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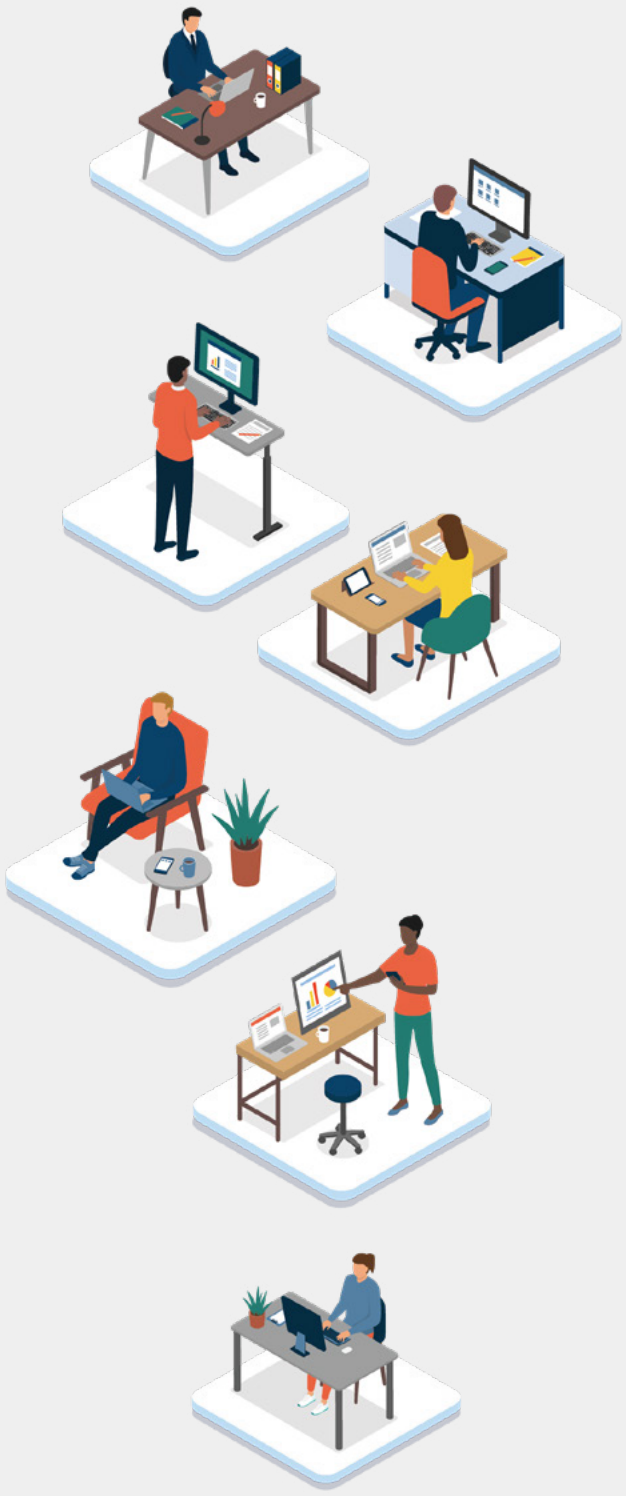
# European Guide to Support Employers

## Remote Work in Europe

Andersen in Europe



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# Andersen Global

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Andersen Global Chairman and Andersen CEO
Mark L. Vorsatz, Andersen (U.S.)

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### Stewardship
We hire the best and the brightest and we invest in our people to ensure that legacy.

### Seamless
Our firm is constructed as a global firm. We share an interest in providing the highest level of client service regardless of location.

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# Presentation

We are pleased to present this new edition of our European Guide to Support Employers which is devoted to the subject of remote work in Europe.

Teleworking is a rapidly growing trend in the European job market. Although the concept goes back more than 50 years, and in some European countries the issue was first regulated by law over 20 years ago, it has become far more widespread since the Covid-19 pandemic. Currently, the majority of employers realize that, sooner or later, tele- or hybrid-work will unavoidably need to be implemented as a permanent solution rather than as an ad-hoc method of work in emergency situations or whenever office work proves impossible.

The question of how effective telework is going to be in an organization should be answered primarily through the prism of its culture, but the legislation of each country also needs to be taken into account.

During the pandemic, a number of employers decided to develop their remote work policies, and these gradually became part of their business goals. While there are employers who are still weighing up the pros and cons of the concept, there are two arguments which definitely support remote work: the principle of work-life balance and the fact that work from home is technologically possible in an increasingly greater number of business sectors. It also provides the possibility of meeting current challenges by attracting top talents. The possibility of employing staff from the global pool is undoubtedly attractive for some companies, although it could give rise to certain risks (cross -border remote work entails risks arising from a change of jurisdiction, permanent establishment, immigration issues, etc.).

Much has changed in the last two years, not only in the job market but also in the legislation of individual countries. What is the situation today? This publication seeks to shed greater light on the legal solutions currently implemented in 33 European countries, from the types of telework and the procedures for its implementation, through the obligations imposed on employers and the rights of employees to aspects of liability.

We believe that after reading this Guide , you will be in a better position when developing a new model of remote work in your organization and answering the question as to whether the solutions proposed are viable in your country, what costs will be involved and which documents or other forms of communication with personnel are required at each stage.

Enjoy the reading.
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# ALBANIA

## Implementation of remote work

Work-from-home and teleworking are recognized by Albanian legislation as categories of employment agreements. While work-from-home is specifically regulated in detail through the Decision of the Council of Ministers Nº 255 dated 25.03.1996 "On the work-from-home contract", the Albanian Labor Code of 2015 only introduced a number of basic rules and obligations for employers implementing telework, such as the obligation to ensure equal treatment, to provide, install and maintain work tools, to prevent isolation, etc. No further amendments have been made to those employment arrangements.

Albanian legislation defines work from home and teleworking as follows:

- **Work-from-home Employment**

Agreements provide that the employee works from home or other places as specified in the employment agreement, using specific technology during the working time according to the terms and conditions of said employment agreement.

- **Teleworking Employment**

Agreements provide that the employee works from home or other places as specified in the employment agreement, using specific technology during the working time according to the terms and conditions of said employment agreement.

While both work-from-home and telework can be performed from home or from another address specified in the employment agreement, there is a difference in that the first category includes work done by hand, in an artisanal way or using other handicraft equipment, while the second category includes technological equipment and information in general.

In the case of remote work/telework, the employment agreement to be entered into does not include any specifics when it comes to collective agreements. The law regards both as a mode of work which is the same as the traditional one, including the same elements required in standard employment agreements, with the exception of certain specifics such as working conditions at home, technological equipment and the access to facilities to be granted by the employer.

Given that current Albanian legislation regards the employment agreement in a work- from- home/teleworking scenario in the same way as a standard employment agreement, the same rules shall apply to the introduction of remote work by the employer. In such cases, the employee must give his/her written and a new agreement should be entered into which defines all the characteristics required by law with regard to working from home/

teleworking. A change in the mode of work requires the written consent of both parties and must be reflected in a new employment agreement between them.

## Required involvement of employee representatives and public / immigration authorities

There is currently no mandatory requirement for remote work employees to belong to or cooperate with a union. As a general rule, Albanian legislation provides that no employer can condition the entering into or terminating of an employment agreement on whether or not the employee belongs to a union.

When a given employee is part of a union and the collective agreement entered into constitutes a remote work relationship, the employee must consult his/her union representatives before finalizing an agreement with the employer. In the event of termination of an employment agreement, the union has the right to be notified in writing by the employer.

There are currently no requirements for notifying any institutions in Albania regarding remote work employment agreements with employees. However, the employer is required to keep a hard copy of such agreements for any inspection that may potentially be conducted by the Authorities.

From an immigration perspective, foreigners may work remotely from Albania on a temporary basis by applying for and obtaining a unique digital nomad permit. Holders of a digital nomad permit must be employed under an employment contract or a service contract by a non-Albanian entity (an entity with no formal presence in Albania) and must prove that they meet the applicable legal requirements, including: the fact they do not have a physical place of work, that they have enough income to cover their living expenses, that their activities can be performed remotely using IT equipment, and that they have health insurance in Albania. The unique digital nomad permit is renewable.

As of July 2023, foreigners working in the IT industry who enter Albanian territory with a declaration from an IT company stating their employment plans will be granted visa-free entry and a residence permit for up to one year. This period allows the foreign worker to later apply for an official unique permit within Albania.

Digital nomads are not considered tax residents in Albania for 12 months.

## Equipment & Compensation for remote work expenses

The working conditions for employees who perform remote work/teleworking cannot be less favorable than those of other employees who perform the same or comparable work.

In such cases, the employer is required to ensure that all employees who work remotely are equipped with the suitable resources and IT equipment such as laptop, mobile phone, computer software, phone lines, access to internet, access to host applications, and other resources deemed necessary to allow them to perform the remote work.

This means that the employer must provide, install, and maintain the computer equipment and tools to be used by the employee to perform their work, unless the employee wishes to use his/her own

equipment. In principle, any work-related expenses/costs must be covered or reimbursed by the employer. To this end, it is useful if both parties agree on a lump sum per month and it is made clear to employees that they should seek prior approval before incurring any expenses. For example, in Albania internal policies may clearly define which costs will be covered and to what extent.

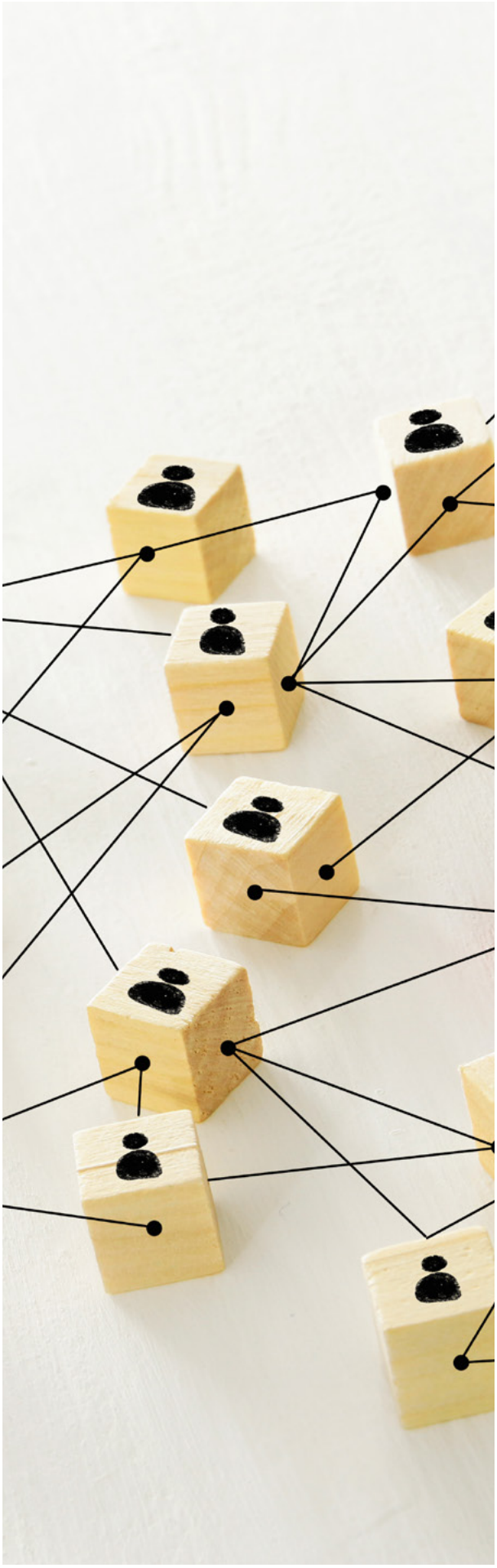
There are currently no tax rules or exceptions for employees arising from the applicable tax obligations. Nevertheless, as explained above, a deduction of expenses can be made by the employer to facilitate the work-from-home environment and to adapt it to the employee's needs.

## Working time, performance and right to disconnect

Albanian legislation does not provide for any specific limitation regarding working time for remote work. The law provides that the same favorable working conditions must be applied by the employers towards all employees, including those with remote working employment agreements.

As one of the mandatory features of the employment agreement, working hours need to be determined by the employer in the employment agreement. The employee cannot change such conditions without the prior written consent of the employer. Additionally, there is no definition of the right to disconnect, but rather this should depend on the parties and the specifications of the employment agreement.

It is up to the employer to specify the method of monitoring and observing remotely employed workers (in the employment regulations) as the law does



not regulate such aspects. Nevertheless, it should be noted that the employer is not allowed to enter the employees' home or monitor the latter by camera as this would constitute a violation of personal privacy.

The employer cannot change the conditions of the remote employment agreement unilaterally but requires that written consent of the employee. This means that the written consent of the employee must be obtained before the possibility of remote work can be revoked and a new agreement drafted to set out the new working conditions between the parties.

## Health and safety and data protection

Employers must ensure that the remote worker's workplace meets the minimum occupational safety and health requirements under Albanian law. However, certain minimum occupational safety and health requirements related to the physical aspects of the workplace may not apply in the case of remote work.

These may include physical aspects of the workplace, such as whether the building is solid, fire evacuation procedures, temperature and ventilation. Therefore, employers may not be responsible for these matters in respect of the place where the employee is performing the remote work.

However, the employer must take measures to prevent and avoid risks by informing and training employees about the rules to be followed during remote work, emphasizing in particular the employees' obligation to comply with these rules. Such training is required by law to be conducted by health and safety experts at the employee's workplace, but in practice it can also be conducted remotely to accommodate the employee's remote work environment, usually his/her home.

In cases where the employee's position or any equipment used by the employee to perform the remote work may potentially cause harm, it is an implied duty for the employer to ensure that the work environment is safe for the employee and anyone else living in the house/place where the employee will be performing the work. For this reason, it is recommended that the employee be informed about ergonomic requirements for the workplace and receive general information about physical health risks, including psychological aspects such as creating a healthy work-life balance and dealing with the effects of isolation that may be caused by remote working.

Occupational health and safety regulations do not provide guidance on the way in which safety conditions in the workplace should be controlled and monitored in the case of remote working. It is therefore left to the employer to decide how to verify that the appropriate measures have been taken, e.g. by asking the employee to complete a self-assessment questionnaire or by sending a qualified person to inspect the workplace.

It should be noted, however, that the employer may not enter an employee's home without the employee's authorization. Hence, it is suggested that employers make provision for such matters in any remote work contracts. Alternatively, employers may consider providing private health insurance for employees performing remote work.

The Albanian Data Protection Commissioner has issued an instruction on the processing of personal data during telework within the framework of Covid-19, which is a useful tool for employers.

