provisions in the Labour Code represented a significant step forward, but it lacked detailed guidance on various aspects such as the provision of necessary equipment (e.g., whether employees should use personal computers or if employers should provide them) and regulations governing privacy. This ambiguity granted employers considerable discretion, beneficial particularly during the pandemic when quick decisions were necessary for business continuity. However, it also resulted in confusion and inconsistencies across the country in the long run. This lack of clarity left room for interpretation, leading to varying practices among employers and potential challenges for employees in terms of their rights and working conditions.



Malta

Based on discussions between on the one hand Malta's Department on Industrial and Employment Relations (the DIER) and employers and employees on the other, telework was considered as a useful tool to benefit from during the Covid-19 pandemic.

The DIER confirms that to date there were no industrial disputes relating to teleworking arrangements.

Indeed, it is generally acknowledged by the DIER that teleworking is mutually beneficial to both employees and employers as summarised below:

A. Benefits for Employees

a) Flexibility and Work-Life Balance:

Teleworking allows employees to better balance work and personal life, as they can customize their schedules to accommodate personal responsibilities.

b) Reduced Commuting Stress and Costs:

Employees save time and money that would be spent on commuting, reducing stress and improving overall well-being.

c) Increased Job Satisfaction:

Teleworking can lead to higher job satisfaction, as employees appreciate the flexibility and autonomy that comes with working remotely.

d) Improved Focus and Productivity:

Some employees find that working in a quiet and comfortable environment at home can enhance concentration and productivity.

On the other hand, a favourable outcome of implementing telework was the insertion of a clause stating that teleworking does not constitute a change in the workplace or other essential employment conditions, which was previously one of the most significant bureaucratic obstacles in introducing teleworking within ongoing employment contracts. This provision eased the burden on employers as it meant they did not have to serve prior notice in order to legally justify a change in work organisation method, or revise existing employment contracts or add specific amendments. Valuable time, effort and financial resources have been saved for both employers and employees.

B. Benefits for Employers

a) Expanded Talent Pool:

Employers can recruit and hire the best talent regardless of geographical location, leading to a more diverse and skilled workforce.

b) Cost Savings:

Companies can save on office space, utilities, and other overhead expenses associated with maintaining a physical office.

c) Increased Productivity:

Many employees report higher productivity when working remotely, as they can create a personalized work environment and avoid workplace distractions.

d) Reduced Absenteeism:

Teleworking can reduce instances of absenteeism due to factors like commuting difficulties, weather-related issues, or personal reasons.

e) Enhanced Employee Retention:

Offering teleworking options can contribute to higher employee satisfaction and retention rates, as employees value the flexibility and work-life balance.

f) Business Continuity:

Teleworking provides a contingency plan for business continuity during disruptions such as natural disasters, pandemics, or other emergencies.

g) Environmental Impact:

Reduced commuting and office energy consumption contribute to a smaller carbon footprint, aligning with corporate social responsibility goals.



Ukraine

Since March 2020, the application of rules governing the performance of work duties remotely has significantly increased and the implementation of such arrangements is widespread among employers. Given that employees had no obligation to work at the employer's premises or even at their own homes, some Ukrainian citizens who had left the country as a result of the invasion in February 2022, have been able to retain their employment with Ukrainian companies. This was rendered possible if they had all the technical skills and equipment necessary to fulfil their work duties since their physical presence in Ukraine was not required. The existing labour legislation on remote work does not prohibit employees from performing work duties outside Ukrainian territory. Some challenges do exist however, concerning the remuneration of such employees, as under Ukrainian legislation, the remuneration of employees of Ukrainian entities can only be

carried out by wire transfer if the an employee's bank account is opened in a Ukrainian bank.

The opportunity to be employed by a Ukrainian employer while residing outside the territory of Ukraine, is also provided for foreign citizens. Ukrainian employers can employ foreign nationals provided a work permit is obtained for the foreign employee. On the condition that the work permit is obtained and that an employment agreement has been concluded, the foreign national then has the right to perform employment duties remotely, including in their country of origin. As the remuneration may only be paid into a bank account opened in a Ukrainian bank, the foreign employee is required to travel to Ukraine in order to open an account in a Ukrainian bank. Said employees are then free to return to their own country and perform their work duties remotely.

Today

Did the (legal) rules change as a result of the Covid-19 crisis?



France

On 26 November 2020, the different social partners drew up a national interprofessional agreement on telework from the findings and lessons learnt during the forced general recourse to working from home. In its preamble, it recalls that its principle aim is to be a «tool to help social dialogue» and a «support to negotiation» in order to allow a concerted implementation of teleworking. This agreement neither establishes new rights or obligations nor calls into question the previous agreement of 2005. It is rather a proposal in the form of a user's guide to the practice of telework.

If the national interprofessional agreement of 26 November 2020 constitutes a useful reference framework, the rules for the implementation of telework have evolved on a regular basis according to the health crisis and the resulting health measures and guidelines.

These measures and guidelines consist of hygiene or organizational rules for companies to apply in order to protect employees' health in light of the constantly evolving Covid-19 pandemic. Published for the first time on 3 May 2020 by the Ministry of Labour, these guidelines have been regularly updated to mitigate the risks associated with the changing nature and scale of the virus.

The legal framework applicable to teleworking in France is now governed by a combination of many texts which does not make the reading of the applicable rules easy to understand for many employers.

Other texts were introduced namely by the French Administration to determine the social security treatment of teleworking expenses and indemnities.



Germany

With the exception of the aforementioned obligation for employers to offer working from home where possible pursuant to the regulation in the German Infection Protection Act, which is

no longer in force, no changes have been made to social law in Germany to date.



Spain

The Covid-19 health crisis and the need to grant greater flexibility to employees generated a major social debate during the pandemic which resulted in the publication on 22 September 2020 of the Royal Decree-Law 28/2020 on remote working. Subsequent to this, the regulation was adapted to the new Legislation 10/2021 of 9 July 2021 on remote working.

The rules provided for under this new legislation are only applicable to employees who telework for at least 30% of their ordinary working time and in a reference period of 3 months (or the equivalent proportional percentage according to the term of the employment contract).

For employees who work remotely less than the said percentage, the rules applicable prior to the pandemic remain in place. The Legislation 10/2021 on remote working establishes the following main principles:

- There must be a written agreement between the employer and the employee;
- Equality of treatment and opportunities, and a non-discrimination must be ensured between on-site employees and teleworkers. Teleworking cannot result in any loss of labour, economic or union rights;
- Telework is voluntary and “reversible”, so either party can decide to return to work on-site at any time and is dependent on giving the agreed prior notice).

Even though certain aspects are left to the collective bargaining negotiation (e.g., calculation of amounts of expenses to be covered), the new legislation provides for a series of reciprocal rights and obligations that both parties must assume.

This new legislation also provides the minimum content that should be included in the written agreement as follows:

- A comprehensive detailing of the means, equipment and tools required for teleworking, including consumables and movable elements, as well as the useful life or maximum period for the renewal of these (e.g., table, chair, computer, keyboard...);
- A list of the expenses that the employees may incur as a result of providing remote services (e.g. additional costs of electricity and internet connection), as well as the calculation

method used in order for the company to pay compensation, as well as the corresponding payment terms and methods;

- Working hours of the employees, and where appropriate, rules specific to hours of availability;
- Percentage and distribution between presential work and teleworking, if applicable;
- The company’s central place of work to which the teleworking employee is assigned and where, if applicable, they will carry out the presential work;
- The place chosen by the employee to telework;
- Notice periods to apply for any reversibility of the arrangement;
- The means through which the company can control the work activity of the employees;
- The procedures to be followed in the event of technical difficulties which prevent the normal performance of telework from being carried out by the employee;
- The details of instructions issued by the company in terms of data protection, specifically applicable in the context of remote working;
- Instructions issued by the company on information security, specifically applicable to teleworking;
- Duration of the agreement.

The arrival of teleworking regulations (Royal Decree-Law 28/2020 and Law 10/2021 on remote working) also led to a reform of the Workers’ Statute. Specifically, Article 23, on promotion and professional training at work, was amended to provide for the possibility of access to remote working while regularly studying for an academic or professional qualification. Article 34.8 was also modified, allowing access to remote working with the request for the adaptation and distribution of working hours to balance work and family life. Moreover, as a result of Covid-19 crisis, the rules of collective bargaining have also changed and evolved to the extent that, nowadays, many collective agreements regulate specific aspects of this modality of work, to further safeguard the rights of workers.



Italy

Employment legislation in Italy remains that as provided by Law no. 81/2017.