It is advised that both technical and organizational measures (e.g. detailed instructions on data processing and confidentiality measures for remote work) for data protection are specified in the employer's internal guidelines and notified to the employees. In addition, employers may monitor the employee only for the purpose of supervising his/her work performance, taking into account the data protection legislation.

To this effect, it is recommended to require from the employee regular reports on the progress of his/her work.

## Liability

Albanian legislation does not differentiate between office work and remote work with regard to liability for accidents. The regulations contained in legislation governing health and safety at work also apply to remote work.

Liability for the equipment provided by the employer for remote work falls upon the employer. Specifications must be made in the employment agreement regarding the use of such equipment and the regular maintenance thereof.

There are no specific provisions for supplementary insurance for remote work. The liability covered by a liability insurance company will depend on the contract entered into with said insurance company.

There are no specific provisions for damage to employees' or third parties' property nor for damage caused by the employee or a third party to the employer's equipment.

Since remote work is a relatively new concept in Albanian legislation, little exploration has been carried out by the labor inspectorate or other authorities for the purposes of defining practice.

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# AUSTRIA

## Implementation of remote work

In Austria, remote work is only regulated by legislation regarding home office. Home office refers to the activity of the employee in his/her home. For other forms of remote work (hybrid work, telework etc.) no specific rules exist; they are subject to the general provisions of labor law. The provisions on home office shall be applied by analogy where appropriate.

So far, only a small number of collective agreements (*Kollektivverträge*), e.g. the Collective agreement for IT services or Collective agreement for employees in trade and crafts and in the service sector, provide for regulations on remote work. They mainly contain general explanations and conditions for telework, such as the requirement for a written agreement governing the main aspects. A collective agreement authorization is not a prerequisite for the introduction of remote work.

To date, there is no general legal right to apply for remote work. This may exceptionally result from the employer's obligation to treat all employees equally in principle. Thus, if a single employee is refused permission to work remotely, without justification, but all other employees are permitted, the right of the disadvantaged employee to work remotely can be derived from this.

Remote work may only be introduced with the consent of both parties. However, if the employment contract contains a provision which entitles the employer to change the place of work, this provision, according to widespread opinion, also covers the home office. However, details should be set forth in an agreement.

In accordance with statutory provisions, the agreement on home office must be made in writing. The agreement on other forms of remote work may also be made orally, but a written agreement is recommended in order to avoid disputes and to fulfil the employer's obligations under labor protection law.

The agreement should cover the duration of the remote work and/or the right to terminate remote work, compliance with regulations (occupational health and safety, working time, data protection, etc.), the obligation of employees to record working time independently and the allowance of expenses for the employee. It should give the employer the right to terminate remote work. To avoid tax and social security problems, remote work from abroad should only be allowed with the employer's consent.

## Required involvement of employee representatives and public / immigration authorities

Telework and home office must be regulated in individual contracts.

The works council has no competence to introduce remote work. Employee representatives can influence the organization of remote work in the form of collective agreements or company agreements. In the case of home office, the works council is authorized to conclude a company agreement on the framework conditions. In addition, the works council may participate within the scope of its right to consult. In particular, the introduction of remote working may constitute a transfer with regard to the place of work and this requires the consent of the works council.

Unlike in other jurisdictions, in Austria there is no obligation to inform the authorities about the introduction of remote work.

There are no special regulations for digital nomads working in Austria for an employer based in a third country. Third-country nationals usually require a residence title as well as a work permit.

## Equipment & Compensation for remote work expenses

As already explained, a differentiation is made in Austria between home office and other forms of remote work. One of the main differences between home office and other forms of remote work is, that in the case of home office, the employer must provide the employee with the digital work equipment or reimburse the employee for the equivalent costs incurred. In the case of other forms of remote work, and for equipment beyond digital work tools, an agreement is required. In the absence of such an agreement, the employer must reimburse these expenses.

In connection with a legal regulation of home office, various tax benefits were also established. The provision of digital work equipment by the employer is not considered as taxable remuneration in kind for the employee. This applies even if the work equipment provided is partly used by the employee for private purposes.

Furthermore, from a tax law perspective, amounts paid by the employer to compensate for costs arising from work performed in a home office can be paid out in a non-taxable manner for a maximum of 100 days per calendar year up to 3 euros per homeoffice day by way of a homeoffice lump sum.

In addition, the purchase of office furniture can be claimed by the employee as advertising expenses up to the amount of (currently) EUR 300.

## Working time, performance and right to disconnect

As far as working time is concerned, the existing regulations or agreements for the division of working hours also apply, unless otherwise agreed, to employees who work remotely. There is no obligation to be available outside the agreed working hours.

The requirements of the Working Time Act (*Arbeitszeitgesetz*) must also be observed when working remotely. Therefore, the remote work agreement obliges the employee to comply with the Working Time Act. Executive employees are excluded from the scope of application of the Working Time Act.

In general, the employer is required to record his/her working hours, namely the beginning, end and breaks. If fixed working hours are agreed, only deviations need to be documented. The employer can oblige the employee to keep records and this is particularly useful for remote work. Employees who can largely determine the programming of their working hours and the location of their place of work, or who perform their work predominantly in their home, only need to keep records of the duration of the daily working hours.

The time limit or termination of remote work (except home office) depends on the contractual agreement. For the termination of home office work there is a legal regulation whereby the home office can be terminated by both contracting parties for good cause with one month's notice prior to the last day of a calendar month. The home office agreement may provide for a time limit and causes for termination.

The surveillance of remote workers is only possible within narrow limits. Technical surveillance measures are only permissible under certain conditions, for example if there is a special interest on the part of the employer and the personal rights of the employee are not violated. If human dignity is affected by such measures, the use of such measures may be permissible if a works agreement or an individual agreement is entered into.

The employer is not entitled to enter the employee's home without the latter's consent.

In the event of a violation of working time, the employer may terminate the employment relationship without notice or with notice date and period. Where termination is not required, a warning may be given.

## Health and safety and data protection

The employer remains responsible for the health and safety of employees who work remotely. Under the law, it makes no difference whether the worker is working on the employer's premises or remotely or in a home office. According to the Occupational Health and Safety Act (*ArbeitnehmerInnenschutzgesetz*), the employer must ensure that risks to the life and physical and mental health of his/her employees are prevented and that any remaining risks are kept to a minimum.

Austrian law does not lay down specific measures for remote workers (e.g. with regard to possible physical health problems or mental stress). The concrete measures depend on the risks; the workplace must be set up safely.

Above all, the employer can indicate to the employee the need for compliance with health and safety regulations, inform them thereof or query possible non-compliance. As there is no statutory right of access to the employee's home, a provision allowing access can be considered in the remote

work agreement to allow the employer to fulfill their legal obligation to comply with health and safety legislation.

As far as data protection rules are concerned, the same apply in the home office as in the office. Therefore, data protection aspects should also be considered in the agreement with the employee. In particular, the following should be agreed:

- Determination of responsibility under data protection law for data processing and data security in the home office, especially if work is performed using the employee's digital work equipment
- Requirements for the storage of access data and passwords to digital devices in the home office
- Requirements for the safekeeping of the digital device as well as data carriers and printouts
- Secure deletion of personal data on the employee's digital devices
- Use of external data carriers and their protection (e.g. encryption)
- Information regarding the obligation to report data breaches (data breach), which also applies in the home office, as well as liability for damages caused by such data breaches

## Liability

In the event of accidents during remote work the same rules apply in general as to an accident on the employer's premises. The employee is compensated by the statutory accident insurance, to which the employer pays contributions. Accident insurance covers all activities that are performed for the employer or are directly related to them, regardless of the location of the accident. The employer shall only be liable to pay compensation to the employee for damage caused to the employee's body as a result of an occupational accident or disease if the employer intentionally caused the occupational accident (disease). If the damage was caused intentionally or by gross negligence, the employer must compensate the social insurance for the amount paid to the employee due to the occupational accident or disease.

These regulations apply to the home office in any case. For other forms of remote work, it is still debatable whether accident insurance covers accidents that occur where the work is performed. To date, no relevant case law on this issue exists.

Regarding liability for damage to the employee's property, there are no special rules for remote workers. If an employee's property is damaged as a result of working from home, the employer is liable. It is advisable to have company liability insurance for these damages, which covers, among others, claims arising from remote work.

In the event that the employee or a third person in the household (e.g. a family member) damages the employer's property, there is a liability privilege when working from home. Accordingly, the scope of liability depends on the degree of fault and is subject to judicial moderation. In the event of damage to the employer's property, the employee is liable in full in the event of gross negligence; in the event of a minor degree of negligence, the court may reduce liability or waive it entirely. There are no specific provisions for third parties and for other forms of remote work; the general compensation rules apply.

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# BELGIUM

## Implementation of remote work

In Belgium, working from home is covered by four legal frameworks. A distinction is made between (i) homeworking; (ii) structural telework and (iii) occasional telework. The difference between homeworking and (structural and occasional) telework is that telework is performed on an occasional (irregular) or structural (regular) basis within the framework of an employment contract, where, by using information technology, work which could be performed on the employer's premises is occasionally or structurally performed outside these premises. Homeworking is performed without direct supervision or control by the employer on premises chosen by the employee (home). Another important difference is the reimbursement of costs to the employee by the employer for each type of the abovementioned remote work. During the COVID-19 crisis, a collective bargaining agreement was created at national level to cope with mandatory or recommended telework.

In the private sector (no specific industries), structural telework is regulated by a collective bargaining agreement and occasional telework is covered by law.

As telework can only be performed on a voluntary basis – remote work is voluntary for both the employer and employee; telework is always implemented by an individual written agreement and cannot be imposed unilaterally. A debated telework policy can be implemented through a bargaining agreement at company level and through labor regulations. Both employer and employees can take initiatives to introduce remote work.

The agreements on remote work must include working time, organization of the remote work by the employee within the applicable working hours of the company, timeslots during which the employee can be reached by the employer, rules on control by the employer regarding work performed /results (this can only be done proportionally and on the condition that the employee was informed beforehand), reimbursement of costs and expenses incurred by the employee and the provision of technical equipment and support.

## Required involvement of employee representatives and public / immigration authorities

In companies with employee representation (companies with more than 50 employees), the employee representatives must be informed and consulted before the introduction of remote work. In particular, the employer must inform employee representatives with regard to the social consequences of introducing remote work, the organization of work and the well-being of employees during the performance of their work. This takes place in the framework of a works council or, if no works council is in place, within the trade

union delegation. This obligation does not apply to companies with fewer than 50 employees. Moreover, the committee for prevention and protection at work must be informed of the consequences of introducing remote work with regard to the well-being of the employees.

The introduction of remote work does not necessarily require a prior collective consent at company level, but such a consent can be useful for the success of the process and offers greater guarantees that the interests of both employees and employer will be reconciled.

There is no obligation to inform the public authorities about the introduction of remote work and there are no special immigration regulations for digital nomads who wish to work remotely from Belgium. However, foreign employees (non-EU) who wish to work remotely from Belgium must obtain a residence permit and a work permit. The Flemish Region does not grant a work permit for foreign employees (non-EU) if the employer is not registered in the Flemish Region. However, a work permit can still be granted to the foreign employee (non-EU) if international or bilateral treaties exist which establish that the foreign employee falls within the scope of Belgian social security.

## Cross-border telework in the EEA and Switzerland - social security - Framework Agreement

In the wake of the Covid-19 pandemic, many employees working across the EEA and Switzerland were unable to perform their work at their employer's site. As a result, employees were forced to work from home. To avoid cross-border workers from having to change their social security regime if they work 25% in their state of residence, the European authorities introduced social security measures that expired on June 30, 2023. From July 1, 2023, under certain conditions, cross-border (remote) workers will be able to work up to 49.99% in their country of residence while remaining subject to the social security system of the country where their employer is based. A new framework agreement has been adopted within the Administrative Commission for the Coordination of Social Security Systems, which will allow the adoption of individual derogations between the signatory states from July 1, 2023.

This framework agreement applies to employees who would be subject to the social security system of their state of residence due to habitual cross-border telework under the 25% rule and who are employed by one or more employers whose registered office is located in only one other signatory state.

Employees may request to be subject to the social security legislation of the state in which their employer has its registered office or place of business if (i) their state of residence is different from the state in which their employer has its registered office or place of business, and (ii) their cross-border telework in the state of residence amounts to less than 50% of the employee's total working time, and (iii) the request is made in agreement between the employer and the employee. The Framework Agreement only applies when both Member States have ratified it. Belgium is already a signatory to the Framework Agreement.

## Working time, performance and right to disconnect

Employees' working conditions, including working hours, must be identical to those of employees who do not work from home.

The employee may schedule his/her work within the normal working hours of the company. However, the employee's flexibility is not unlimited. Written agreements on remote work should always include a clause specifying how and when the employee should be available.

The right to disconnect has recently been introduced in Belgium. Companies with at least 20 employees must guarantee this right to employees who are no longer expected to work after hours, and must establish the measures to guarantee this right, which may include regulating the use of digital tools and communication during and especially outside working hours. This must be done either through a collective bargaining agreement at company level submitted to the public authority, or by amending the work regulations with a copy submitted to the public authorities, unless a collective bargaining agreement is entered into at sectoral level or within the National Labor Council.

The employer's right to monitor and supervise remote work is relatively limited. In terms of technical monitoring by the employer, soft monitoring is possible, for example by scheduling regular or last-minute phone calls or sending regular e-mails and checking the employee's response time. However, intrusive monitoring methods (e.g., computer software to monitor the activities of teleworkers, key logging, or the mandatory use of a camera) are strictly controlled by regulations on the confidentiality of telecommunications and the protection of privacy, such as the General Data Protection Regulation (GDPR) or the collective agreement on the introduction of new technologies. The Belgian Criminal Code also prohibits the monitoring of telecommunications not involving the employer without the employee's consent. However, legal exceptions are allowed, and the Belgian Data Protection Authority presently views the power of surveillance provided by law or property law as such an authorization. However, the monitoring of remote work is still a gray area under Belgian law and raises a number of privacy issues. Under no circumstances can the employer enter the employee's home without the employee's permission.

In the event of misuse by the employee, the employer may impose appropriate sanctions depending on the severity of the violation. However, employers may face criminal or administrative penalties if they attempt to collect evidence in violation of privacy or other laws. However, according to some Belgian case law , employers may produce the illegally obtained evidence in certain circumstances, but, in any event, employers cannot "play" detective.

## Health and safety and data protection

The employer is fully responsible for health and safety at work. The laws and regulations on well-being at work apply in their entirety to remote workers.

Prior to taking measures to ensure health and safety at work, the employer must conduct a risk analysis to assess all possible risks. This risk analysis is mostly

carried out in collaboration with a prevention adviser (external). The following aspects are usually covered: (i) psychosocial risks such as the isolation of the teleworker, exclusive electronic contact, stress, demotivation, blurring of private and professional life; and (ii) ergonomics and the health of the worker. The employer is free to determine appropriate measures on the basis of the analysis.

Evidently, the prevention adviser will need to have access to the employee's workplace at home in order to conduct a risk assessment regarding work and safety. The visit must be announced in advance and requires the consent of the employee.

The law requires that a risk analysis be carried out for screen-stations at least every five years in order to assess the risks to the well-being of the employees arising from screenwork, in particular any risks to vision or problems of physical and mental strain, both at the level of each group of screen-workstations and at the level of the individual. In the case of telework, the screen-workstation is mostly located in the private home of the employee, or any other place agreed between the employee and the employer.

In the case of structural telework, the employer has the obligation to prevent isolation on the part of the employee performing remote work. The employer must take measures such as organizing meetings with colleagues, providing the employee with information about the company and having the employee return to the work office on a regular basis. The employer also has the legal obligation to prevent stress for the employees at work.

The employer is required to protect the privacy rights of the employees regarding the treatment of their personal data. In principle, the employer is authorized to process employee data in order to fulfill the former's specific rights and obligations under labor law (contractual necessity, legal necessity and company interest). For this purpose, he/she has the right to exercise authority, the right to issue orders or the obligation to ensure that the work is carried out in suitable circumstances as regards the health and safety of the employees. The processing of sensitive data is prohibited in principle, but the employer can invoke certain exceptions.

## Liability

An accident which occurs while working remotely is considered as an accident at work in the framework of the execution of the employment contract. Under Belgian law, if the accident leads to an injury, there is a legal presumption of an accident at work. An accident during teleworking is equivalent to an accident at work and thus gives rise to compensation by the employer's insurance for accidents at work.

If an accident happens while working from home, it can only be qualified as an accident at work if remote work is permitted within the company. Therefore, the introduction of remote work must be confirmed by a written document. In the absence of such written proof, the employee will only be able to benefit from coverage if he/she can provide proof that the accident is work related and occurred during the execution of the employment contract.

In terms of liability, no special rules exist for remote workers. However, the employer is not responsible for damage to the remote worker's home during the remote work, this being covered by the remote worker's own insurance. Nevertheless, the employer is liable for the equipment provided by the employer (for example, in case of loss or damage), unless the employee commits gross negligence or intentionally causes the damage. It is therefore up to the employer to take out additional insurance for the risks incurred by teleworking. In any case, it is advisable to clarify the scope of the existing insurance coverage.

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# BOSNIA AND HERZEGOVINA

## Implementation of remote work

In the labor law legislation of Republic of Srpska, there are two different regimes which apply when employees perform their duties outside the workplace – remote work and work from home. These concepts are not yet regulated in more detail by the legislator and so remote work is subject to general labor law provisions and work from home is not regulated as a separate issue but is included in the concept of work at a separate place of work that is not the employer's premises and is regulated by Art. 44 of the Labor Code. An employment relationship may be established for the performance of activities outside the employer's premises.

No collective bargaining agreements exist that contain special regulations concerning remote work.

In general, remote work abroad should only be permitted with the employer's consent. The employer can only contract work with the employee outside the business premises if the employee agrees that his/her work will be organized in this way. Considering that working outside the employer's business premises is a way of organizing work, rejecting the employer's proposal for a longer duration of the remote employment relationship does not in itself create, and cannot constitute, a justified reason for termination of the employment relationship.

Issues that need to be regulated include the following:

1. Duration of working hours according to the standards of work;
2. Manner of supervision of work and the quality of work performance on the part of the employee;
3. Work equipment which the employer is required to procure, install and maintain;4) Use of employee's own work equipment and compensation for such use;
4. Compensation for other costs of work and how this is determined ;
5. Other rights and obligations.

## Required involvement of employee representatives and public / immigration authorities

For remote work there is no need to cooperate with a company union or employee representatives unless the employee agrees to have his/her work organized in this way. The voluntary nature of working outside the business premises presupposes that the employee agrees to work in this way, not only when establishing an employment relationship, but also at a later date, when continuing

this kind of employment relationship, by adding an annex to the employment contract.

Employees' representatives do not have to be consulted when introducing home office. Republic of Srpska has very liberal labor laws and employee representatives or trade unions play a rather subordinate role, especially in areas where remote work is possible (e.g. office jobs).

Employee representatives are nonetheless concerned as surveys show that employees who work at home fear that this form of work could pave the way for more greater exploitation of employees, due to their isolation and weaker integration in the company and the risk of discrimination against employees who perform work in a standard way.

At the moment, there is no requirement to notify public authorities about remote work or work from home and there are no special immigration regulations for digital nomads.

## Equipment & Compensation for remote work expenses

Generally, the employer will provide the work equipment, install it and maintain it, with the employee being required to make the results of the work available to the employer. Considering that the law stipulates that compensation can be established for the use the employees' own assets, we conclude the employee can also use his/her own equipment for work and the employer reimburses any costs incurred in connection with the use of those assets and other labor costs, including utility bills.

No special tax rules are stipulated.

## Working time, performance and right to disconnect

There are no special rules on working time stipulated in the Labor Code of Republic of Srpska and therefore working hours, vacations, breaks and absences are not strictly defined. Employees usually have the possibility to coordinate working hours with other family activities in the way that suits them best.

With this fact in mind, the practice of consistently applying imperative norms on limited working hours, overtime, vacations, and absences to this category of employees, which further produces harmful consequences for safety and health at work. In the case of remote work, the impossibility of immediate supervision of the employee's work adds to this risk.

If the employee's working hours are not clearly established by the employer, they can encompass any period of work in which the employee performs activities that are professional in nature and during which he/she completes work orders for the employer.

The employee has a right to disconnect, bearing in mind that the important issue is the work result itself and not the exact time frame in which it is performed.

The issue of monitoring the work of employees who work outside business premises is especially delicate if the work is done at home, because the inviolability of the home is strongly protected by constitutional guarantees. Therefore, the supervision of employees who work in

their homes is limited to the supervision of work results instead of the usual supervision of the obligation to work.

The private and professional spheres of life become intertwined when work is organized in this way, which is why the protection of employees' rights is an extremely sensitive issue, especially considering the fact that video cameras have been used in homes as a form of supervision.

Only for the purpose of ensuring the correct application of the regulations governing health and safety at work is it necessary to contract the possibility for employer representatives to control the correct application of the regulations in this matter.

In the event of a suspected abuse of working time, the employer should initiate the procedure for determining the employee's responsibility.

## Health and safety and data protection

It is necessary to contract the possibility for employer representatives to monitor the correct application of health and safety regulations in remote work.

An employer may contract jobs outside his/her premises that are not dangerous or hazardous to the health of the employees and other persons and are not hazardous to the environment.

There are no special regulations on health and safety matters, except for the general rule that the employer cannot contract jobs outside his/her premises that are dangerous or hazardous to the health of the employees or other persons, and are not hazardous to the environment.

## Liability

The employer is liable for any accidents during the employee's working hours, whether they have occurred in the home office or when working remotely. Should an employee sustain injury or damage at work or in relation to work, the employer is required to redress such damage in accordance with the law and bylaws.

It is mandatory for the employer to provide collective insurance against the consequences of accidents, regardless of whether the accident happened in the office or when working remotely. There is no need for supplementary insurance.

If the damage occurred during working hours, through no fault of the employee or a third person, the employer is liable for the damaged property.

An employee who, at work or in connection with work, causes material damage to the employer purposely or due to gross negligence, is required to compensate this damage in accordance with the law.

An employee is liable for any damage they cause to the employer, at work or in relation to work, with intent or by gross negligence, in accordance with the law.

There is no necessary additional insurance for this type of damage.

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# BULGARIA

## Implementation of remote work

Bulgarian legislation recognizes homeworking/remote work and hybrid work. All three are regulated in a similar manner by the Bulgarian Labor Code. Specific regulation of remote work is not included on a national level via collective bargaining agreements.

All three forms are introduced with the consent of the employee in the individual employment contract or by means of an annex thereto.

One of the measures taken in the context of the Covid-19 pandemic introduced the possibility of the unilateral introduction of remote work during the pandemic. These measures are not in effect at the present time and the employer cannot unilaterally introduce a home/remote or hybrid work regime.

Remote work is not regulated as an entitlement on the part of the employee. The employee can propose a change in their employment to a home/remote or hybrid work regime, but the employer can refuse such a change.

The parties should agree on the organizational issues, namely the means for assigning the work, the reporting of the working hours, technical aspects (equipment provided), etc.

## Required involvement of employee representatives and public / immigration authorities

The conditions of remote work can be stipulated in a collective bargaining agreement but this is not common in practice since the remote work regime was only recently implemented widely due to the Covid-19 pandemic.

The introduction of remote work should be included in the annual declaration on the health and safety conditions at the workplace, which is submitted to the labor authorities on an annual basis by each company.

## Equipment & Compensation for remote work expenses

Questions related to any equipment at the workplace, the obligations and costs arising from the maintenance of such an equipment, and other conditions related to its supply, replacement and maintenance, should be contemplated in the contract of employment or in an addendum thereto. The employer must provide, at its own expense, (i) any equipment needed to perform the remote work (including any supplies needed for its operation, such as software, preventive maintenance and technical support; (ii) any devices intended for communication with the employee working remotely, (iii) information on and requirements for operating the equipment

and keeping it in good repair, and (iv) a copy of any applicable legal requirements and rules, including internal company rules and regulations, related to data protection, in accordance with the individual employment contract and/or the applicable collective agreement.

The employee is responsible for the proper storage and operation of the equipment. In the event of equipment failure or breakdown of the information and/or communication systems used, the employee must notify the employer immediately.

Any maintenance expenses related to any equipment, including internet charges, must be borne the employer.

The parties may agree on using the employee's personal equipment, in which case they should stipulate the terms and conditions on the use and maintenance of such equipment, including expenses.

## Working time, performance and right to disconnect

Employees working under a home/remote or hybrid work regime are entitled to the same number of breaks and rest periods as other employees. Nevertheless, the parties may stipulate that the employee shall determine the distribution of the working hours and breaks in such a way that the latter is available during certain periods or hours. Once the conditions have been established between the parties, the employer cannot unilaterally change the conditions of the regime, as they were introduced with the consent of the employee.

The employer shall provide at his/her own expense the equipment needed to perform the remote work, as well as the supplies, the necessary software, maintenance and technical support, and the devices intended for communication with the employee, including Internet connectivity.

In addition to the technical aspects, the employer must provide the employee with information and requirements regarding the use and maintenance of the equipment, the rules on protecting confidential information and personal data, etc.

The parties can stipulate that the employee shall use their own equipment, in which case the parties must agree on the maintenance and repair expenses, which must be borne by the employer.

The employer is naturally permitted to insure all of their property, but this is not mandatory. Insurance coverage is all a matter of commercial terms and negotiations.

## Health and safety and data protection

Employers are responsible for the health and safety conditions at the workplace of employees working remotely and are required to inform them about the health and safety requirements set forth in applicable laws and internal regulations. Employees are responsible for complying with the relevant health and safety rules and standards.

Employers are responsible for monitoring the implementation of and compliance with occupational safety and health requirements and standards, and labor inspectors have the right to enter the workplace, subject to prior notice to the employee, or the employee working remotely, and subject to the employee's

consent. Employees do not have the right to refuse access to the workplace without a reason.

Subject to the employee's consent, employers may install video surveillance in the designated workplace.

Employers must implement data protection measures and provide employees with comprehensive information on rules and standards of personal data protection.

## Liability

The employee is required to ensure that the working space meets health and safety requirements, while the employer is required, with the assistance of the employee, to monitor compliance with said requirements. There are no specific requirements different from those applying to work from the premises of the employer but rather they depend on the work performed. The employer is required to ensure that health and safety requirements are complied with and the employee is therefore required to provide access to the premises for verification by the employer.

There are no specific requirements regarding health and safety in the case of remote work and these depend greatly on the type of work performed and not on whether it is performed from the premises of the employer.

The rules regarding occupational injuries apply in the same way as in the case of work from the premises of the employer. If an accident is related to the work performed, the employer shall be liable before the employee for any damages. In the case of death, the employer shall be liable before the heirs. Bulgarian legislation introduces mandatory insurance for the risk of occupational injury where the work performed entails a higher risk of such injuries. This is not related to the home/remote or hybrid work regime. The employer is entitled to take out voluntary insurance for each employee.

Where damages are suffered by third parties, the employer shall be liable before them if the damages are caused in relation to the work performed, this being a matter of examination in each case.

In the event of damage to the property of the employee by the employee or a third party, they shall both be liable. The third party is fully liable in any case of damage, while in case of neglectful damage, the employee shall be liable only up to the amount of their monthly salary. If the damage is result of a crime or deliberate actions, the employee shall be fully liable.

The employer is naturally permitted to insure all of their property, but this is not mandatory. Insurance coverage is all a matter of commercial terms and negotiations.

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# CROATIA

## Implementation of remote work

The Croatian Labor Act (Official Gazette No. 93/14, 127/17, 98/19, 151/22, 64/23, referred to as the "Act") introduced a number of new provisions which entered into force on January 1, 2023. The Act distinguishes between two types of work not performed at the employer's premises: work at a separate workplace and remote work, both of which may be performed permanently, temporarily or occasionally.

Work at a separate workplace is defined as work performed at home or at another similar place determined on the basis of an agreement between the employee and the employer. On the other hand, remote work is always performed using information and communication technologies, where the employer and the employee agree on the employee's right to independently determine his/her place of work. The legal differences between these two types of work are discussed below. They may also be regulated by collective agreements, as is the case, for example, in one of the national telecommunications companies, which allows remote work for up to 12 working days per month, provided that the business process allows it and subject to the company's human resources department.

To perform work at a separate workplace or telework, a legal basis is required, such as an employment contract or an annex to it. The content of the contract is obviously expanded, as it must contain additional information on the organization of work, time recording, equipment, reimbursement of expenses, etc.

Compared to work at a separate workplace, telework allows for more flexible regulation. Both types of work are based solely on mutual agreement between the employer and the employee, i.e. the employer cannot impose either type of work unilaterally. Pursuant to Article 17 of the Act, work at a separate workplace may be agreed upon in the event of exceptional circumstances related to an epidemic, an earthquake, flooding, etc., without amending the employment contract for a maximum of 30 days, after which the employer must offer to enter into an employment contract. Employees working at the employer's premises have the right to apply for temporary work at a separate workplace in order to reconcile work and personal needs, such as caring for a child or a sick family member.