The only specific change was the possibility during the pandemic as from March 2020 to have recourse to teleworking without amending the individual employment agreement, and where the sole responsibility of the employer was to inform employees of the health and safety measures to respect in the workplace.

Employers had to communicate information on the company’s recourse to telework to the Ministry of Labour.

Law no. 81/2017 has recently changed and where prior to the pandemic, the employer had an obligation to file an individual employment agreement for teleworking to the Ministry of Labour, this is no longer the case today and has been so since 1 September 2022.



The Netherlands

Until now, the Covid-19 crisis has not led to any changes in Dutch employment law. Employees were unable to assert rights stemming from the temporary mandate to work from

home, prompted by the exceptional circumstances of the pandemic. Consequently, they were precluded from asserting that remote work had become an entitlement.



Belgium

During the pandemic, a specific CLA was in force regarding the framing of mandatory or recommended teleworking due to the Covid-19 crisis. This CLA was in force until 31 March 2022.

Consequently, there were no permanent amendments to the legislation on teleworking as a result of the Covid-19 crisis.



Austria

Due to the Covid-19 pandemic, a significant number of people had to change to remote work, leading the parliament to enact the §2h AVRAG law in April 2021. This law regulates remote work by mandating the formalization of telework in a written agreement known as a “Home-Office Contract”, to be signed by both parties. Additionally, Austrian legislation mandates that the company is responsible for providing the necessary digital work tools. Furthermore, terminations for substantial reasons are subject to a one-month notice period.

Apart from the specific regulations outlined in the §2h AVRAG law, other relevant labour laws continue to apply. These include, the Working Hours Act (Arbeitszeitgesetz), the Rest Periods Act (Arbeitsruhegesetz), the Employees Act (Angestelltengesetz), the

Employment Contract Adjustment Act (Arbeitsvertragsrechts-Anpassungsgesetz), the Vacation Act (Urlaubsgesetz), the Continued Remuneration Act (Entgeltfortzahlungsgesetz), the Maternity Protection Act (Mutterschutzgesetz), the Paternity Leave Act (Väter-Karenzgesetz), the Equal Treatment Act (Gleichbehandlungsgesetz), the Industrial Constitution Act (Arbeitsverfassungsgesetz), and in some instances, the Occupational Health and Safety Act (Arbeitnehmer:innenschutzgesetz).

These laws provide for a legal framework governing various aspects of employment and therefore ensuring the protection of workers’ rights and health.



Poland

During the Covid-19 pandemic, remote working was not specifically regulated – special legislation introduced after the outbreak of the Covid-19 epidemic provided only a skeletal legal solution, leaving employers and employees without answers to many of the concerns relevant to remote work. For almost three years, employers were largely steered in their actions by guidelines issued by the administrative bodies - the Ministry of Labour and the State Labour Agency - but these were non-legally binding recommended rules of conduct.

Although the permanent statutory regulation on remote work took some time to be established, once it was completed, employers obtained a clear legal basis for regulating working away from the workplace. Substantive regulation of remote work in the Labour Code took place only three months after the official end of the epidemic in Poland.

As from 7 April 2023, new regulations on remote work came into force in Poland and provisions were clear on the subject: the recourse to remote work is no longer at the employer's discretion, and it should be implemented in accordance with the rules set out in Articles 6718 – 6734 of the Labour Code.

Three types of remote work are defined:

- remote work at the unilateral instruction of the employer,
- occasional remote work (on request), and
- the so-called systemic remote work.

The rules for the performance of remote work must be set forth in (i) an agreement between the employer and trade unions or in (ii) the remote work regulations or in (iii) an individual mutual agreement on remote work or in (iv) a directive given by the employer (in specific cases). These documents must include the strict rules defined by the Labour Code, and more notably:

- the group or groups of employees who may be covered by remote work (except in the event of an individual mutual agreement and a directive given by the employer),
- the rules for covering the costs incurred by remote work,
- the rules for determining the calculation of a cash equivalent or lump sum payment of the above,
- the rules of communication between the employer and the employee,
- the rules relating to the supervision and evaluation of the performance of remote work,
- the rules concerning occupational health and safety controls,
- the rules to ensure compliance with security and information protection requirements, including the procedures to be applied for the protection of personal data,
- the rules for the installation, inventory, maintenance, software updates and servicing of work tools entrusted to the employee, including technical equipment.



Czech Republic

Teleworking regulation changed with the adoption of a significant amendment to the Czech Labour Code with effect from October 2023. The amendment was primarily intended to fulfil the duties of the Czech Republic under EU law to transpose the Work-Life Balance Directive and the Transparent and Predictable Working Conditions Directive. However, the legislators also took the opportunity to address other pressing labour law matters, including teleworking, taking into account the lessons learnt during the Covid-19 pandemic.

The new legal framework for teleworking has introduced the following key rules:

- Teleworking can only be carried out on the basis of a written agreement on teleworking between the employer and the employee, unless the teleworking is ordered as a result of a special measure of a public authority;

- The teleworking agreement can be terminated with or without reason, with a notice period of 15 days, unless the parties agree on a different length of notice period;
- The teleworking agreement can be concluded as interminable, i.e. tied to the duration of the employment relationship;
- Teleworking can be carried out in working hours scheduled either by the employer or exclusively by the employee or a combination of both;
- The employee is entitled to a compensation of either proven costs related to teleworking or costs calculated based on a lump sum at an hourly rate set by a decree of the Ministry of Labour and Social Affairs, unless the employee and the employer agree in writing that compensation shall not be provided.



Lithuania

Important changes have been introduced regarding teleworking:

- Every employee can apply for teleworking and the employer is obliged to consider it. Refusal must be duly reasoned (i.e. extremely hard due to process of manufacturing/service provision in the workplace).
- A provision has been established whereby an employer cannot refuse a request for telework made by a pregnant, recently given birth, or breastfeeding worker, nor from an employee raising a child under the age of 14 or up to the age of 18 (if the employee is a single parent) or from an employee raising a disabled child under the age of 18. Such a right is also granted to disabled workers, employees who are the principle care givers to a family member or who live with one, as well as those whose request is based on a particular state of health confirmed and certified by a medical practitioner. However, such a right is not absolute – the employee’s request may not be granted if the work functions cannot be performed remotely due to the location of production or if there are considerable difficulties in the

organization of remote work.

- It has been established that the parties to the employment relationship can agree on teleworking in another country other than Lithuania. However, if such an arrangement is agreed to, it should in no way whatsoever be construed as a business trip where daily allowances are to be paid.

In order to perform the organization of work in a company correctly, the requirements for the remote workplace shall be determined in writing, as well as the work equipment which is to be provided, the procedure for providing them, the rules for using work equipment, the criteria for a safe workplace, the permissible states data security, reimbursement of expenses, the appraisal procedures for a worker’s results and performance, the application of rules governing the protection of personal data, the procedure for accounting for working time, communication and cooperation with other employees of the entity – the organization of teleworking has to be ensured with the help of local regulatory acts.



Estonia

In Estonia, telework is regulated by the Employment Contracts Act and the Occupational Health and Safety Act. The applicable telework regulation has its origin in the Framework Agreement on Telework of the parties of the European Labour market regarding the regulation of telework in the European Union member states, which was established in 2002.

The Occupational Health and Safety Act introduced a more detailed regulation of telework in November 2022. The objective of the amendments was to make the fulfilment of occupational health and safety requirements in case of remote work more understandable for employers and employees. The new clauses stipulate the employer’s obligations in case of remote work and specify the employee’s rights and obligations in ensuring a safe working environment. The changes consider the limited possibilities of the employer to ensure a safe working environment in the case of remote work, insofar as the employee works outside the employer’s premises (e.g. at home, in the library).

Therefore, it is important to outline the employer’s obligations that can be and must be fulfilled in case of telework:

- assessing the risks of the working environment, in case of telework insofar as reasonably possible,
- instructing the employee on among other things, how the employee can mitigate the risks of the working environment

and create a safe working environment,

- organizing the employee’s health check-ups, and
- investigating work accidents and occupational diseases.

When fulfilling other occupational health and safety obligations provided in the Occupational Health and Safety Act, it is the employer’s responsibility to assess whether and in what way they can be fulfilled considering the specifics of telework. The employee also has the obligation to ensure the safety of their work environment, based on the instructions given by the employer. In the case where the employer has fulfilled all the aforementioned obligations, the employer is freed from liability in case of accident.

The understanding of the telework agreements has also greatly improved with specific conditions that need to be arranged (such as workplace, organization of work, data protection and privacy, use of equipment and devices, safety at work safety and the relevant laws applicable). A teleworking agreement should be established in writing; however, the parties may provide evidence for the agreement in another way (e.g., in an e-mail exchange). The agreement may be comprehensive or may simply stipulate the confirmation of teleworking with more specific conditions for teleworking being set out in the organisation of work rules or the collective agreement.

If the parties do not agree on the terms and conditions of teleworking, including the reimbursement of teleworking costs (e.g. the cost of purchasing equipment and adapting the workplace at home) or if the costs are too high for either the employee or the employer, a teleworking agreement should not be concluded.

The Employment Contracts Act of December 2022 introduced the concept of the employee with an independent decision-making capacity. This term is used to define an employee who due to the nature of the work (teleworking) is free to organise their own working time. Such an employee is given

greater freedom to organise their working time according to their wishes and needs. In this way, the employer can offer the employee more flexible organisation of work and better implement new ways of working. This concept comes however with certain stipulations, the main one being the minimum wage requirement which is at least the average gross monthly wage in Estonia in the quarter preceding the conclusion of the agreement, based on data published by Statistics Estonia.



On 23 March, 2020, the Government of Georgia adopted Ordinance № 181 On the Approval of Measures to be Implemented in connection with the Prevention of the Spread of the New Coronavirus (Covid-19) in Georgia, which was followed by a number of amendments and other additional acts defining certain obligations in the operation process for both public institutions and business operators. Economic activity was suspended with the mentioned resolution, certain exceptions withstanding. In addition, and under the same resolution, those economic activities which allowed it, were

transferred to remote work, defined as work from home.

The Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia has issued an individual administrative act № 01-149/0 on approving the recommendations for the prevention of the spread of the new coronavirus (Covid-19) in the workplace. The Act is accompanied by 15 Annexes, which individually define certain obligations and regulations for business operators carrying out different economic activities.



In response to the escalating number of Covid-19 cases, the Government of the Republic of Armenia declared a state of emergency on 16 March, 2020, through decree № 298-N., Recognizing the necessity to adapt to the new reality, a subsequent amendment to the Labour Code of the Republic of Armenia was enacted on April 29, 2020. This marked a pivotal moment as it introduced for the first time, a specific provision addressing teleworking - Article 106.1 of the Labour Code. It set guidelines for the temporary performance of work duties remotely during periods necessitated by natural disasters, technological accidents, epidemics, and accidents. This legislative change officially came into effect on 5 May, 2020, reflecting a new approach to work arrangements within the country.

Key points of this amendment included the clarification that remote work does not constitute a change in the workplace or in other essential employment conditions and allowed for the granting of annual leave if remote work is not feasible due to such emergencies. Nonetheless, the amendment had limitations, as it only addressed cases of teleworking during unforeseen crisis situations. It did not therefore, fully regulate the commonly adopted teleworking practices that have now been established by international standards worldwide. While this legal update marked a crucial step in managing the challenges arising from the Covid-19 pandemic, further developments were necessary to align Armenia's teleworking regulations with international norms and practices.



No new teleworking rules were introduced as a result of the Covid-19 crisis.



Ukraine

A clear breakdown and definition of the different types of telework was gradually established in 2020 and by 2021, the applicable provisions on telework as they are today had been set under Ukrainian legislation. Given the need for increased telework in the context of the Covid-19 pandemic, the rules of the labour legislation required clarification and additional provisions. At the beginning of 2020, prior to the Covid health crisis and the introduction of quarantine restrictions, the Labour Code in Ukraine had not provided any specifications governing the introduction of remote work by companies.

As employers were faced with the need to continue business activities in 2020, and at the same time to ensure compliance with lockdown requirements, amendments had to be made to the Labour Code, and the terms «flexible working time regime» and «remote work» were provided for in the Labour Code.

In particular, the Law in Ukraine “On Amendments to Certain Legislative Acts of Ukraine Aimed at Providing Additional Social and Economic Guarantees in Connection with the Spread of the Coronavirus Disease [COVID-19]” No.540-IX of 30 March 2020, amended the Labour Code by introducing the definitions of “flexible working time regime” and “home-based work”. These definitions were taken from 1) the Methodological recommendations on the establishment of flexible working time regime approved by the Order of the Ministry of Labour and Social Policy of Ukraine No.359 of 04 October 2006, and 2) the Resolution of Labour State Committee “On approval of order on conditions of home-based workers” No.275/17-99 of 29 September 1981. The purpose of such amendments was to create legislative mechanisms for the introduction of remote work regimes.

In 2020, the definitions of “remote work” and “home-based work” were neither detailed, nor considered separately in the Labour Code, and it was only in 2021, that a new law “On Amendments to Certain Legislative Acts of Ukraine on Improving Legal Regulation of Remote, Home-Based Work and Work Using Flexible Working Time Regime” No.1213-IX of 04 February 2021, introduced amendments to the Labour Code, clearly defining “remote work” and “home-based work” as two separate arrangements, each with their own clarifications and provisions.

Moreover, in special cases established by law [the spread of the pandemic, the threat of military invasion, and any situation of emergency be it man-made or natural] employers obtained the right to impose either a flexible working time regime or remote work on employees, simply by sending a formal notification to the employees prior to introducing such changes into the working organization. Previous to this amendment, employers had an obligation to inform the employee of essential changes to their working conditions with a minimum advance notice of two months.

Furthermore, in 2022, the Ukrainian Law «On Amendments to Certain Legislative Acts of Ukraine on the Regulation of Labor Relations with Unfixed Working Time» No.2421-IX of 18 July, 2022, introduced amendments to the Labor Code whereby both employers and employees could conclude employment agreements where no fixed number of working hours was provided for.

In the Future

How is the practice of teleworking expected to evolve in your country?



France

Telework has already become a longer-term trend with a hybrid approach to the organisation of work combining telework and on-premises activity.

This hybrid working model has risen from 42% in 2021 to 81% in 2024.

There are several strong indications that this organization will continue to develop.

Firstly, telework remains strongly recommended by the public authorities, since it actively contributes to the prevention of any risk of infection from Covid-19, greatly reducing social interactions both in the vicinity of the workplace itself, and in the commute on public transport.

Secondly, with 4 out of 10 jobs in France being in the private

sector (i.e., 8 million workers in total) many posts are considered compatible with telework.

Last but not least, a large part of both employers (e.g., Google, Facebook, Peugeot, Microsoft...) as well as employees (even if positions can be contrasted), have found many advantages to the practice of teleworking.

Although remote work has become a firm fixture in many companies' organisation of work in France, we cannot exclude the fact that in a context of growing economic uncertainties, we may on the contrary, see some companies more reluctant to apply it for fear of decreasing levels of productivity from their workforce. Some companies are now going back on what they had granted in terms of teleworking, limiting (e.g. Google) or even abolishing it.



Germany

It is expected that a large part of employers in Germany will keep the current mobile work/home office mode in place as it has proven to work well for many companies and overall employees consider the possibility to do so as a real benefit. This model of working

has also reflected a growing desire by the employer to save on workplace/office space either completely or through a reduction strategy of so-called «desk sharing» where several employees share one workstation in the office.



Spain

The new regulations in place in Spain are being seen as a significant step forward in reconciling a more flexible approach to work and an improved work/life balance. However, there are still many questions to be answered from a material point of view and these will have to be dealt with in the different collective bargaining agreements before being included in the individual teleworking agreements. More specifically, this would involve companies budgeting for the provision of resources and services to facilitate telework and determining the calculation methods to be applied when considering expenses incurred by the employee.

For the time being many companies are offering adhesion

agreements, where the terms and conditions for teleworking are agreed to and signed in advance by those employees that wish to continue telework even after the Covid-19 pandemic.

In this regard, the Spanish Courts have already upheld the practice and have established that nothing prevents the employer from pre-determining the employment conditions under which the company may exercise a right to the use of telework.

As of today, it is generally expected that Spanish Case Law will provide greater clarity on some of the controversial aspects that have arisen as a result of this new regulation being enforced.



Italy

Telework is expected to evolve in Italy with greater flexibility being offered to the employee not only in terms of the workplace itself, but also in terms of the duration of working time.

The amendments regarding the recognition of the right to remote working (priority) for parents of children under the age of 14 and

vulnerable workers have not been extended beyond 31 March, 2024. As such, from 1st April, 2024, no priority will be given for access to smart working and any developments in the practice of telework will be left to company bargaining.