If both parties have negotiated work at a separate workplace or remote work, the following issues should also be addressed. The remuneration of an employee working at a separate workplace or remotely cannot be lower than that of an employee working at the employer's premises for the same or similar work. Specific provisions on health and safety measures, working hours and rest periods are discussed below. Work

at a separate workplace or remote work cannot be established for activities where it is not possible to protect the employee from exposure to harmful effects despite the implementation of health and safety measures.

## Required involvement of employee representatives and public / immigration authorities

In accordance with Article 149 of the Act, if work at a separate workplace or remote work is introduced, the employer must inform the works council - if there is one - at least once every three months about the number of employees performing this type of work. Apart from the obligation to inform the works council, the employer has no other obligations to the employee representatives. Under current legislation, employee representatives cannot be involved in the introduction and structuring of work at a separate workplace or remote work. There is also no obligation to inform the authorities. However, if the employer fails to inform the works council, the employer will be liable to a fine, as the law considers such failure to be a serious offence.

In addition, specific immigration rules apply to digital nomads from third countries (non-EU) working in the Republic of Croatia. These are contained in the Foreigners Act (Official Gazette 133/20, 114/22, 151/22). According to this Act, a digital nomad is a third-country national who is employed or performs work for a company or his/her own company by means of communication technology if this company is not registered in the Republic of Croatia and does not perform work or provide services for employers in the Republic of Croatia. Digital nomads are required to submit an application for temporary residence, which can be granted for up to one year and cannot be extended. However, a new application for temporary residence can be submitted 6 months after the expiry of the previously granted temporary residence of a digital nomad. For family reunion purposes, digital nomads may be joined by close family members, such as their spouse, minor children, parents, etc., under special conditions.

## Equipment & Compensation for remote work expenses

Employers in the Republic of Croatia are required to provide, install and maintain the equipment necessary for the work at a separate workplace, but if the employee's equipment is used instead, the reimbursement of any related costs must also be defined in the employment contract or its addendum, including the reimbursement of any other costs incurred by the employee in connection with the performance of his/her work, if it's permanent or exceeds 7 working days in a month.

Conversely, such provisions are not mandatory in the case of remote work, which, as mentioned above, is more flexible. Neither the Act nor any other applicable law provides for an obligation on the part of the employer to specifically reimburse costs such as utilities, Internet fees, etc., but these may be part of the "costs incurred in connection with the performance of the work" referred to above, depending on the nature of the work. Payments made to reimburse for work in a separate workplace and for remote work costs are taxable, and there are no special tax rules to benefit employees.

## Working time, performance and right to disconnect

Employees who work from a separate workplace or remotely are protected by the general provisions of the Act related to working hours and rest periods, unless otherwise provided by collective agreements, internal company rules or other laws. In addition, workload and deadlines cannot affect the employee's right to daily, weekly and annual breaks. The law requires employers to keep records of working hours, but they may delegate this obligation to an employee. In this case, the employer is still required to monitor such records and is responsible if they are not kept or are not kept properly.

According to Article 60.a of the Act, working hours must be determined by laws and regulations, collective agreements, agreements between the works council and the employer, work rules or the employment contract. Otherwise, working time is determined at the employer's discretion, while the Act does not grant the same right to the employee.

The most recent amendments to the Act introduced the right to disconnect. Article 60.a states that when exercising his/her right to annual leave and other time off, the employee and the employer must take into account the balance between private and professional life and the principle of non-availability in professional communication, except in cases of urgent need, i.e. when the nature of the work is such that communication with the employee can't be delayed, or when it is agreed in the collective agreement or employment contract.

Since work from a separate workplace and remote work are voluntary, the parties may negotiate their duration independently. Such an arrangement cannot be terminated unilaterally by either party. The parties can, however, agree on a provision that excludes the possibility of both types of work. Therefore, the duration depends solely on the mutual agreement between the employer and the employee.

The mechanisms available to employers to monitor their employees are limited. According to Article 34 of the Constitution

of the Republic of Croatia (Official Gazette 56/90, 135/97, 08/98, 113/00, 124/00, 28/01, 41/01, 55/01, 76/10, 85/10, 05/14), a person's home is inviolable and therefore the employer cannot enter the employee's home without his/her approval. Article 17.b of the Act provides that the employer has the right to enter the premises of the employee's home or any other premises that are not the employer's premises for the purpose of maintaining equipment or carrying out predetermined supervision related to the employee's working conditions, provided that this is agreed between the employee and the employer and only at pre-agreed times.

Employers are required to ensure that the employee's privacy is protected. In addition, any form of monitoring of employees must comply with the principles set out in the General Data Protection Regulation. A system for recording working hours must be established and specified in the employment contract. Abuse of working hours may, depending on the circumstances, constitute just cause for termination of the employment contract.

## Health and safety and data protection

In terms of health and safety, employers have different responsibilities to employees depending on whether they work in a separate workplace or remotely. Article 17.b of the Act provides that the employer is responsible for ensuring that work is performed safely and in a manner that doesn't endanger the safety and health of the employee working in a separate workplace, if possible. On the other hand, remote work is not considered to be performed at a workplace or separate workplace within the meaning of occupational safety and health regulations.

As a result, employers are only required to provide the employee with written instructions on how to protect his/her safety and health at work. The employee must comply with all safety and health measures prescribed by law.

Article 17 of the Occupational Safety and Health Act (Official Gazette 71/2014, 118/2014, 154/2014, 94/2018, 96/2018) stipulates that employers must organize and implement occupational safety and health protection, in particular with regard to preventive measures and risk assessment. These regulations also apply to work arrangements in a separate workplace. The employer must take all appropriate measures to ensure the employee's health and safety, which may include taking care of the employee's equipment and environment, implementing protective measures for particularly vulnerable employees (minors, pregnant women, nursing mothers, etc.), and any other necessary measures.

As mentioned above, access to the employee's home is limited, and neither the Act nor any other law specifies any other situation in which the employer would have a right to access the employee's home for health and safety purposes. Thus, employers have a right to enter the employee's home to verify compliance with occupational safety and health regulations only if the employee has been notified in advance and has expressed his or her approval.

The law establishes rules to protect employees who are exposed to certain risks. For example, the employer is required to ensure that employees who work primarily with computers, whether or not they work at a separate workstation or remotely, have their eyesight examined prior to commencing employment, periodically during employment, and at the employee's request. The employer, not the employee, bears any related costs. In addition, employers must carry out a risk assessment and provide instructions on how to prevent, eliminate or reduce stress at work.

There are no specific provisions on data protection during work in a separate workplace or remote work. As a result, the general data protection provisions apply. Article 29 of the Act states that personal data may be collected, processed, used and disclosed to third parties only if provided by law or if necessary for the exercise of rights and obligations related to the employment. The employer must determine in advance the type of information it will collect, process, use or disclose to third parties for this purpose, with reference to applicable employment law provisions.

## Liability

Since the employer has the right to enter into an agreement with an insurance company, the insurance company is required to settle claims in the event that liability is incurred by the employer. However, since the employer is liable for accidents that occur during work at a separate workplace or while working remotely, it is advisable to take out additional insurance for accidents that occur to the employee while working outside the employer's premises.

If the employee's property is damaged during work, Article 111 of the Act provides that the employer must compensate the employee for any damages arising during working hours, i.e. during remote work.

In the event of damage to the property of a third party, Article 1061 of the Civil Obligations Code (Official Gazette 35/05, 41/08, 125/11, 78/15, 29/18, 126/21, 114/22, 156/22, 155/23) provides that the employer is liable for damages caused by an employee during work or in connection with work, unless it is proven that there are grounds for exempting the employee from liability. However, the third party also has the right to claim compensation for any damages directly from the employee if the employee caused the damage intentionally. If the employee caused the damage intentionally or through gross negligence, and the employer compensated the third party for the damage, the employer has the right to demand reimbursement from the employee within 6 months of paying the compensation. As in the case of accidents mentioned above, additional insurance is not required by law, but it is still advisable.

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# CYPRUS

## Implementation of remote work

The framework for regulating work provided remotely was introduced into national legislation on, and became effective from, December 1st, 2023. In its current form, Law 120(I)/2023 (the "Remote Work Law") applies to employees in the private sector only; excluding, that is, employees in the public sector from its ambit. Remote work is construed as work provided by an employee remotely through the use of technology (be it from the employee's premises, the employer's premises or from a combination of both premises).

The Remote Work Law does not itself automatically create an enforceable right to work remotely on part of the employer and/or the employee. In particular, working remotely is made a valid and binding channel for the performance of an employment contract: (a) mutually, where the employer and the employee agree to remote working at any time during the period of employment; or, (b) unilaterally and for a determined period, either by decision of the employer (triggered only as an emergency response to a public health risk proclaimed by government decree) or upon request of the employee (prompted only as an emergency response to a medically diagnosed risk to the employee's heath), provided that the work itself is capable of being performed remotely and for no longer than the risk itself persists. Where remote working has been validly incorporated in the employment relationship, the employers are at liberty to add same to the employment routine as part of a hybrid work model. An employee that does not consent to remote work cannot be adversely discriminated by the employer.

Within eight (8) days from the commencement of the employee's remote working, the employer must notify the employee in writing of at least the following particulars, namely: (i) the employee's right to disconnect, as well as the means necessary for achieving this – both for communications and work – through the technological resources facilitating the remote work; and, (ii) breakdown of the employee's costs/expenses associated with remote working and how same are compensated by the employer; and, (iii) particulars of the necessary resources for providing remote work, as well as the procedures governing its troubleshooting, maintenance and repair; and, (iv) any terms of use concerning remote work resources (including digital tools and the internet) and the consequences of breaching such terms; and, (v) the availability, limits and response time of the employee during remote working; and, (vi) the risks, as well as the protective and preventive measures, associated with remote working; and, (vii) the duty to protect business, as well as personal, data and the applicable

policies for discharging such duties; and, (viii) the authorized person to provide work instructions to the employee during remote working.

The aforesaid statutory notification may be either in the form of an individual consultation or a policy capable of being accessed, saved and printed by the employee, provided in each case that it can be shown – with reference to records – that the notification was provided by the employer and acknowledged by the employee.

## Required involvement of employee representatives and public authorities / immigration

Any collective bargaining agreements whose terms are more favorable to the employee in relation to any aspect of remote working override, and take precedence over, the like terms in the Remote Work Law. In so far as provisions of the Remote Work Law are concerned, the input of the representatives of the employees, as well as of the employers, is arguably limited. As to the former, their input is taken into account for: (a) the cost assessment report made by the Minister of Labor and Social Insurance when setting the minimum statutory compensation thresholds per type of expense incurred during remote working; and, (b) the determination of the technical and organizational means associated with ensuring that the employee disconnects from the resources facilitating remote work and communications (in the absence of an agreement, the Remote Work Law enables such means to be determined unilaterally by the employer and communicated to the employees).

## Equipment & Compensation for remote work expenses

Where remote working is underway, the employer: (a) covers the employee's expenses associated with remote working, including equipment cost (unless the equipment is agreed to be provided by the employer) and its maintenance and repair, telecommunications costs and use of domestic space; and, (b) provides technical support that includes troubleshooting, repair and replacement for the equipment used for the remote work (irrespective of whether the equipment used belongs to the employer or the employee); and, (c) undertakes to procure all reasonable modifications to such equipment, where required, for employees with disabilities.

All such expenses – which are calculated in accordance with the frequency/duration of the remote work having regard to minimum statutory thresholds per type of expense – are not treated as employee emoluments and are tax deductible for the employer.

## Working time, performance and right to disconnect

Remote work is expressly recognized as an alternative delivery channel for the work envisaged by the employment contract. Accordingly, the impact of remote working on the employment status, as well as on all terms of the employment contract, is neutral in all material respects.

The employee is entitled to disconnect from all the electronic resources facilitating remote working. The technical and organizational means associated with

ensuring that the employee disconnects from the resources facilitating remote work and communications, are agreed between the employer and the representative of the employees. In the absence of an agreement, such means are determined unilaterally by the employer and communicated to the employees.

Supervision, time management monitoring and performance monitoring of the employees whilst working remotely are permissible subject to a prior data protection impact assessment carried out by the employer in accordance with section 35 of the GDPR, as well as a consultation with the Data Protection Commissioner. Any monitoring methodology contemplated by the employer would need to respect the private life of the employee, as well as protect the employee's personal data. For the avoidance of doubt, the use of camera surveillance or other intrusive software of similar effect for monitoring employee performance are expressly prohibited by the Remote Work Law.

## Health and safety and data protection

In addition to the existing requirements set forth by the Health and Safety Regulations, the employer is further obliged: (a) to procure a due and proper written assessment for risks associated with remote working; and, (b) to determine the preventive and protective measures that should be adhered to, as these stem from the remote working risk assessment; as well as, (c) to provide such information, guidance and training as is necessary to ensure the health and safety of the employees. The employer does not have a right to enter the private residence of an employee working remotely in order to conduct a risk assessment unless, and for so long as, the employee (as occupier) consents to such entry.

It is noted further on this occasion, that as part of the employer's statutory notification obligations relating to the remote work, the employee must be notified of: (a) the risks associated with remote working, as well as the preventive and protective measures to such risks, as the emanate from the employers' remote work risk assessment; and, (b) the duty to protect the security of business and personal data, and the associated steps and procedures to be followed for the due discharge of same.

## Liability

An employer remains responsible for the health and safety of the employee whilst working remotely. In order to serve its statutory mission, the compulsory employer's liability insurance would need to cover contingencies attributed to remote workspaces as evidently these do now constitute work premises.

Where remote working is implemented, the employer is liable to cover the employee's expenses associated with remote working, including equipment cost (unless the equipment is agreed to be provided by the employer) and its maintenance and repair, telecommunication costs and use of domestic space; and, (b) provides technical support that includes troubleshooting, repair and replacement for the equipment used for the remote work (irrespective of whether the equipment used belongs to the employer or the employee); and, (c) undertakes to procure all reasonable

modifications to such equipment, where required, for employees with disabilities.

For the purposes of monitoring the adherence to its terms, as well as the provision of good practices and recommendations to employers, employees and the Ministry of Labor and Social Insurance, the Remote Work Law is entrusted to work inspectors appointed by the Minister of Labor and Social Insurance. In the event of breach of any term of the Remote Work Law, the employer may be subject to a monetary fine up to an amount of €10.000.

Each work inspector, either alone or in the presence of a police officer or any other person, is allowed to enter into any work premises without prior notice for the purposes of carrying out an audit, inspection, investigation, requisitioning or questioning of any matter that comes under the Remote Work Law. The right of entry extends to a private residence, provided that the occupier consents. A person who obstructs the work inspector in the exercise of the statutory powers, or fails to respond accurately or at all to any investigation, or omits to provide any record required to be provided by law, or obstructs any person from being presented for questioning by the work inspector, is guilty of an offence punishable by six months imprisonment or a monetary fine up to €10.000 and/or both.

Any grievance or complaint brought under the Remote Work Law is examined by the work inspector (provided that same is not pursued by the aggrieved party in court). Any settlement reached with the work inspector is drawn-up and signed by both the employer and the employee. Where no settlement is reached, the work inspector's findings are drawn-up in the form of minutes and a copy provided to both parties for their further use in court proceedings, where necessary.

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# CZECH REPUBLIC

## Implementation of remote work

Czech labor law underwent a major change at the turn of 2023 and 2024. One of the areas affected is remote work. The law no longer distinguishes between two types of remote workers: those who work completely remotely and those who work remotely only in part. Instead, the law but defines remote workers as employees who have agreed with their employer on the terms and conditions of remote work.

Currently, collective agreements in the Czech Republic rarely contain specific provisions on remote work. Some include rather general provisions that require the parties to agree on the details within the broad and vague terms of the relevant collective agreement. However, it is of course necessary to review the relevant collective agreement at both the sectoral and company level, as the regulation of remote work will certainly become more widespread.

According to the new definition, remote work must be agreed in writing. The terms and conditions for remote work may be set out in a separate agreement or be part of a standard employment contract. Significantly, the Labor Code does not specify in detail the essential terms of a written remote work agreement, although it should at least specify, for example, the agreed remote work location. At the same time, it may be desirable for the employee and the employer if the agreement contains provisions on the method of communication between them, the scope of the remote work and the method of scheduling working hours, the length of the remote work, the method of ensuring occupational safety and health, etc.

It is important to note that, as a rule, remote work can be implemented only on the basis of a mutual agreement. In exceptional cases, the employer may instruct the employee to work remotely in writing. This applies only if there is an official act of public authority that restricts the employee's work at the workplace, for example, due to a pandemic. This is permitted for the necessary period of time, if the nature of the work allows it, and if the work can be performed effectively from the chosen location.

However, certain categories of employees (e.g., a pregnant employee or an employee caring for a child under the age of 9) are entitled to receive a written justification as to why they were not allowed to work from home.

Finally, as a general rule, either party may terminate the remote work agreement by giving 15 days' notice with or without cause. However, the parties may agree that the remote work arrangement may not be terminated in this manner.

## Required involvement of employee representatives and public / immigration authorities

There is no requirement for employee representatives (unions, employee councils) and public authorities to be involved in the introduction of remote working policies. It is always up to the employer to decide whether or not to negotiate with employees over remote working and to what extent. Furthermore, there is no requirement to notify employee representatives or public authorities of the implementation of a remote working policy, or of any adjustments to or termination of such a policy.

In addition, there are no special rules for citizens of non-EU countries. However, it is advisable not to employ teleworkers on a full basis if their residency is tied to their employment, as this scenario may raise residency issues. Immigration authorities may revoke or refuse to renew residency based on the fact that the non-EU's physical presence is no longer required because the employee is working remotely.

## Equipment & Compensation for remote work expenses

One of the fundamental characteristics of employment under Czech law is that employment is performed at the employer's expense. This means that the employer must provide the employee with the equipment necessary for the proper fulfillment of his/her employment obligations.

Therefore, the employer must provide the employee with the "tools" for performing the employee's work duties - in a typical remote work scenario, this means that the employer should provide a laptop and related equipment and connectivity.

As for reimbursement of expenses for remote work, the general rule is that the employee is entitled to reimbursement of expenses unless the parties agree otherwise. Therefore, it is possible to arrange in the individual contract between the employer and the employee that no compensation will be provided at all.

The employer may compensate the employee for working remotely (i) in the amount of costs actually incurred, provided they are substantiated (ii) on the basis of a lump sum, (iii) or based on more detailed arrangements agreed upon by the parties.

As for costs actually incurred and substantiated, employees must adequately prove and calculate the exact amount of such costs, which is generally cumbersome for employees who, in practice, rarely demand such payment.

For lump-sum compensation, which is the most common form of compensation, there is a standard amount determined by a decree of the Ministry of Labor and Social Affairs (the lump-sum amount for 2024 is set at CZK 4.50 per hour, which is approximately EUR 0.18). This

is obligatory for the public sector, whilst private employers may agree with the employee on a different amount.

From a tax point of view, the compensation related to remote work is not subject to income tax and social and health insurance contributions. At the same time the cost of the lump sum compensation is a tax-deductible expense for the employer. The lump sum compensation is exempt only up to the amount not exceeding the standard compensation set by the Ministry of Labor and Social Affairs decree; anything paid to the employee above this limit is liable to income tax and social and health insurance contributions.

## Working time, performance and right to disconnect

Employees may determine their own working hours only if the mechanism is agreed upon in advance. Otherwise, their working time is determined by the employer and is still subject to the applicable statutory limits, as in the case of working time in an office.

If the employee and the employer agree that the former will determine his or her own working time, the rules on the establishment of a work schedule or flexible working time do not apply to such an employee. Furthermore, such an employee is not entitled to compensation from the employer for wages, salary or remuneration in the event of a work stoppage or interruption due to adverse weather conditions. However, the rules on maximum working hours, breaks, night work or overtime still apply.

Czech legislation does not formally recognize a "right to disconnect". However, the standard rules on maximum working hours and the right to take breaks apply to the same extent as for on-site employees. If the employer requires the employee to be available at all times, this could be considered a de facto standby regime. This arrangement requires minimum compensation equal to 10% of salary.

A common problem with remote work is that the employer's ability to monitor remote workers is rather limited, mainly for privacy reasons. For example, the employer can verify that employees are "online" (e.g., using an internal application) during regular working hours. In addition, the employer may require the employee to provide a summary of the work performed each day. The employer cannot enter the employee's home, and if there is a suspicion of working time abuse, it is advisable for the employer to set certain easily measurable tasks. If these are not performed properly, the employer may consider giving notice of the employee's breach of duty and inadequate performance, which may ultimately lead to dismissal.

## Health and safety and data protection

The employer is ultimately responsible for the safety of the employee while working remotely or from home. Employers must ensure that the employee is properly trained and that a first aid kit is available, but no details have yet been implemented in legislation. There are also no specific rules or requirements related to mental stress caused by remote work.

However, it is strongly recommended that the employer implement a specific health and safety policy for remote work and home office only, which addresses the particularities of remote work.

As mentioned above, employers do not have the right to enter an employee's home. This also applies in the case of health and safety compliance inspections (or for other related purposes), as the employee's constitutional right to privacy and security of the home prevails. In practice, employees may provide photos of the workplace to the employer's human resources department to assess the suitability of the premises, particularly at the start of remote working.

Data protection legislation requires the employer to provide only secure access to personal data held by third parties, i.e. not to allow the employee to access such data via standard unsecured means. This usually requires an additional IT solution.

As far as the employee's personal data is concerned, employers should generally refrain from monitoring the details of the employee's activities during working hours (e.g. checking the websites visited, requiring the webcam to be switched on at all times, etc.). However, the case law on the admissibility of monitoring in the Czech Republic is not entirely clear, and evidence obtained through monitoring may be accepted, especially in cases where the employee has grossly abused the employer's resources.

## Liability

Accidents and injuries that occur while working remotely or from home are legally considered work-related injuries. As such, they are the employer's responsibility, although certain exceptions apply, such as the employee being under the influence of alcohol or illegal substances, which may be difficult to prove in the case of remote work.

The employer's compulsory insurance is usually used to cover such work-related accidents.

If an employee damages his or her own property or the property of others while working remotely, the employee is liable unless the damage was caused directly as a result of the employee's performance of his or her job duties.

If the employer's property is damaged as a result of the employee's negligence, the employee is liable, but generally only up to 4.5 times the employee's average salary. This limit does not apply to intentional damage or damage caused by the use of alcohol or illegal substances.

Damage to property is not covered by compulsory insurance and special additional insurance is recommended.

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# ESTONIA

## Implementation of remote work

Telework is work that is (at least partly) performed outside the main office, and this can refer to any location, using information and communication technologies. All the various forms of remote work are subject to general labor law provisions, which in Estonia is the Employment Contracts Act. There are no regulatory differences between remote work, hybrid work or telework activity.

We are also not aware of any collective bargaining agreements that would contain special regulations governing remote work.

In Estonia, neither employers nor employees have a legal basis for introducing remote work unilaterally. Remote work may only be introduced with the consent of both parties. The agreement on telework must be made in writing. However, the parties may provide evidence for the agreement in another way. The parties may agree on teleworking in the employment contract or for example, in an e-mail exchange.

If there is no agreement on remote work, neither the employer nor the employee is entitled to unilaterally demand it. An employer cannot force an employee to work remotely, and an employee cannot demand to be permitted to work remotely.

When introducing remote work, the topics which are usually regulated between employer and employee are the possibility of remote work, the place of remote work (whether it is the employee´s home or elsewhere or a combination of both), how the work is to be organized by the employee, compliance with data protection and privacy, the use of specific work equipment, the working environment and safety, and applicable law.

## Required involvement of employee representatives and public / immigration authorities

There are no requirements or special regulations regarding the involvement of employees´ representatives in the introduction of remote work or any special rules regarding the role of the employees´ representatives in the introduction and design of the remote work. The employees representatives may be included in the relevant consultation under general rules. However, since it is not mandatory to involve the employees´ representatives in the introduction of remote work, there are no consequences if the participation of the employee representatives is omitted.

Since the agreement on remote work is made between the employer and the employee, it is not mandatory to notify the introduction of remote work to specific public authorities.

There are also no special immigration rules applicable for third-country (non-EU) digital nomads when they work remotely for their third-country employer in Estonia.

## Equipment & Compensation for remote work expenses

It is a general rule that an employer shall equip an employee with the necessary tools, but there is no special regulation established for remote work. The employee is required to use the equipment in accordance with the rules established by the employer. In the case of remote work, the employer can choose whether to transport the necessary work equipment (e.g. table, chair, monitor) to the employee's home or to purchase new equipment for the employee.

As a rule, employers are required to provide employees with the necessary work equipment and to bear the costs for this. Teleworking cannot cause a fall in income for the employee. This obligation relates to the equipping of the employee's place of work, regardless of whether it is in the home office or on company premises. However, the employer is not required to reimburse employees for other costs derived from working remotely.

If, by agreement with the employer, the employee buys the necessary work tools himself, the employer can reimburse on a tax-free basis only those costs (on the basis of the expense document) that are related to work, i.e. that are used for the purpose of performing the work.

## Working time, performance and right to disconnect

With regard to working time, there are no special rules on working time for remote work. The existing regulations or agreements for the division of working hours also apply to employees who work remotely. The employer is required to record the working hours, namely the beginning, end and breaks. If fixed working hours are agreed, only deviations therefrom need to be documented.

The working hours are the same normal and regular working hours, regardless of whether the employee works remotely or on company premises. Under Estonian law, there is no special regulation regarding the employee´s right to disconnect. The employee must be available during regular working hours.

In the event that the employer wishes to introduce amendments to the teleworking agreement, he/she must reach a new agreement with the employee. The employer cannot unilaterally withdraw from the teleworking agreement unless the parties have agreed otherwise. If the employer becomes aware of any problems arising from teleworking, the employee should be notified thereof, the issues should be discussed with them, and a partial return to the office may be offered as a solution. This means that the employer can make a concrete proposal to amend the teleworking agreement.

The employer can fulfil his/her occupational safety obligations to a certain extent, i.e. by doing everything reasonably possible, in particular by identifying, in cooperation with the employee, the risks in the working environment and instructing the employee on how to mitigate those risks. Thus, to assess the risks of the teleworking environment, the parties must agree on how the homeworking environment will be assessed, whether by using photos or video or maybe the employee will allow the working environment specialist to visit their

home. However, as the inviolability of home and protection of privacy are protected by the Constitution, the employer can only enter the employee's home with the latter's consent.

In the event of a suspected abuse of working time, the employer can react to problems arising from the remote employee's absence during working time, unavailability, etc., in a similar way to problems that may arise in the office. If the employer finds that these problems are related to teleworking, the employee should be notified thereof, the issues should be discussed with them, and a partial return to the office may be offered as a solution. The employer may warn the employee about the potential termination of the employment contract due to a breach thereof on the part of the employee.

## Health and safety and data protection

The employer is responsible for the employee's occupational health and safety during remote working.

However, the legal requirements take into account the particular nature of teleworking. The employer may be released from liability in case of telework, if it proves that it has performed all mandatory requirements prescribed for telework.

The employer is required to conduct a risk assessment of the working environment. The option to work remotely can be offered by the employer at workplaces where the risk to the employee's health is low and the employee is able to manage the environmental hazards on site in accordance with the employer's instructions. If the employee works using information and communication technology tools or simple handicraft items and works at a convenient location as agreed, the employer is not required to visit the teleworking environment or have a detailed overview of the environmental hazards.

If an employee performs his/her duties by teleworking at home, he/she may allow the employer to identify the risks in the working environment on site (e.g. allow a risk assessment in the home office or home workshop). As the inviolability of home and protection of privacy are protected by the Constitution, the employer can only assess the risks in the employee's home with the latter's consent.

The employer is required to arrange a medical examination for the teleworker in the same way as for other employees. The occupational physician will decide on the medical examinations required for the employee and assess the employee's state of health. There are no special medical examination rules for employees who work remotely.

There is a general rule that psychosocial factors present in the working environment must not endanger the life or health of an employee or that of another person in the working environment. In order to prevent damage to health arising from a psychosocial hazard, the law obliges the employer to take measures, including adapting the organization of work and the workplace to suit the employee, optimizing the employee's workload, enabling breaks to be included in the employee's working time during the working day or shift and

improving the company's psychosocial working environment. No separate regulations have been adopted for remote working.

Regarding data protection during remote work, the law does not establish any particular requirements for data protection precautions in the employment relationships.

## Liability

There are no separate regulations adopted for accidents that occur during remote work so the regulations in this respect are the same as those applicable to accidents that occur during work on the employer's premises. The employer may be released from liability in case of employees working remotely if it proves that it has complied with all mandatory requirements prescribed.

In Estonia there is no requirement for the employer to take out mandatory insurance. However, employers with more hazardous work routines usually have voluntary insurance to cover occupational risks.

If an employee damages their own or third-party property during remote work, then the employee is liable, unless said damage was caused directly as a result of the performance of the employee's work duties.

In the event that the employer's property is damaged as a result of an intentional breach on the part of the employee, the latter is fully liable. If an employee has breached the employment contract due to negligence, he/she is liable for the damage caused to the employer to the extent which is determined by taking into account the employee's duties, degree of culpability, the instructions given to the employee, working conditions, risks arising from the nature of the work, the length of service with the employer, previous behavior, the employee's wages, and also the reasonably expected possibilities of the employer to limit or be insured for the damage. Compensation is reduced to the extent that the damage caused arises from a typical risk of damage relating to the activities of the employer.