The Netherlands

The evolution of teleworking in the Netherlands is expected to follow several trends. Firstly, advancements in technology will likely facilitate more seamless remote work experiences, enabling greater flexibility for employees. Moreover, the ongoing normalization of remote work due to factors like the Covid-19 pandemic may lead to a cultural shift where teleworking becomes more widely accepted and integrated into standard work practices.

Additionally, companies may increasingly embrace hybrid work models, allowing employees to split their time between

remote and on-site work. It is likely that the majority of employers will continue to embrace this work model given its numerous benefits for both employers and employees, and more notably that of increased flexibility and cost savings. This approach can offer further benefits such as improved work-life balance and reduced commuting stress. Only in exceptional cases can employers ask their employees to return fully to the office, and due to the contractual arrangements, they are entitled to do so.



Belgium

Although the percentage of workers teleworking peaked in 2021, followed by a slight decline, it is clear that since Covid-19, teleworking is well established in Belgium. Both employees and employers see the benefits of teleworking. It is therefore to be expected that the percentage of teleworking will remain higher

after the Covid-19 crisis than before the crisis. It goes without saying that there will be differences in the use of telework depending on the different sectors, professional categories, etc.



Austria

Over 90% of respondents (including employees and employers) state that the practice of home office has succeeded very well or quite well. More than two-thirds of all working individuals anticipate that even beyond the crisis, the flexible arrangement between the office and home office is the future of work.

Work discipline, productivity, and the acquisition of new skills while teleworking were all positively considered from both the employer and the employee.

Consequently, the future of teleworking is expected to either remain steady or increase slightly. Anticipated changes suggest

that both government entities and employers may play a more active role in regulating teleworking practices. This increased regulation may stem from the need to address various aspects, including worker rights, productivity monitoring, and the establishment of clear frameworks for remote work. Striking a balance between flexibility and regulatory measures will likely shape the evolution of teleworking practices in the future. It will be crucial for businesses and policymakers to collaborate in adapting to these changes and fostering a sustainable teleworking environment.



Poland

According to the General Office for Statistics, the third quarter of 2023 showed that only about 14% of all employees performed their work (regularly or occasionally) from home. The most popular solution is that of hybrid working where the employee can remain in constant contact with their workplace and colleagues. Some employers have attempted to bring

employees back into the office on a full-time basis, however this has not been well received by employees. Remote work has become one of the basic conditions for collaboration, and the chances of returning to the pre-Covid-19 pandemic situation are currently slim.



Czech Republic

The practice of teleworking is expected to grow in the Czech Republic. Presently, there is a trend to offer teleworking as an employee benefit and this is becoming a market standard for positions where the work tasks can be carried out remotely. The benefit is usually offered on a basis of 1-3 days a week and is to be used by the employee on a voluntary basis with the prior approval of the employer.

As employers continue to explore ways to economize on office space all the while increasing the number of employees, other modes of teleworking are also on the rise, including “full remote” (particularly in IT) or the “hot desk” arrangement where employees work from the office on a rotating basis.



Lithuania

It is expected that more and more workplaces will offer a hybrid work model given that workplaces which currently offer several days of telework from home per week are attracting a large number of specialized and experienced employees. Therefore,

in order to remain competitive in the market, the employer will include the offer of partial work from home in the employment contract or local legislation. Full remote work arrangements will however remain niche.



Estonia

Teleworking has become the new norm. According to a survey conducted by the Salary Information Agency in 2023, only 35% of employers did not allow their employees to work remotely. Those employers that do allow telework mainly apply

hybrid arrangements which require that work is performed from the office and remotely on a 2-3-day basis per week. Most employees (75%) feel that such arrangements should continue in the coming years.



Georgia

Prior to the Covid-19 pandemic, only a small portion of employees had the chance to engage in remote work. However, following the experience gained during the pandemic, a significant portion of employees express a desire to continue remote work in the future, underscoring the considerable advantages of this arrangement. Interestingly, partial remote

work emerged as the most favored option as it allows individuals to mitigate some of the negative aspects associated with remote work. Teleworking is expected to progress, providing employees with increased flexibility, not only concerning their workplace but also regarding their working hours in Georgia.



Armenia

The latest version of the Armenian Labour Code, adopted on 25 October, 2023 has addressed previous limitations regarding teleworking legislation, particularly by expanding coverage beyond crisis situations to include broader instances of teleworking. Key provisions of the amended legislation include defining teleworking as the performance of work duties without physically being present at the workplace and emphasizing that remote work can only be undertaken by mutual agreement between the employee and employer and provided that the nature of the work allows for it to be

done remotely. The focus has hence shifted from allowing teleworking in emergency circumstances only, to making it a regular aspect of work dynamics. Furthermore, the newly introduced terms provide clarity and structure to teleworking arrangements, ensuring that both employers and employees have a clear understanding of their rights and responsibilities. The new legislation states that the agreement to perform work remotely is now required to be formulated in writing, and this agreement does not constitute a change in the essential conditions of work. Additionally,

the legislation specifies conditions for remote work implementation, including the determination of necessary equipment, materials, and the reimbursement of related costs, which can be outlined in collective agreements, internal disciplinary rules, or written agreements between the parties. These clauses effectively address the confusion and concerns stemming from the previous amendment implemented in 2020.

Moreover, the new legislation sets expectations and objectives on the employee, emphasizing the proper performance

of work duties and the availability to the employer during remote working time. With the exception of providing personal protective equipment when necessary, employers are also exempt from certain health and safety standards in the recourse to remote work. These new legislative changes provide a greater comprehensive framework for teleworking practices in Armenia, promoting flexibility in the workplace.

It is expected that teleworking practices in Armenia will continue to evolve in line with international practices and standards.



Malta

Proposals for a new EU directive providing for the mooted right for employees to disconnect may influence this matter, particularly in the wider context of flexible working hours during telework. However within the context of existing

legislation providing for employers and employees safeguards on work organization and the manner of performance of teleworking, it is not expected that any new developments would be substantial.



Ukraine

The opportunity to work outside the employer's premises is assessed by employees as a significant advantage. Job offers providing the possibility to remote work are five times more likely to be applied for than job offers with no remote work. Despite this, statistics show that employers are not offering remote work easily, as the study conducted by the well-known Ukrainian web-portal for job vacancies "Work.ua" shows. The survey conducted among employers, obtained the following results as at January 2024:

- 44% of employers do not have employees who work remotely;
- 18% of employers have not yet decided on their work arrangements for 2024;
- 17% of employers excluded remote work as an option for this year;
- 12% of employers support their employees who work online;
- 9% of employers offer a combined/hybrid model of employment.

According to data from another analytical center of the HR web portal "grc.ua", in the autumn of 2022, only 7% of actual job vacancies provided a remote work option, although this had increased slightly in March 2021 to 10%.

It should be noted that a large number of jobs in Ukraine require the physical presence of employees at the employer's

premises (e.g. in restaurants, catering, medicine and healthcare, cleaning, transportation, retail, hairdressing, etc.). As such, for many of the employees in Ukraine, remote work arrangements were only temporary as a consequence of the Covid-19 pandemic. This is in contrast with the types of work mentioned earlier (web developers, editors, copywriters, graphic designers, translators etc), whose use of telework was both appropriate and regular before Covid-19 lockdown measures, and which still remains frequent today in the aftermath of the pandemic.

Today, in the context of imposed martial law on the country of Ukraine and the permanent threat of air raids and armed attacks, employers have an additional responsibility which can result in the decision to implement telework. In accordance with the legislation in place, the employer is responsible for the health and safety of the employee when they are working at the employer's premises. This means that the employer has the obligation to provide their employees with access to air raid shelters during working time. Some employers have therefore preferred to offer their employees a hybrid or remote work organization to their entire workforce in certain cases, albeit for a definite and short-term period of time.

Is a new legislation to be discussed/implemented?



France

A law of 26 December 2021, aimed at accelerating economic and professional equality requires that the collective agreement or failing that, the employer's charter setting up telework must now specify the terms of access to telework for pregnant employees.

The question of access to telework for pregnant women is thus left to the social partners, however, in practice, the employee in such cases could benefit from the possibility to telework from the very beginning of her pregnancy until the end of her maternity leave.



Germany

Mobile work and how to implement it in the future has already been discussed in Germany, and a draft for a new law on this question was submitted ("Entwurf eines Gesetzes zur mobilen Arbeit [Mobile Arbeit-Gesetz - MAG]") in January 2021. How-

ever, to date, the law has not come into force and the subject is now less relevant as many employers freely offer the possibility to work remotely from places other than the office, as an employee benefit.



Spain

From a practical perspective, the standardization of telework is yet to be addressed in Spain. After the publication of the legislation on remote working, many questions have been raised and the need for clear answers both from the Spanish legislator and from case-law is obvious. New legislations and

communications from the Official Labour Authorities are set to be made in an attempt to clarify the situation and reduce ambiguities that have resulted from the new regulations on telework.



Italy

The applicable legislation remains that as provided by Law no. 81/2017.

The only specific change refers to the individual agreement

where prior to Covid the company had to submit an individual agreement for telework to the Ministry of Labour, and where since 1st September 2022, this obligation no longer exists.



The Netherlands

Under the Flexible Working Act, employees were already given the opportunity, subject to specific conditions, to formally request a modification of their regular workplace in writing. However, there was no predetermined framework for the approval or denial of such requests; employers had the discretion to accept or reject them based on certain grounds, provided they demonstrated due and careful consideration of the request.

In the Netherlands, based on the changed attitude towards working from home as a result of the Covid-19 pandemic, a new law was proposed called “Work where you want” (“Wet werken waar je wilt”). This act aimed to facilitate the employee’s ability to work on request in locations other than their contractually agreed-upon workplace. The proposal aimed to provide employees with significant rights to be able to request

changes in their actual place of work. However, the law never came into effect as the legislation was deemed unnecessary, and the lawmakers in The Netherlands suggested that such matters could be resolved simply between the employer and the employee.

No other legislation to specifically provide for teleworking exists in the Netherlands. Existing laws and regulations are however applied to teleworking as under the Working Hours Act, the Working Conditions Act, and the Flexible Working Act. Furthermore, although there is no specifically established legislation in place to govern telework, both Collective Labour Agreements (CLAs) and company rules and agreements may contain provisions that clearly state employer responsibilities on the subject.



Belgium

Any implementation of new legislation on teleworking is not currently on the agenda.



Austria

No new legislation is under discussion to date.



Poland

Regulations on remote work have been duly implemented and in force for about one year now. The Ministry of Labour and labour inspection authorities have issued interpretations on the application of the regulations, but they do not provide answers to emerging uncertainties and questions. Moreover, there is still a lack of decisions by administrative bodies and courts on the

application of the regulations. Several issues concerning the interpretation of the statutory rules remain, and clarification is lacking – for example the question of reimbursement of remote working costs or the control of remote working rules. Despite this, amendments to the solutions adopted in the Labour Code are not currently under review.



Czech Republic

Although long awaited and necessary, the recently adopted teleworking regulation has generated mixed reactions and has come in for criticism, notably concerning:

- the ambivalent approach to the question of compensation for costs of teleworking, insofar as the possibility to opt-out of compensation was not present in the original draft bill and was only introduced in the course of later amendments;
- the failure to amend the provisions of the Labour Code and related legislation on health and safety and health measures at work, as the current legislation does not take into account the employer's limited ability to ensure that a safe work environment is in place at the employee's home;

- the lack of specific regulations to cover the compensation of employees when teleworking is imposed as a result of special measures and where is unable to work due to the nature of their tasks or the inappropriate space at home for telework;
- the lack of legal guidance regarding the equal treatment of teleworking employees versus employees working from the office (e.g. regarding non-monetary benefits).

Although the current legislation on teleworking remains insufficient in some areas, it is expected that the government and legislators will update different aspects of Czech labour law in the next few years.



Lithuania

The current regulation satisfies the parties to the employment relationship and no changes are foreseeable. All matters related to remote work are presently provided for in the labour code.



Estonia

No draft legislations are currently pending.



Georgia

Discussions and the potential implementation of new legislation regarding remote work in Georgia is required. Currently, the

Labour Code of Georgia lacks explicit provisions addressing the practice of remote work in the employment relationship.



Armenia

The applicable legislation remains that as provided by the Labour Code of the Republic of Armenia HO-316-N enacted 25 October, 2023.



Malta

Currently no new legislation or legislative amendment to existing legislation is being considered.



Ukraine

Presently, the Labour Code in Ukraine is considered as sufficiently regulating the issue of remote work, and the

existing mechanisms for the introduction of remote work are deemed satisfactory for employers.

Specific points of alert in the practice of telework

Did the use of teleworking evolve during the crisis?
What particular situations did your clients encounter?
What were the main issues faced? Which points required specific attention? What were the most significant areas / points of satisfaction for both the employer and the employees?



France

After almost two years of a continuing health crisis, the employee's relationship to work and the conditions of their commitment to this became a significant point of attention, raising many questions. More particularly, the many and diverse issues concerning the mental health of employees at work came to the forefront of discussions. As a result, companies had to adapt and change their working methods, notably by allowing employees to telework.

As a practical case example, a client of ours in France was reluctant to implement telework within his company before the pandemic. As for many employers, he was concerned that employees would work less efficiently and be more dispersed. He was also concerned about the lack of social interaction between employees and the negative impact this could have them and consequently on the company.

Finally, after having experienced this mode of work during the Covid-19 crisis, the same client decided to set up a telework charter within the company and even went as far as to make the charter extremely flexible as telework is now a firm fixture within the company and is frequently carried out. The only requirement is that prior consent to an employee working from home is obtained by the employer.

Practically speaking, some companies are reluctant to pay employees for the incurred costs of working from home giving rise to discussions and problems. Indeed, companies in France have an obligation to pay for the specific expenses incurred by the employee in the course of carrying out their professional activity at home, including the costs of installing the necessary office and computer equipment.

A further point of attention is the employer's obligation to ensure the health and safety of the teleworking employee. Indeed, the employee in France has a right to disconnect outside working hours and as such cannot be reproached if they do not respond to requests made by their employer made outside usual working hours. The employer must therefore set clear working hours. This is a fundamental right which presupposes proper use of IT tools with a view to the necessary respect for rest periods and holidays, as well as for the balance between private, family life and professional life.

In addition, the criteria of eligibility to telework must be based on objective elements and are justified by the particular working conditions related to telework. Indeed, care must be taken not to discriminate against certain employees in relation to others.

In short, the introduction of telework is more than ever a central question to occupational health policies, which involves positive action concerning the organization of work, and where an approach to health and wellbeing is clearly promoted (compliance with health and safety standards adapted to ergonomic and psychological risks, introducing new remote management techniques, etc.). In a labour market context where attractiveness is a major challenge for companies and where employee recruitment and retention can sometimes be a real challenge, employment and working conditions are factors on which employers can act.



Germany

Specific situations, problems or areas for attention that our clients have encountered include:

- IT-equipment that was issued for use at the office and which was neither mobile nor suitable for use at home;
- Poor suitability of homes as a place of work; bad internet connection, no possibility to separate office space from home space, lack of a “healthy” working environment, e.g., no ergonomic chairs etc.;
- Small, restricted living areas at home;
- Inability of employees to work in a focused way with family or flatmates also working alongside them in a confined space;
- Professional confidentiality issues for the same reason;
- Management of regulations regarding costs incurred by home office working (electricity, heating costs etc), agreements on that had to be set-up;
- Company insurance coverage of accidents provoked by working from home;
- The ability to reach employees, a notable lack of responsiveness;
- The difficulty to ensure that statutory breaks were taken in a day, as well as the 11-hour break between two working days being met; the borders between working time and private time were hard to respect;

- Keeping personal contact with the team – not losing the team spirit;
- Psychological isolation of a person living alone and forced to work from home with no real contact with colleagues (resulting in loss of motivation);
- Getting employees back to the office once restrictions were lifted;
- Equal treatment of all employees as some positions inevitably required higher employee presence in the office.

The most significant elements of employer and employee satisfaction include:

- Improvement of work-live balance due to greater flexibility and thus higher employee satisfaction and higher motivation;
- Improvement of base of trust between employees and employer;
- Less daily travel from home to work, saving time and money for employees;
- Possibilities for employers to minimize rented office spaces by implementing “shared desks”.



Spain

The entry into force of the new Remote Working Regulation in Spain has raised several questions as to its practical enforcement notably concerning factors such as who bears the costs incurred by telework.

Many employers in Spain have had to deal with legal issues related to legislation which requires employers to compensate the employee for expenses incurred by teleworking expenses. Employers have also had to face the legal obligation to provide the employee with the resources and means in order for the work to be performed from home.

Typical questions arising from the new mode of working included the question of whether the employer had to provide a company computer or could the employee perform his/her work duties from a personal computer. If this were the case, how would this impact the company in terms of business control over the employee's activity?