As mentioned above, in Estonia there is no requirement for mandatory insurance and therefore additional insurance is recommendable to cover any damage to the property of the employee or a third party or if the company´s property is damaged by the employee or a third party during remote work.

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# FINLAND

## Implementation of remote work

Finnish labor law does not expressly recognize the concept of remote work, nor hybrid work, home-office or telework activity. However, remote work, in all its forms, is subject to general labor law provisions, in other words the Employment Contracts Act, Working Hours Act and Occupational Health and Safety Act. For this reason, there are no differences in regulation between these forms that employers need to be aware of.

There is no general information available as to how remote work is regulated in collective bargaining agreements in different fields. The possible special regulations on remote work in collective bargaining agreements should be taken into account in individual cases.

The general labor law provisions form the legal basis for all employment, including remote work. While employers must comply with these general terms and conditions established by law, companies can also regulate remote work in more detail through their company policy and individual employment contracts. The remote work policy should be reviewed as part of the cooperation procedure in accordance with the Cooperation Act, when applicable.

Employers do not have a legal right to unilaterally introduce remote work. This must always be approved by the employee or employees unless there is a reason beyond the employer's control (such as a state of emergency caused by the corona pandemic). Remote work arrangements are usually agreed mutually with the company's employees and set out in the company's policy guidelines or employment contacts.

Employees do not have a legal right to apply for remote work. This must be agreed with the employer in accordance with the company policy or employment contract. However, Akava, the Confederation of Unions for Professional and Managerial Staff in Finland, states that employees should have a statutory right to partial remote work within the limits established by the content of their work.

Usually, the topics that should be regulated between employer and employee when introducing remote work include themes such as when remote work is possible, working hours during remote work, how work results are monitored, sick leave policy, information security and possible costs and how they are distributed.

## Required involvement of employee representatives and public / immigration authorities

The remote work policy should be reviewed as part of the cooperation procedure in accordance with the Cooperation Act in those companies where the Act is applicable, in other words in companies with at least twenty employees. Employee representatives are entitled to participate in the cooperation procedure. In other cases, there is no general regulation regarding the participation of employee representatives in the introduction of remote work, but this is recommended.

There are no special rules regarding the introduction and design of remote work.

The decision on remote work is made at the company level and there is no requirement to notify the public authorities of the introduction of remote work.

If there is a cooperation procedure ongoing, as mentioned above, and the employee representatives are not involved, a range of fines can be imposed on the employer.

In Finland, no special immigration rules have been regulated for third-country digital nomads.

## Equipment & Compensation for remote work expenses

The employer is not legally required to provide equipment for remote work. As the employer is mainly responsible for acquiring the IT equipment needed for work, the same applies when work is performed remotely. In the event that remote work is voluntary, the employer can require that the employee assumes responsibility for the provision of an adequate broadband connection and workspace. Under the Occupational Health and Safety Act, the employer must ensure that work is performed in safe and healthy conditions. This applies to all places where work is performed. By providing the same tools at home as in the office, the employer can promote the employee's well-being.

The employer is not required to reimburse the employee's remote work costs.

Remote work may cause expenses that are tax-deductible for the employee. These include workspace costs and expenses incurred for equipment and a data connection. In Finland, the taxpayer is automatically granted a €750 deduction for the production of income. If the expenses exceed this amount, the taxpayer can report them on their tax return as expenses for the production of income.

## Working time, performance and right to disconnect

Working time in the case of remote work is regulated by the general Working Hours Act, so no special rules are applied. However, not all remote work arrangements are covered by the Working Hours Act. For example, management level and other work specified in the Act. The law stipulates that the employee is also required to record working hours when working from home. In principle, remote work and working time should be monitored and reported in accordance with the company's general practices.

Remote work should be performed within the normal and regular working hours and

according to the company's policies. The employer may, for example, set guidelines for flexible working hours, overtime and extra work, or for the working time when the employee must be physically present.

Employees are required to be available during normal and regular working hours unless otherwise agreed. There are no exceptions to this while working remotely.

The employer should include terms in the company policy regarding the limitation or revocation of remote work. If the terms of remote work have been agreed in the employment contract, these aspects should also be established therein.

Employers can monitor employees through detailed working time records. The employee is responsible for arranging their work and taking adequate breaks. The employer may also conduct work supervision using technological surveillance, for example with the aid of CCTV, online monitoring, or GPS systems. The employer must respect the employee's privacy even when the latter is working remotely as remote work does not limit the employee's right to privacy protection as enshrined in law. The Protection of Privacy in Working Life Act must also be complied with in the case of remote work.

The employer does not have a general right to access the employee's home as this is also subject to privacy protection. However, the employer or the employees' representative may have a right to access the employees' remote workplace with advance notice.

The employer has the same rights in the event of a suspected abuse of working time as they would on the employer's premises. The employer should discuss the matter with the employee, and if necessary, the employer can issue a warning.

## Health and safety and data protection

The employer is primarily responsible for the employee's health and safety during remote work. Under the Occupational Health and Safety Act, the employer must ensure that work is performed under safe and healthy conditions. This applies to all places where work is performed. The employer, with the cooperation of the employee , must ensure that remote work is safe and healthy, but the employee's personal responsibility for their own wellbeing is emphasized in remote work. The law also stipulates that the employer is required to provide occupational health care and statutory accident insurance for all employees.

There are no general instructions regarding the measures the employer must take to ensure the health and safety of his/her remote employees. The employer should ensure that the employee is aware of the occupational health and safety regulations so that the employee can seek to avoid the disadvantages caused by remote work. However, the Centre for Occupational Safety has published a specific form and other guidelines to assist employers in evaluating and surveying the occupational health and safety of remote worker. In addition, the employer has a right to enter the home of an employee working in a home office for the purpose of conducting a risk assessment, but this must be agreed with the employee in advance.

Apart from the above, no special rules have been established to prevent physical or psychological health problems caused by remote work.

The employer must ensure, for example, that the laptops of the employees are regularly updated and that all the necessary data security protection programs are installed.

## Liability

The employer's statutory accident insurance also covers remote work, but there are some limitations on insurance cover in this case. For example, the statutory insurance only covers accidents that occur while working, not during breaks from work. The employer can cover this with voluntary supplementary insurance. In addition, the Social Insurance Institution of Finland (KELA) can cover some accidents.

The employer should verify the insurance coverage in different remote work situations on a case-by-case basis.

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# FRANCE

## Implementation of remote work

In France, remote work is defined as any form of work organization in which work that could also have been performed on the employer's premises is performed by an employee outside these premises, on a voluntary basis, and using information and communication technologies (ICT). The teleworker is defined as any employee of the company who performs telework, either when he/she is hired or at a later date.

Remote work concerns all companies regardless of their size or whether they are in the private or public sector. However, public institutions are subject to specific rules.

Please note that telework and homeworking or home-office should not be confused. In the latter case, the worker performs his/her activity exclusively at home, is not necessarily an employee of the company and can be excluded from the conventional provisions applicable to the company.

Remote work is flexible. It can be implemented by a company-level agreement entered into with trade unions or by a policy unilaterally implemented by the employers and subject to the opinion of the works council (if any). In the absence of a company agreement or policy, it is also possible to enter into an individual agreement with the employee in question.

In any case, it is highly recommendable to establish terms and conditions in writing in order to clearly define the parties' obligations.

In principle, work from home must be done on a voluntary basis. Therefore, the employer cannot terminate the employment contract if the employee refuses to work from home. However, in case of exceptional circumstances, such as a pandemic, work from home can be imposed as a necessary measure for the continuity of business and the protection of employees' health and safety.

The employer is not required to permit remote work. However, when the request is based on a collective agreement or a charter, the employer must give reasons for his/her refusal and demonstrate why remote work is not possible. Reasons for refusal may have been specified in the agreement or charter (lack of eligibility, security and confidentiality requirements, the need for a physical presence, etc.). However, the employer may also invoke other reasons if they are based on objective elements. In the absence of a collective agreement or charter, although the employer is not required to justify his/her refusal, he/s may not, under any circumstances, base his/her decision on grounds which are discriminatory or abusive.

The way remote work is organized is normally established in the collective agreement or charter that instituted it. The number of days of telework (during the week or the month), the days of presence imposed, the maximum number of employees teleworking on the same day, etc. are all defined in the collective agreement or charter. The use of remote work by simple agreement between the parties remains possible in the absence of collective rules. However, it is always advisable to establish, in a written document (letter or e-mail) between employer and employee, the conditions of performance of the work, in particular the place, the hours, the periods of availability, the authorized equipment, the covering of the costs, the restrictions on the use of equipment or computer tools, the methods for evaluating time and the workload, etc.

## Required involvement of employee representatives and public / immigration authorities

Prior to 2017, remote work in France had to be provided for in the employment contract or by means of a rider. This is no longer necessary. It must now be established within the framework of a collective agreement or, failing that, within the framework of a charter drawn up by the employer after consulting the social and economic committee (CSE) if this has been set up.

Employee representatives in the framework of the negotiation of the agreement, or even at the consultation stage prior to the implementation of the charter, have the possibility to influence the conditions of implementation of telework. In the event that there are no employee representatives in the company, said conditions will be defined and implemented unilaterally by the employer.

There is no obligation to inform official bodies about the introduction of telework and there are no special immigration regulations for digital nomads who wish to work remotely in France. If employees wish to work remotely in France and are not citizens of an EU member state, they normally require a residence title as well as a work permit. The foreign employer of the remote worker who lives and works in France must comply with French Employment law and must declare and pay social security contributions in France.

## Equipment & Compensation for remote work expenses

Work equipment can be the property of the employee or be provided by the employer.

However, when work from home is imposed by the employer, the employer must provide the employee with the necessary tools.

The French Employment Code no longer requires that the employer bear all costs directly arising from the performance of telework, including the cost of hardware, software, subscriptions, communications, and tools, as well as the maintenance thereof. However, this change does not, in our view, mean that the employer is relieved of any obligation. It is only in cases where no professional premises are available that the employee who works at home must be compensated for this hardship, in addition to the reimbursement of the expenses incurred by working from home.

An advantageous fiscal and social regime of exemption from charges and taxes may apply to the amounts thus paid to the employee.

## Working time, performance and right to disconnect

As with other employees, remote workers are subject to the legislation on working hours and to the collective agreements and rules applicable to the company. They are therefore subject to the maximum daily and weekly working hours.

For employees on a daily work schedule who are not subject to any hourly calculation as to the maximum working hours and to the rules on overtime, the employer must ensure that the minimum daily and weekly rest periods are respected.

As it is more difficult to control working time when the employee is not on the company premises, the employer must establish appropriate working time control procedures, whether the working time is calculated in hours or in days. It is for the collective agreement or charter to establish these time control and workload regulation arrangements, as well as the time slots during which the employer can usually contact the remote worker (self-reporting systems (via a time management software installed on the computer), computerized monitoring systems for calculating connection time, etc.)

In the event that an employee monitoring system is implemented, it must be relevant and proportionate to the purpose. Moreover, some of these systems require, in addition to consultation with the works council (CSE, i.e. the employees' representatives) and informing employees, a declaration to the CNIL (i.e. the *Commission Nationale de L'informatique et des libertés*, an independent French administrative authority responsible for protecting personal data, supporting innovation and safeguarding individual liberties).

The workload of a teleworker must be equivalent to that of an employee working on the company's premises. The employer is required to organize a yearly interview concerning the employee's working conditions and workload.

To avoid excessive working hours and an encroachment of the professional life on the personal life of the employee, it is in the employer's interest to implement mechanisms to assess this workload and to ensure the effectiveness of the employees' right to disconnect.

Companies are required to negotiate the terms and conditions governing the exercise by the employee of his/her right to disconnect and the implementation of devices to regulate the use of digital tools. In the absence of an agreement, companies must draw up a charter.

## Health and safety and data protection

Employers are responsible for accidents at home during telework, just as they are on the office premises. Thus, employers must treat home offices as an extension of the company's office and address risk assessment and prevention and inform employees of any risks they might be exposed to when working from home, both physically and mentally.

As the employer's access to the employee's home office is limited, it is the responsibility of the employee to comply with the provisions and instructions relating to health and safety at work and to immediately inform the company in the event of an accident. The employer or the CSE may have access to the home office to verify compliance with health and safety procedures provided that the employee has been notified in advance and has given his/her consent. The employee can also request an inspection visit.

While telecommuting has its advantages, it can also entail risks. These can result from:

- poorly designed computer workstations that can lead to musculoskeletal disorders (MSD)
- prolonged sedentary postures that can lead to a range of health problems
- intensive use of the computer screen, which is responsible for visual fatigue
- inadequate work organization, which can lead to the appearance of psychosocial risks

Given the diversity of the potential effects of telework on the health of employees, this mode of organization must be considered in the assessment of occupational risks conducted by the company (DUERP). The preventive actions to be implemented may relate to the organization of work, training and information for managers and employees, or the adaptation of the workstations of the persons concerned.

Employers are responsible for their employee's data security, even when it is stored in data centers over which they have no physical or legal control.

The French Data Protection Agency (Commission Nationale Informatique & Libertés or CNIL) lists the best practices for remote workers when it comes to protecting the exchange of company and personal data at work:

- Make sure that the internet box is correctly configured
- Change passwords often and update the computer's internal software
- Activate the WPA2 or WPA3 encryption on the Wi-Fi
- Connect only to trusted networks and avoid shared access with third parties
- Favor the exchange of data through a VPN when possible
- Install an antivirus and firewall
- Avoid transmitting confidential data through consumer storage, online file sharing, collaborative editing or messaging services.

## Liability

In the event of an accident at work during a remote activity, the same rules apply as for an accident at work on company premises. French social security insurance compensates the employee to the same extent as if the activity were performed at the company's headquarters.

In terms of liability, there are no special rules for employees working remotely. If an employee's property is damaged as a result of working remotely from home, the employer is liable and normally a corporate liability insurance policy will cover the loss. If necessary and possible, this insurance should be extended to cover losses resulting from the organization of remote work.

In the event that a third party (for instance a family member) damages an employer's device (e.g. the employee's child breaks the cell phone), the third party is fully liable. The company's liability insurance probably does not cover damage caused by third parties. Nevertheless, this point should also be clarified with the insurance company. The same applies if the property of a third party is damaged (e.g. if the equipment provided for remote work causes a fire in the employee's rented apartment). To reduce the economic risks, it is advisable to clarify the scope of the already existing insurance coverage. In any case, the employee must also be covered by insurance for his/her professional activity, as well as for the material and equipment provided by the company.