Despite the legal uncertainties, many companies managed to put teleworking policies into place through collective agreements established with the legal representatives of workers. It has been a case of "needs must" and the result is that many employers have now endorsed considerable improvements in the new regulations governing remote working compared with the previously limited conditions provided. These improvements and clarifications have resulted in the establishment of a clearer regime, where previously there was only controversy in the negotiation process.

Other points of concern have been raised when employers try to comply with certain obligations which are rendered more complex in the context of teleworking.

Firstly, compliance with the established working day and working hours from the employees' side is to some extent blurred when performing telework. On this subject, Article 18 of the Remote Working Regulation establishes that the duty of the company to guarantee the employee's digital disconnection "entails a limitation on the use of the technological means of business communication and work during rest periods, as well as respect for the maximum duration of the working day and any limits and precautions regarding the working day that may be established by the applicable legal or conventional regulations." It also establishes the obligation of the company to hear the legal representatives of workers where they exist and develop an internal policy defining the modalities for exercising the right to digital disconnection and implementing different training sessions to raise employees' awareness on the risk of being too connected and potential computer fatigue. There is, therefore, an immediate obligation for companies to establish a digital disconnection policy and ensure its compliance.

Secondly, there is some uncertainty as to how to employers can comply with their occupational risk prevention obligations, when remote work is by definition carried out in a place outside the company's own premises.

Subsequent to the approval of the new Remote Working

Regulation, companies in Spain must ensure by means of a risk assessment that the place designated for the performance of remote work is deemed to be in accordance with the safety and health of the employee (Article 16). It is essential, that employers put adequate and sufficient measures in place to be able to correctly assess the designated place of telework from an occupational risk prevention point of view, as well as for the detection of any additional related risks.

Another issue that has also generated a great deal of controversy concerns the return to on-site work after the end of the Covid-19 crisis. Given the willingness of many workers to continue working remotely, the question arose as to whether the employer, by virtue of the corporate power, could force workers to return to on-site work, or whether this could be understood as a substantial modification of working conditions.

Furthermore, many questions have been raised on the accuracy of the number of accidents occurring at the employee's home during telework time. Although there is a presumption that accidents taking place at the time and place of work are considered accidents at work, there is still a lot of uncertainty about the delimitation of accidents at work from accidents at home.

Much debate has also been generated on the subject complementary compensation paid to employees. As it stands, no remuneration discriminations should exist between employees who work remotely and those who work at the company's actual premises. However, additional compensation measures such as the reimbursement of transport costs, or the payment of restaurant vouchers are applied due to the nature of on-site work. Discussions are therefore in progress questioning whether remote workers should receive these or not.

Finally, another aspect of telework that raises questions is that of the ability of the employer to exercise company controls on the actual work performance of employees, and whether any disciplinary action can and should be required.

To the extent that the company has the obligation to provide remote employees with computer equipment or tools, Article 22 of the new Remote Working Regulation authorizes the company to adopt the measures it deems most appropriate for the monitoring and controlling of the employee's respect of labour obligations and duties. These measures may include the use of telematic/electronic systems, considering where appropriate the capacity of disabled persons to perform such tasks and duties with due regard for their dignity.

As provided for in Article 17 however, the use of telematic systems and any controlling of the employee's work via devices, must also assure the employee's right to privacy and comply with data protection rights.

Therefore, companies have an obligation to establish criteria for the use of digital devices, respecting in all cases

the minimum standards for the protection of privacy as are legally and constitutionally recognized in the framework of Spanish law. In addition, it should be noted that the Legal Representatives of Workers must be involved in the drafting of these policies.

In short, the employee must be fully informed and aware of both the existing and potential corporate control an employer has through the working tools provided, and of the possible consequences should the employer detect any non-compliance of the employee with his/her labour duties.

These issues aside, there are undeniable advantages for both parties in entering into a hybrid or full teleworking agreement.



Teleworking was formally recognised in Italy in 2017, when the Legislator introduced a measure with the aim of conciliating employees' working time and personal lives.

Before the pandemic, few employers were aware of the concept of teleworking and consequently it was barely used by companies.

Companies in Italy did not have recourse to teleworking as we know it today, perhaps since a flexible approach to performing work was already in place in the country. The practice and term of "telecommuting" had in fact already been recognised and regulated by an Inter-confederal agreement within the European Commission's framework agreement on telecommuting concluded 16 July 2002.

Telecommuting as for teleworking, is a work organization method where the fulfilment of work duties can be carried out with the use of information technologies both on the company's premises, or outside the premises of the company, and typically at the employee's home.

The main difference between telework and telecommuting relates to the place of work: where telework is the activity of carrying out work duties in part at the company premises and in part outside the premises in a non-specified place, the activity of telecommuting specifies the actual place of work as being the employee's home or another named place from which the employee has decided to perform their work duties.

With the arrival of the Covid-19 pandemic, it was crucial that companies found a method where the working activity continued on the one hand, and where the protection of employees' health and safety was formally maintained on the other.

In this context, the introduction of telework provided companies with a solution as flexible working practices could be instantly implemented without the need to amend individual employment agreements, and without additional obligations to be fulfilled by the employer. With telecommuting previously, the employer had additional and specific health and safety obligations to fulfil.

In terms of problems faced by our clients in Italy, perhaps the main one was that of the field of application; indeed, not all client companies were able to implement teleworking due to the nature of the tasks to be performed by employees and where

It goes without saying that from the employee's perspective, the greatest benefit is a flexibility of time management and a more balanced organisation between work and personal life. This in turn, may also lead to increased job satisfaction and motivation and consequently, an increase in productivity.

From the employer's perspective, the most significant factor is a potential reduction in recurrent company expenses once the initial costs of implementing teleworking have been absorbed. Moreover, those companies whose business activity lends itself to hybrid or full teleworking have been able to modernize their modus operandi, giving them considerable added value as a company and employer.

the company's activity was incompatible with teleworking.

Nevertheless, the recourse to telework increased during the pandemic period for the following reasons:

- Safety: Employees who could work from home had increased protection from the risk of contamination
- Savings: Employees saw considerable savings in terms of personal transport costs (train and / or fuel), and were less tired in terms of commuting time and stress
- Work/life balance: Employees were able to reconcile their working time and personal life more easily
- Business continuity: Work continued to be performed and certain business lines were even able to evolve in spite of the global pandemic
- Companies themselves saw significant savings in terms of energy costs.

Concerning the overriding elements of satisfaction for both the employer and the employee, we have noted the following:

- In 2023, remote working continued to be regularly practised. The number of remote workers today is around 3.585 million, slightly higher than the 3.570 million in 2022. In 2024, there will be an estimated 3.65 million teleworkers in Italy.
- In 2023, the number of remote workers was expected to increase in large companies (to 1.88 million, or more than every second worker) and also in SMEs (570,000 workers), but will decrease in micro-enterprises (620,000 workers, or 9% of the total) and in public administration (515,000 workers, or 16% of the total).
- Remote working is now present in 96 % of large Italian companies, as opposed to 91% in 2022, and 20% of companies have also applied it to technical and operational profiles that were previously excluded.
- Remote working is also present in 56% of SMEs, where it is applied with informal models, and in 61% of public institutions.
- The positive impact of remote working on the environment in cities (working remotely 2 days a week avoids emissions of 480kg of CO₂ per person, per year), and where a general repopulation of rural areas (14% of workers have moved home

or to the south) will also lead to increased remote working.

- It is still considered difficult however, to allocate and manage work according to company objectives when remote work is applied, and this may in turn lead to an increase in work-related stress disorders.

We have had difficulties in making our clients understand that telework is in fact, a new management philosophy,

and that this new arrangement raises many of issues for the employer ranging from employee requests to remote work from abroad, the provision of means and tools to workers in order to ensure the security of company data, the correct posture to be adopted by the employee when working, or the financial compensation of costs incurred by the employee when internet connection has to be set up.