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# GERMANY

## Implementation of remote work

In Germany, remote work (home-office, hybrid work, telework, etc.) is yet not regulated in detail by the legislator which means that remote work is subject to general labor law provisions. However, in the coalition agreement for the current legislative period, the German government has pledged to create a right to request remote work and home office from the employer in suitable jobs. Employers will only be able to object to such a request on the part of the employees if it conflicts with operational concerns. Collective agreements on remote work and home office are still quite rare. Only a limited number of collective bargaining agreements contain special regulations on the technical and personal requirements for remote work, the provision of hardware and software by the employer, cost and liability issues, access rights of the employer and options for returning to the office.

Remote work may only be introduced by agreement with each individual employee or based on a collective agreement (collective bargaining agreement, works agreement). If there is no agreement on remote work, the employer cannot unilaterally introduce remote work or even force the employee to accept it. Only in an absolute emergency, for example if there is otherwise a threat of completely disproportionate damage, it is conceivable that employees can be required to perform individual activities from home, even without a remote work agreement. However, since the integrity of the home is also protected by constitutional law, an obligation to home office on the part of the employee can only be assumed in exceptional cases. Just as the employer cannot introduce remote work without the employee's consent, there is no employee right to remote work. The employee may work remotely with the employer's consent.

When introducing remote work, a detailed remote work agreement is recommended to avoid disputes and to comply with the employer's obligations under occupational health and safety law. Especially after the end of the pandemic, the importance of regulating in detail when the employer can terminate or restrict the right to work remotely has become very clear. The agreement should cover the duration of remote work / right to termination of remote work, compliance (health and safety, working time, data protection, etc.), liability issues, and the reimbursement of the employee’s expenses. It should leave the right to terminate the remote work to the employer if employees have no legal claim to remote work. This is particularly necessary if it turns out that the employee does not provide the equivalent services as in the office. Nevertheless, the termination

of remote work must be justified as the employer must always observe the limits of reasonable discretion (*Grenze billigen Ermessens*) when exercising their right to terminate remote work. To avoid tax and social security issues, remote work abroad should only be permitted with the employer's consent.

## Required involvement of employee representatives and public / immigration authorities

Even at the planning stage and therefore before the introduction and use of home office workplaces, the employer must comply with the duty to inform the works council regarding to the planning of technical equipment, work procedures and work processes and workplaces.

If remote work is to be introduced on a general level (i.e. not merely for one individual), the works council has a comprehensive right to co-determination in the organization of mobile work performed using information and communication technology since 2001. However, the question of whether remote work is introduced is not subject to co-determination by the works council. This decision falls within the scope of the entrepreneurial freedom of the employer and the works council cannot legally enforce remote work. In addition, co-determination applies to issues relating to regulations on the duration of remote work, the beginning and end of the daily remote working time, or the location from which remote work may be performed. Furthermore, the works council has a right of co-determination in questions regarding work safety and the use of information and communication technology (e.g. software for monitoring teleworking employees).

The introduction of remote work and the associated change in the place of work may, as an individual personnel measure, constitute a so-called transfer (*Versetzung)* of the individual employee which can be subject to the co-determination of the works council.

There is no obligation to inform official bodies of the introduction of remotework and there are no special immigration regulations for digital nomads working remotely in Germany. If employees wish to work remotely in Germany and are not citizens of an EU member state, they normally require a residence title together with a work permit. Other requirements may apply in the case of certain activities that German law does not treat as employment.

## Equipment & Compensation for remote work expenses

As a rule, employers are required to provide employees with the necessary work equipment and to bear the costs thereof. This obligation relates to the equipment of the employee's place of work, regardless of whether it is in the home office or on company premises. If the employee's place of work is exclusively the home office, this must be equipped. While the provision of IT equipment is generally less likely to lead to disputes, the provision of a necessary desk, office chair and other furniture often does.

The question of bearing costs also frequently arises in the case of current costs such as rent, telephone, electricity, and heating. Increased running costs, such as electricity and heating costs are eligible for compensation. The difficulty for the employee is that they must prove that

the costs were incurred specifically for the home office and would not otherwise have been incurred. This is not possible in the case of internet and telephone costs with a flat rate and is difficult to prove in the case of electricity and heating costs.

The above principle of bearing costs is legally limited by the fact that the allocation of costs must correspond to the interest of the parties. This means that the party which has the predominant interest in working at a particular location must also bear the costs arising therefrom. There is a presumption that the employee has a predominant interest in remote work if the workplace is only relocated at his or her request. Where the employer offers a workplace on company premises and the employee chooses to work remotely, an overriding interest of the employee is to be assumed. Consequently, the employer does not have to bear the additional costs of the home office or remote work.

To avoid disputes, employers are advised to contractually stipulate a regulation regarding the distribution of costs. Insofar as the employer is to bear costs, he/she should agree with the employee on a flat rate for these costs. There should also be an agreement as to who will pay for travel expenses in the event of a necessary activity on the employer's premises and whether the corresponding commuting is considered as working time. In the case of alternating remote work (e.g. two weekdays at home and three weekdays in the company), it is the employee who must, in principle, bear the cost of travel to the company.

If the employer is required to bear the costs for the home office under the conditions described above, he/she may reimburse corresponding expenses of the employee on a tax-free basis upon presentation of the invoices. A regularly recurring lump-sum reimbursement of expenses can also remain tax-free under certain conditions. On the other hand, if the remote work is mainly in the interest of the employee and the employer nevertheless grants additional payments in connection with the remote work, the payments generally constitute taxable wages. Employees who work exclusively in a home office and do not have a workplace on their employer's premises can regularly deduct the costs for setting up a work room as income-related expenses to the amount of EUR 1,260 as part of their income tax return. Furthermore, employees have the option of claiming a "home office flat rate" of 6 euros per day of work in the home office (max. EUR 1260 per year) as income-related expenses in their tax return for remote work.

## Working time, performance and right to disconnect

Employees working remotely must adhere to the employer's specifications regarding the work schedule. For example, the employer may specify the beginning and end of working hours or a core working time (*Kernarbeitszeit*). If employers leave the distribution of working time up to their employees and have agreed to trust-based working time, the requirements of the Working Hours Act (*Arbeitszeitgesetz*) must nevertheless be observed. This means that employees can normally work up to 8, exceptionally up to 10 hours per day and a rest period of 11 hours must be observed thereafter. Especially at home it can easily happen that the legal rest periods are not observed. For instance, employees could decide to work mainly in the morning and

the evening so that the statutory rest period of 11 consecutive hours would be violated. Therefore, the remote work agreement should oblige the employee to comply with the Working Time Act. The employer should at least randomly check compliance with these requirements. A legal right to disconnect does not currently exist under German law.

Monitoring remote working employees is only possible within narrow limits due to the special constitutional protection of the personal rights of employees and data protection law. The employer may not enter the employee's home without consent. Measures for (clandestine) surveillance, such as the use of keylogger software to track the keystrokes of employees or taking screenshots, are only permissible if the employer has a well-founded suspicion of a crime or a serious breach of duty (e.g. working time fraud) on the part of the employee. However, to constantly monitor work performance, it is advisable to request reports from the employees at regular intervals on the progress of the work and, if necessary, partial work results. A contractual accessory obligation of the employee to provide evidence of work results is recognized by case law. The employer also has the possibility of demanding that the employee keep and present activity records.

In the event of an abuse of working time, the employer may terminate the employment depending on the severity of the working time violation. If the violation is not sufficient for a termination, a warning (*Abmahnung*) should be issued in any case.

## Health and safety and data protection

The employer is responsible for the health and safety of employees working remotely. The law does not differentiate between employees who work on the employer's premises and those who work remotely or in a home office. Under the Labor Protection Act (*Arbeitsschutzgesetz*) the employer must ensure that risks to the life or the physical and mental health of his/her employees are prevented and that any remaining risks are kept to a minimum.

German law does not establish any specific measures for remote working employees (e.g. regarding possible physical health problems or psychological stress). The specific measures depend on the risk assessment (*Gefährdungsbeurteilung*) which the employer is required to conduct.

The workplace must be equipped in a safe manner. Since the employer has no legal right of access to the employee's home, the remote work agreement should include a corresponding provision that permits the employer to have access for the purpose of ensuring compliance with occupational health and safety regulations.

In terms of data protection law, the employer must ensure appropriate data security when introducing remote work. The employer must ensure secure transmission channels and appropriate data protection-compliant handling. This also applies if the employee uses private means of telecommunication. Both technical measures (e.g. setting up a VPN client) and organizational measures (e.g. specific instructions on data handling and secrecy measures when teleworking) should be specified in the remote work agreement.


## Liability

In the event of an accident at work (*Arbeitsunfall*) while working remotely, the same regulations apply as for an accident at work in the company. Public accident insurance (*Gesetzliche Unfallversicherung*) compensates the employee to the same extent as if the activity were performed at the company's place of business. Accident insurance coverage exists if the accident occurred during an activity performed in the interest of the employer.

In terms of liability, no special rules exist for remote working employees. If the property of an employee is damaged as a result of remote working at home, the employer is liable and normally a company liability insurance will settle the claim. If necessary, and where possible, such insurance coverage should be extended to claims arising from the remote work arrangement.

If a third person (e.g. a family member) damages a device which belongs to the employer (e.g. the employee's spouse pours water over the laptop), that third person is fully liable. The company liability insurance probably does not cover damages caused by third persons. Nevertheless, this should also be clarified with the insurance company. The same applies if the property of a third party is damaged (e.g. if the equipment made available for the remote work causes a fire in the employee's rented apartment). To reduce economic risks, it is advisable to clarify the scope of the already existing insurance coverage.

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# GREECE

## Implementation of remote work

Remote work in Greece is regulated by the provisions of Article 67 of Law 4808/2021 in addition to the National General Collective Agreement of 2006 and 2007, which incorporated the European Framework Agreement on Telework. There are no regulatory differences between remote work, home-office, hybrid work and telework in Greece. Greek law defines teleworking as the remote performance of the employee's dependent work and with the use of technology, under a full-time, part-time, rotational or other form of employment contract, which could also be performed on the employer's premises.

The law stipulates that the employee and the employer may introduce teleworking only by mutual agreement, either from the beginning of the employment contract or at a later date through an insertion clause. Therefore, when teleworking is not part of the initial job offer, either of the interested parties may propose such an amendment to the agreement, while the other party can freely accept or decline the amendment with no obligation whatsoever. Thus, a legal basis and, specifically, a supplement to the employment contract is required for the proper introduction of teleworking.

Nonetheless, there are certain exceptions. Thus, if the work can be done remotely, teleworking may be applied: a) unilaterally by decision of the employer for reasons of public health protection or b) solely at the employee's request in the case of a documented risk to his/her health, which will be prevented if he/she works remotely instead of on the employer's premises and for as long as the risk lasts. If the employer disagrees to this, the employee may request that the dispute be resolved by the Labor Inspection Authority. The decision of the Ministers of Labor and Social Affairs and Health which defines the conditions, diseases or disabilities of the employee that may substantiate the risk to his/her health has also been published.

Prior to the latest changes introduced to teleworking, there was a 3-month adjustment period in which either party could discontinue remote working at any time, without prejudice to the employment relationship and working conditions, with a notice period of fifteen (15) days. Such implementation period is no longer defined by law but may in any case be agreed by the parties.

Within eight (8) days from the start of remote work, the employer is required to notify the employee by any appropriate

means as to the working conditions that will vary as a result of the remote work, which must cover at least the following:

- the right to disconnect;
- the analysis of the additional costs which are periodically borne by the employee as a result of remote work, in particular the cost of telecommunications, equipment and the maintenance thereof and how these are to be reimbursed;
- the equipment necessary for the performance of teleworking which is available to the employee or provided by the employer and the procedures for technical support provided;
- any restrictions on the use of the equipment or computer tools and penalties in the event of a violation thereof;
- an agreement on telecommuting, its time limits and the employee's response deadlines;
- the health and safety conditions of teleworking and the procedures for reporting an accident at work; and
- the obligation to protect professional data. Any of the above information which is not specific to the individual employee may also be disclosed by means of a posting on the company intranet or other notification provided for by the relevant company policy.

## Required involvement of employee representatives and public / immigration authorities

As stated above, remote work must be introduced by an agreement between the employer and the employee and therefore the involvement of employees' representatives is not required for the proper implementation.

However, it should be stated that remote employees have the same collective rights as employees at the employer's premises and it must be ensured that their communication with their representatives will not be hindered in any way.

Employees' representatives are informed and consulted on the introduction of remote work in accordance with the legislative framework regarding trade unions (Act Nº 1264/1982) and employees' councils (Act Nº 1767/1988). In light of the above, employees' representatives may in fact influence the introduction and design of remote work through collective bargaining which includes making respective suggestions to the employer on the said issues, negotiating the terms thereof and even signing in the event that an agreement is reached.

According to the legislative framework currently in force, the participation of employees' representatives is not required for the proper introduction of the said remote working system. Nonetheless, such participation may otherwise be provided by a collective labor agreement or any other agreement between the employer and the employees' representatives (trade unions, council of employees etc.). In this context, the consequences of any lack of participation, when such participation is in fact required, will be determined on a case-by-case basis and taking into consideration the specifics of any agreement reached between the parties.

## Equipment & Compensation for remote work expenses

The employer is required to cover the expenses arising from the services provided by the employee, namely any expenses pertaining to telecommunications. Additionally, the employment contract should stipulate the employee's remuneration for the use of his/her residence as a place of work. Furthermore, the employer must provide the employee with the necessary technical support and pay for the repairs of the equipment used by the employee or the replacement thereof, if required, including the equipment owned by the employee himself/herself, unless otherwise agreed by the parties. In any case, the employee is expected to take care of the equipment supplied to him and under no circumstances is he/she permitted to collect or distribute any illegal material through the internet.

By Ministerial Decision a) the minimum monthly cost of using the employee's home workplace was specified at 13 euros, b) the minimum cost of communications at 10 euros and c) the minimum cost of equipment maintenance at five euros. The third cost shall not be borne by the employer if he/she provides the equipment to the employees.

## Working time, performance and right to disconnect

As with other employees, remote employees are subject to the legislation on working hours and to the collective agreements and rules applicable to the company. They are therefore subject to the maximum daily and weekly working hours. Accordingly, the respective provisions of labor law regarding working time, such as overwork, overtime, break time etc. also apply to teleworkers and must be implemented by the employer.