The Netherlands

Since a partial working from home has now turned into ‘the new normal’ over the last couple of years, the following more significant issues may arise:

- **Social Isolation and Loneliness:** Teleworkers often experience feelings of isolation and detachment from their colleagues, which can impact their morale and sense of belonging. It is also worth noting that these employees may sometimes feel excluded from their group/team due to the physical distance.
- **Communication Hurdles:** Effective communication can be hindered by the lack of face-to-face interaction, leading to misunderstandings and reduced collaboration. Overreliance on digital communication tools may exacerbate these challenges. Collaborative tasks and projects may suffer due to the absence of spontaneous interactions and in-person brainstorming sessions typically found in a traditional office environment.
- **Work-Life Balance Struggles:** Maintaining boundaries between work and personal life can be difficult for remote workers, potentially resulting in longer working hours and increased stress levels. Increased numbers of burnouts were observed during the Covid-19 pandemic, and numbers of cases have continued to rise since, possibly linked to remote working and the resulting struggle for a work-life balance.
- **Management and Supervision Complexity:** Remote management requires additional effort to ensure accountability, support, and team cohesion. Managers may face challenges in monitoring progress and providing timely feedback to remote employees. Managing employees who work even partially from home becomes particularly challenging when their output is apparently falling or signs of underperformance are showing. In such cases, it is paramount that employers intervene or seek external guidance.
- **Ergonomic Concerns:** Remote work setups may lack ergonomic considerations, leading to physical discomfort and health issues such as back pain or eye strain over time. As mentioned earlier, employers have the obligation under occupational health and safety legislation to provide a safe and suitable workplace even if that workplace is at the home address of the employee. It is therefore, the employer’s duty of care to ensure the provision of such a workplace and to maintain its proper setup.
- **Technological Issues:** Technical glitches and connectivity problems can disrupt productivity and workflow, highlighting the importance of a reliable technology infrastructure.
- **Security Vulnerabilities:** Remote access to company systems increases the risk of security breaches and data leaks if proper security measures are not in place, necessitating robust cybersecurity protocols in writing.
- **Career Development Challenges:** Remote workers may encounter obstacles in terms of career progression and visibility within the organization. Limited opportunities for networking and professional development can hinder their advancement prospects compared to their office-based counterparts.
- **Social Security and Tax Position Status:** Special attention should be given to the situation of employees who work in a country other than their country of residence. If teleworking for these employees increases to a certain extent, it could lead to changes in their social security and tax position status. This may result in additional employer obligations (e.g. setting up a payroll, filing wage tax returns, etc.).



Belgium

Due to the immediate introduction of mandatory teleworking, employers did not have time to adapt gradually to this new way of working. Consequently, many employers had to look for last-minute solutions to enable teleworking (e.g. electronic communication channels, provisions of infrastructure at employees' homes, digitalisation of work documents, etc.). This was a huge challenge for many employers.

In the aftermath of the Covid-19 pandemic, we received many questions regarding the regulation of established teleworking. The most significant issues raised by our clients were, and are, the following:

- Reimbursement of costs related to telework: the employee who works from home, will often have to use their own desk and equipment, and other costs such as electricity, heating, telecommunications will increase. The employer can grant the employee an allowance to cover these costs, but this is not a legal requirement. In order to be exempt from social security contributions and taxes, such telework allowances must also meet several conditions.
- Amendment of, or appendix to the employment contract: as telework should be performed on a voluntary basis, an employer must enter into an agreement with each employee individually. For current employees, this can be done with an addendum to the employment contract. For new employees, it is best to include a clause in the employment contract itself. The regulations stipulate a number of elements that must be compulsorily included in this agreement.
- Implementation of a telework policy: the extent that teleworking becomes a possibility or even a right for employees (whether or not limited to a few days a week, fixed or variable days...) should be defined at company level.

Internal discussions and/or negotiations will also have to be held in order to define which functions may be eligible for telework. Although not mandatory, a policy on teleworking in the company is highly recommended and should state which activities or events employees should perform in the company's premises, and the situations where teleworking can be terminated.

- Working time: The law provides that structural teleworkers with the exception of the framework of the working hours applicable in the company, are excluded from social rules on working time (Sunday as a rest day, night shifts, timely compliance with work schedules, rest periods and breaks etc.). This is due to the fact that it is the teleworkers themselves which decide when to perform their duties, except where a specific agreement provides otherwise. As such, any additional hours worked, do not give entitlement to compensatory time-off or payment of overtime salary. Once again, it is highly recommended that concrete arrangements are set out on this matter by including a work schedule where possible in the agreement or appendix, or inserting a clause that stipulates when the teleworker must be available. Such a clause is also important to verify whether or not an accident has occurred during normal working hours, and where the legal presumption of an accident in the workplace may be applied.

Inevitably, many advantages of telework have also been noted, such as fewer traffic jams and resulting pollution and loss of time, the saving of time through online meetings, the need for less office space due to hybrid working, greater flexibility in the management of time and the work-life balance etc.



Austria

The Covid-19 crisis triggered a transformation of work patterns and ushered in a new era where teleworking became a prominent and enduring feature of the modern workplace.

Clients in the tax and financial advisory sector encountered specific challenges during the Covid-19 crisis. The sudden shift to remote work posed issues such as the security of sensitive financial data and client communication. Ensuring data privacy and cybersecurity became significant concerns for companies. Further challenges were encountered in the need for companies to adapt to new technologies to ensure online business meetings, and the obligation to remain constantly updated on the very many and rapidly evolving tax and social measures put in place. Maintaining client engagement and effective communication in a virtual setting were crucial.

Although the Covid-19 crisis brought many challenges, both employers and employees found satisfaction in key areas:

• For employers

- Resilience and Adaptability: The Covid-19 crisis showcased a company's ability to adapt and overcome challenging situations.
- Maintained Productivity: Despite initial concerns, employers often found that their teams maintained or even increased productivity while working remotely, dispelling fears of a significant decline in output and therefore improving trust in their team.

- Cost Savings: Many employers experienced cost savings related to reduced overhead expenses, including office space, utilities, and other facilities, contributing to improved financial efficiency.

• For employees

- Flexibility and Work-Life Balance: Employees valued the flexibility that remote work afforded, allowing them to improve the balance of work and private life and reduce commuting time for many. In addition, possibilities were created to enable teleworking abroad under simplified conditions (e.g. framework agreements regarding social security, etc.).
- Technology Integration: Successful integration of digital tools and technology for remote collaboration enhanced work efficiency, providing employees with the necessary resources to perform their tasks effectively.
- Improved Well-being: The elimination of commuting stress, increased autonomy, and the ability to customize work environments contributed to improved overall well-being and job satisfaction among employees.



Poland

During the Covid-19 pandemic, extensive discussions took place on the desired form of legal regulation of remote work. Finally, the necessary provisions for this regulation were adopted and fully implemented when the imposed governmental restrictions to prevent the spread of Covid-19 had been lifted. Currently, the prevailing model of remote work is hybrid work.

Employers' questions most often related to the correct reimbursement of remote working costs, the taxation of remote work expenses, the regulatory documentation and formalities to be completed, the implementation of remote work from abroad, the monitoring of work performance the health and safety of remote work. Most of the issues mentioned have been addressed in the provisions of the Polish Labour Code, however in some cases the law remains unclear. Questions have arisen on the subject of ordinarily mobile/field workers and whether they are to be covered by the remote work regulations applied.

According to the information made available by the State Labour Agency, the majority (60%) of employers have not correctly implemented remote work in accordance with current legislation. However, inspectors stated that the inspections carried out were more of an educational nature and that penalties were not being applied. Given that the legislation has however now been in force for almost a year, it should be assumed that future inspections will be more stringent.

There is currently no additional work in progress on amending the Labour Code with regards to remote work. Employers are currently waiting for court decisions and tax office interpretations in respect of enforcing the remote work regulations properly. If uniform case law does not result in clear positions, legislative intervention will probably be necessary.



Czech Republic

The most frequently raised concerns by our corporate clients during the pandemic when many of them were introducing teleworking for the first time, regarded the maintaining of discipline, work performance and productivity amongst those employees working from home. Practice has shown, however, that with correctly implemented productivity monitoring methods and clear internal guidelines, teleworking can be a success.

More recently, we have been working regularly with our clients on the implementation of the new teleworking legislation, and more particularly on how to compensate employees for

costs related to teleworking. The possibility of opting out of compensation for these costs has generated a lot of interest and questions from clients.

As a matter of best practice, our current stance is to advise employers to maintain an equal treatment of employees in the reimbursement of such costs. In order to ensure equal treatment of all employees whether they work remotely or not, and to keep positive workplace relationships, we consider that the lump-sum compensation which can be introduced through a company's internal regulations is the simplest and fairest solution.



Lithuania

Most significant points resulting from the implementation of telework :

- Lack of responsiveness or overcompensation: Employers noticed that on the one hand, some employees on telework arrangement became less responsive, less productive – it would take several hours to resolve an assigned ticket etc. (especially on Fridays), while on the other hand, other employees felt the need to overcompensate and were extra responsive, leading to an eventual burnout. To deal with this, companies tailored KPIs to better capture the essence of work and allow for a stress-free teleworking environment. Amongst our clients, we are not aware of any companies implementing IT tracking software (i.e. counting keyboard/mouse clicks per hour or idle periods of time).
- Compensation for utilities: During the lockdown, companies were obliged to compensate their employees for the increase in utilities expenses and the purchasing of home-office equipment. Currently, costs for utilities are rarely covered by

the employer as telework is treated as an employee benefit and not a strict requirement. Compensation for home-office equipment and supplies is still regularly applied on a voluntary basis.

- Requests for remote work from specific employees: As previously mentioned in this white paper, some personal/family situations do allow for fulltime remote work (a pregnant employee, one who has recently given birth or is breastfeeding, as well as an employee raising a child under the age of fourteen, or up to eighteen (if a single parent) as well as the case of an employee who has to raise a disabled child under the age of eighteen). In some cases, employers are unclear between the application of these special case provisions and the conflicting provision that states that telework can be refused when it causes significant disturbance to the usual performance and productivity of the company.



Estonia

During the first lock-down of 2020, the use of telework skyrocketed without a legal structure to support it. The following years have provided a clear framework for telework and the extensive practice during the pandemic has enabled companies to fine tune the use of remote work thereby providing a competitive advantage to employers and an invaluable opportunity for employees.

The initial and primary challenges employers encountered pertained to organizational and management issues. These included determining how to establish secure internet access, implementing security measures, maintaining motivation and productivity, ensuring efficient working practices, and more notably, onboarding new employees in a context of remote work.

Given the absence of direct guidelines within the legal framework, much was left to see how the situation would unfold. Many start-up companies which had already embraced telework were a step ahead of the trend. They offered compensation for setting up home office, had systems in place for remote work organization, and conducted comprehensive team meetings and events online.

However, the most significant struggle revolved around mental health and social interaction, especially during lockdowns.

The changes in the Occupational Health and Safety Act implemented in November 2022 aimed to address this issue. Employers were required to assess risks associated with the working environment, and that now included remote work. One notable psychological risk regarding telework is the potential loneliness and isolation of employees. Employers must implement risk mitigation measures to enhance the mental health and well-being of their teams. A prevailing trend among employers is to provide mental health support from external professionals and to offer employees access to coaches and health experts who can address their concerns and issues.

On the other hand, and despite certain drawbacks, telework has given employees greater freedom to manage their work-life balance and spend more time with family by eliminating commute times between the office and home. However, this freedom also poses a challenge: the respect of strict working and rest time requirements. According to the Employment Contracts Act, the obligation to provide daily and weekly rest periods lies with the employer. Nevertheless, employees can inevitably and inadvertently compromise their own duty of compliance with working and rest time regulations when they are structuring their workdays. This risk can be mitigated with a company culture where overtime work is not recompensed or rewarded.



Georgia

During the crisis, the utilization of teleworking experienced notable evolution. Our clients encountered various situations necessitating remote work, ranging from ensuring business continuity amidst lockdowns to safeguarding employee health and well-being. The main issues faced included technological challenges, maintaining productivity, and addressing communication gaps.

Specific attention was required in areas such as establishing clear remote work policies, providing adequate technological support, and maintaining effective communication channels. Additionally, ensuring data security and addressing legal implications were paramount.

Despite the challenges, there were significant areas of satisfaction for both employers and employees. For employers, remote work allowed for continued operations and flexibility in managing resources. Employees appreciated the flexibility in work arrangements, improved work-life balance, and reduced commuting stress. Moreover, the crisis prompted the adoption of innovative solutions and accelerated the acceptance of remote work as a viable option in various industries.



Armenia

During the crisis, clients encountered various situations that required specific attention and adaptation to ensure smooth operations. One prominent issue was the lack of proper working conditions in many homes. For example, individuals with children faced the challenge of balancing work responsibilities with supervising their children's online classes, leading to disruptions and organization problems. Another issue that emerged was the need for clear guidelines and procedures for remote work. Employers and employees alike struggled with uncertainties regarding performance expectations, communication protocols, and data security measures in the remote work environment. This lack of clarity often led to confusion and inefficiencies, highlighting the importance of establishing teleworking policies and training programs.

Nonetheless, despite these challenges, teleworking brought about several significant areas of satisfaction for both employers and employees. First, the practice showed that remote working offered great flexibility and, in some instances, even a more relaxed environment, which contributed to higher employee satisfaction and motivation. Furthermore, teleworking fostered a stronger sense of trust between employers and employees as the focus shifted from micromanagement to a results-oriented approach. Employees benefited from reduced daily commuting, saving time and money previously spent on transport, while employers found opportunities to minimize office space requirements thereby reducing overhead costs. Furthermore, the introduction of teleworking proved to be a quick and effective solution during the crisis, enabling companies and employees to continue their operations without the need for contractual amendments or additional health and safety obligations for employers. This was particularly advantageous as it allowed for the instant implementation of remote work practices.

From a legal point of view, the main challenge was the absence of the legal framework supporting the adaptation of working practices to emergency situations and which potentially led to administrative offences on employers, possible violations of employees' rights and litigations between these two parties. In general, employers had to anticipate as much as possible, amending employment terms themselves to take into account the actual circumstances and considering the legal frameworks which were already available.

As a conclusion,, teleworking in Armenia before the pandemic was not regulated by existing legislation and was applied on a case-by-case basis in separate industries not without both legal and practical risks for the employers and the employees.

At the beginning of the pandemic, when regulatory restrictions regarding physical presence at work were imposed, the existing restrictions under labour law were a significant challenge in terms of ensuring business continuity and guaranteeing the protection of employees' rights in the emerging uncertainty. The legislative changes introduced later in that period eventually created a certain opportunity in terms of organizing and regulating teleworking under emergency conditions.

In the post-epidemic era of November 2023, the Armenian labour legislation further introduced the possibility of teleworking over and beyond situations of emergency and where by mutual agreement of both parties, doors were opened for those employers and employees who had already proved themselves flexible and effective in this mode of work. Although no legislative changes in this regard are foreseen in the near future, the existing framework has created a fairly stable basis for operating in teleworking mode.



Malta

As detailed previously, there was a significant increase and uptake of teleworking in the wake of Covid-19, necessarily so in the context of public health and safety measures and recommendations.

No particular difficulties were encountered by our clients and no significant issues were drawn to our attention as calling for specific focus.

From the respective viewpoints of the employer and teleworkers, the benefits of teleworking arrangements have already been described previously in this paper.

Conclusion

There can be no doubt whatsoever that telework if not in legal terms, then at least in its practical implementation, has evolved as a result of the Covid-19 pandemic.

We have collected information on teleworking in 14 countries and it is clear that the subject has gained great importance and is constantly evolving. What was initially an emergency measure taken by many companies in order to deal with the emerging health crisis we all lived, has now come to be understood as an essential element of our working communities.

It is now a determining factor both in the recruitment process and in the career development of employees. A considerable attraction for telework has developed and more particularly for a hybrid mode of work where the proportion of telework and work at a company's premises is typically defined between employer and employee.

Many questions can be and are raised when telework is implemented, particularly regarding the eligibility of the different employee populations, the duration and distribution of working time or even the reversibility of a telework agreement.

Underpinning the very implementation of telework is the necessary evolution in management styles and practice: the key words in this new management are flexibility and agility, where autonomy is granted and embedded, and where mutual trust is the essential factor in the success of the work style.

Particular attention has to be paid to the quality of life and the health of workers, and in this context, a close management of social relations and the prevention of psycho-social risks is fundamental.

The employer must ensure that the use of telework does not generate additional stress factors for the worker and that a remote mode of work does not mean isolation.

The work/life balance must be preserved as this may in fact be more difficult to watch over in remote work than in face-to-face work. The teleworker should not be subjected to an increased mental load as a result of professional duties taking over the home and personal space. The right to disconnect should be strictly recalled and the employer has an obligation to ensure that this is respected.

While the right to disconnect is already enshrined in the legislation of some countries, it is important that it be respected. In its adoption of a legislative initiative report in January 2021, the European Parliament's Committee on Employment and Social Affairs called on the European Commission to propose an EU directive setting minimum requirements for the right to disconnect. Work and research which are currently being carried out on the right to disconnect should lead to the drafting of a directive to be transposed by the Member States. MEPs state that EU countries must effectively guarantee the right to disconnect for workers as this right is essential in the protection of workers' health and well-being.

Telework has now established itself as a key factor in the organization of work.

A more detailed framework for telework still needs to be provided particularly in defining safeguards such as the aforementioned right to disconnect, but its rapid implementation and uptake is proof of its success and it has received support and applause from players in the European labour market.

It remains quite a recent and current affair which will be followed up in the coming years.

Teleworking is now a firm must for many...



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