The same law that reformed the legislative framework for teleworking also provided for the introduction of the digital work card in all companies in Greece. The digital work card records the beginning and the end of the working day. The implementation of the digital work card system is to take place gradually depending on the business activity of each establishment and eventually it shall be implemented for all companies and enteprises. So far, the digital work card system has been implemented in banks, supermarkets, insurance and security companies, public enterprises and organizations (DEKO) and as of January 1st, 2024 in the industrial sector (with the exception of energy, petroleum products and mining) and the retail sector. As far as remote workers are concerned, currently they do not fall within the scope of the implementation of the digital work card system which is basically applicable for employees providing their work at the employer's premises and not in the context of teleworking.

The right to disconnect is regulated for every teleworker. Teleworkers have the right to abstain completely from the performance of their work and, in particular, not to communicate digitally nor reply to telephone calls, e-mails or any form of communication outside working hours or during their statutory leave. Any discrimination against a teleworker for having exercised the right to disconnect is prohibited. The technical and organizational means required to ensure that the teleworker is disconnected from the digital communication and work tools are mandatory terms of the teleworking contract and shall be agreed between the employer and the representatives of the employees in the company or holding.

## Health and safety and data protection

The employer is responsible for health and safety measures at the teleworker's workplace. To that effect, the employer shall inform the teleworker of the company's policy on health and safety at work, which shall include in particular the specifications of the teleworking workplace, the rules for the use of visual display screens, breaks and any other necessary information. The teleworker shall be required to apply health and safety legislation at work and not to exceed his/her working hours. When a teleworker provides teleworking services, it shall be presumed that the teleworking site meets the above requirements and that the teleworker complies with the health and safety rules.

The employer is also responsible for taking the appropriate measures, notably with respect to software, to ensure the protection of data used and processed by the teleworker for professional purposes. The employer must inform the teleworker of all relevant legislation and company rules concerning data protection.

It is the teleworker's responsibility to comply with these rules. The employer informs the teleworker of any restrictions on the use of IT equipment or tools such as the internet, as well as sanctions in the event of non - compliance.

## Liability

Should any accident occur while the employee is working remotely which causes an interruption of his/her work, this may be considered as an occupational accident and should be properly disclosed by the employer to the authorities in accordance with the applicable procedure. After this, the authorities will investigate the matter to

establish whether the employer is in fact liable and, if so, the extent of that liability. If the accident is caused by an act or omission on the part of the employer, such as a violation of health and safety legislation, the employer shall be held liable for said accident.
Any employee who has suffered an accident at work which is deemed an occupational accident is reimbursed by the public insurance institution. Therefore, the employer is not required by law to take out private insurance to cover occupational accidents which may occur while the employee works remotely. However, any employer may freely do so. Nonetheless, the need for additional private insurance should be determined on a case-by-case basis and depending on the nature of the work performed.

The employment contract should stipulate the remuneration payable to the employee for the use of his/her residence as a working place. The employer provides the employee with the necessary technical support and pays for the repairs of the equipment used by the employee or the replacement thereof, if required, including of the equipment owned by the employee him/herself, unless otherwise agreed by the parties. Unless otherwise agreed, if any property of the employee used for the performance of his/her duties is damaged, the employer is required to compensate the employee accordingly. Moreover, following the general principles of civil law, the employer bears liability for any damage caused to third-party property by a negligent act on the part of his/her employee. The extent of the liability is ultimately determined by evaluating the specifics of each case.

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# HUNGARY

## Implementation of remote work

In Hungary there are no regulatory differences between remote work, home-office, hybrid work and telework.

The Hungarian Labor Code deals with "remote work" in general, a definition which covers all cases where an employee performs their work partly or fully in a place other than the employer's premises. These regulations of the Code are very brief. Therefore, a detailed remote work agreement between the employer and employee, or a company policy covering remote work, is strongly recommended.

When introducing remote work, it would be advisable to regulate the following main areas: duration and possible termination of remote work, compliance issues (health and safety, working time, IP and data protection etc.), liability issues and reimbursement of the expenses of the employee, if any.

Remote work may only be introduced by agreement with each individual employee or by the employee accepting the internal policy regarding remote work. It is not possible to introduce remote work based solely on the employer's right to issue instructions, neither can such a unilateral arrangement be regulated in any collective bargaining agreements or works council agreements. For the employers, there is one exception which may apply: for 44 working days per annum an employer can unilaterally "redirect" the employee to work somewhere other (including at a remote workplace) than the designated workplace.

In parallel with the above, employees do not have a legal right to demand remote work from the employer.

## Required involvement of employee representatives and public / immigration authorities

In the case of employers with a works council operating, the employer must consult with the work council before introducing remote work. The works council is entitled to deliver its opinion and comments; however, the employer is not bound by such an opinion. As the works council only has a right to express its opinion, lack of participation does not affect the validity of the remote working agreement or policy.

In Hungary, there are no obligations on the part of the employer to notify the employment supervision authority, tax or social security authority or other public authorities when introducing remote work. Nor there are special immigration rules for third -country (non-EU) employees when they work remotely in Hungary for their third-country employer. Remote work by digital nomads is regulated the same way as for Hungarian employees. If a third -country employee wishes to work remotely in Hungary and he/she is not a citizen of an

EU member state then they must apply for and obtain a residence permit for working purposes.

## Equipment & Compensation for remote work expenses

As a general rule, employers are required to provide employees with the necessary work equipment and to bear the costs for these. This obligation applies regardless of the place of work. Therefore, unless otherwise agreed by the parties, the employer is responsible for setting up the remote working space and, in principle, also for bearing the associated costs. This does not only refer to the costs for the acquisition of the necessary equipment but also entails a contribution to bills which are related to remote work (e.g. electricity, internet etc.).

However, the Labor Code allows deviation by agreement from the above general obligation and thus the parties can limit or even exclude the obligation to equip the remote worker and reimburse the latter's remote work-related costs.

It should be noted that neither the Labor Code nor the Personal Income Tax Act ("PIT Act"), nor any other Hungarian law obliges employers to pay remote workers a fixed cost allowance. The PIT Act only states that, where the employer provides such an allowance, then this would be taxed more favorably, i.e. as an item that can be accounted for as an expense without proof.

## Working time, performance and right to disconnect

The Labor Code does not contain special regulations relating to working time in the case of remote work. Therefore, the same working time regulations (breaks, maximum working hours, rest periods, recording working time, etc.) apply as for work performed on the employer's premises. Accordingly, it is for the employment contract or the additional remote work agreement (if any) to stipulate working time regulations and/or introducing flexible working time.

No specific "right to disconnect" exists for remote work and therefore the parties are bound by the general regulations covering working time.

Employers are allowed to monitor both the working time and the activity of remote employees to the extent provided for by the employment relationship. In that context, the employer may use technical means with the provision that the employer should notify the employees thereof in writing and in advance. When conducting an inspection, the employer shall only be entitled to inspect information stored on the equipment used for the performance of remote work.

Unless there is an agreement to the contrary, the employer shall determine the type of physical inspection and the shortest period between notification and commencement of the inspection if conducted at the remote workplace. The inspection may not impose unreasonable hardship on the employee or on any other person who is also using the property designated as the remote workplace.

If, in the course of monitoring, it is established that there has been an abuse of working time or any other working regulation, then the employer can impose measures which are typically applicable in cases of an infringement of the employee's

obligations, such as a written warning or even the termination of the employment contract (depending on the severity of the abuse).

## Health and safety and data protection

In the special case of remote work performed with an information technology or computer technology device or system, the employer is only required to inform the employee in writing about the rules of the safe and non-health-threatening working conditions necessary for performing the employee's work. The employee should then choose the place of work taking into account the need to comply with those rules on the basis of the information received from the employer. In this case, the employer is entitled to verify compliance with the occupational health and safety rules remotely, by using a computer technology tool, unless otherwise agreed.

With regard to data protection law, the employer must ensure appropriate data security when introducing remote work. The employer must ensure secure transmission channels and appropriate data protection-compliant handling. This also applies in the event that the employee uses private means of telecommunication. Both technical measures (e.g. setting up a VPN client) and organizational measures (e.g. instructions on data handling and confidentiality measures) should be specified in the remote work agreement/policy.

## Liability

In the event that an accident occurs at the remote workplace, the same regulations apply as in the case of an accident on the employer's premises. Namely, the Hungarian social security system will provide sick leave payment in the case of accidents suffered at work. Disbursement of such payments depends on whether the accident occurred during a professional or private activity and this should be assessed on a case-by-case basis.

If an employee suffers damage which is not covered by the Hungarian social security system, then they may claim compensation from the employer.

In the event that the employee or a third person (e.g. a family member) damages a device belonging to the employer, the employee and/ or the third person are fully liable.

In order to reduce economic risks, it is therefore advisable (but not mandatory) to take out insurance to cover the activities of employees working remotely.

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# IRELAND

## Implementation of remote work

The Work Life Balance and Miscellaneous Provisions Act 2023 was signed into law last year, and the sections of the Act relating to remote and flexible working commenced in March 2024.

This update focuses on the changes implemented by the legislation in relation to:

- Remote working
- Flexible working

Obviously, the concepts of remote and flexible working attracted a great deal of attention in the last few years - especially with the advent of Covid 19.

These concepts are relatively distinct - Remote working does not involve any change to terms and conditions of employment except working location. Flexible working can encompass changes to working hours/patterns.

The Irish Government decided that both concepts would be addressed in a single piece of legislation - the Work Life Balance and Miscellaneous Provisions Act 2023.

The key changes being introduced are:

- All employees may request remote working arrangements
- Parents and care-givers may request flexible working arrangements for caring purposes

The legislation defines flexible working as:

"A working arrangement where an employee's working hours or patterns are adjusted, including through the use of remote working arrangements, flexible working schedules or reduced working hours."

- There are two circumstances where flexible working arrangements can be requested: - For an employee to care for a child; and
- For an employee to provide personal care or support for medical care purposes.

Under the Act, "remote working" is an arrangement whereby: -

"Some or all of the work ordinarily carried out by an employee at an employer's place of business under a contract of employment

is provided at a location other than at the employer's place of business without change to the employee's ordinary working hours or duties."

The employer must consider the request "having regard to his or her needs and the employee's needs".

The employer must then respond to a request at least 4 weeks after receiving it.

## Required involvement of employee representatives and public / immigration authorities

For employees in Ireland, there is a constitutional right to join a trade union, to join the union of your choice and finally, the right to leave a union. You cannot be discriminated against because you are in a union or because of your union activity.

Presently, there is no published information on the involvement of employee representatives and public authorities as regards their involvement in the implementation of remote work.

## Equipment & Compensation for remote work expenses

At the moment, there is no information published on any requirements for equipment and compensation for remote expenses.

However, it is important to note that under the Safety, Health and Welfare at Work Act 2005, there is an obligation on all employers to ensure, as far as is reasonably practicable, the safety, health, and welfare at work of employees. This duty extends to providing and maintaining facilities and arrangements for the welfare employees at work. Issues relating to certain types of equipment - for example, adequate chairs and keyboards, would fall under the remit of the Act.

For the purposes of the health and safety legislation, "place of work" includes any, or any part of any, place (whether or not within or forming part of a building or structure), land or other location at, in, upon or near which, work is carried on whether occasionally or otherwise. This obviously extends the scope of the legislation to include both remote working and flexible working.

## Working time, performance and right to disconnect

There is no specific provision in the Work Life Balance and Miscellaneous Provisions Act in relation to working time in the remote and flexible working context. Therefore, the Organization of Working Time Act 1997 applies in the same way as office-based workers.

The Organization of Working Time Act provides that an employer cannot require employees to work for a period of more than 4 hours and 30 minutes without a break of at least 15 minutes. It also stipulates that an employer cannot require an employee to work for a period of more than 6 hours without allowing a break of at least 30 minutes, and entitles those who work Sunday to Sunday premium, and the foregoing provisions are still applicable for cases of remote and flexible working.

The Workplace Relations Commission has published a Code of Practice

addressing the right to disconnect in Ireland. The Code outlines best practice for employers in drafting appropriate right to disconnect policies and provides template clauses which each employer should tailor to their needs.

The Code outlines that A Right to Disconnect Policy should emphasize that the expectation that staff disconnect from work emails, messages, etc., outside of their normal working hours and during annual leave. However, employer policies should allow for occasional legitimate situations when it is necessary to contact staff outside of normal working hours, including but in no way limited to ascertaining availability for rosters, to fill in at short notice for a sick colleague, where an emergency may arise, and/or where business and operational reasons require contact out of normal working hours.

This right to disconnect is of particular importance in the remote working context as often times, the line between work life and home life potentially becomes increasingly blurred.

## Health and safety and data protection

As mentioned above, employees working flexibly and remotely are protected by the Safety Health and Welfare at Work Act 2005 which places a general duty on an employer to protect the safety of employees in the workplace.

There is another duty placed on employers in respect of providing the information, instruction, training, and supervision necessary to ensure an employee's safety and health.

Therefore, it would be prudent for employers to have adequate policies and training on any potential safety issues which could arise from remote working.

Obviously, in implementing remote working, employers have no intention of inspecting the homes of each employee. The legislation has a provision which states that where risks cannot be eliminated, providing, and maintaining suitable protective clothing and equipment to protect an employee's safety will be sufficient. This can potentially manifest as providing each employee with proper equipment for their safety.

There is also an obligation on the employer to consult with their employees when introducing new technologies particularly in relation to the consequences of the choice of equipment and working conditions and the working environment.

- The Data Protection Commission has given guidance on protecting personal data when working remotely. Both employers and employees should ensure that any device used has the necessary updates, such as operating system, software, and antivirus updates

- Any device is used in a safe location, and that nobody else can view the screen, particularly if working with sensitive personal data

- Devices are locked if they are left unattended for any reason and stored carefully when not in use

- Effective access controls, such as strong passwords, and, where available, encryption are used to restrict access to the device, and to reduce the risk if a device is stolen or lost

- Work email accounts rather than personal ones are used for work-related emails involving personal data. If a personal email must be used, any contents and attachments should be encrypted, and personal or confidential data should be avoided in subject lines

- Where possible only the organization's trusted networks or cloud services are used

Steps are taken to ensure the security and confidentiality of paper records, such as by keeping them locked in a filing cabinet or drawer when not in use and making sure they are not left somewhere where they could be read by others, lost, or stolen.

## Liability

The Safety, Health and Welfare in Work Act does not differentiate between office work and remote work regarding liability for accidents. Employees cannot directly claim compensation from employers under the health and safety legislation but can make a personal injury claim through the Injuries Resolution Board.

The Injuries Resolution Board is an independent statutory body that assesses personal injury claims after workplace accidents. If the Board finds an employer is responsible for the accident, it will set the amount of compensation they must pay an employee.

It is a criminal offense for an employer to fail to discharge their duty towards employee safety under the health and safety legislation.

In relation to failure to implement the provisions on remote and flexible working, employees may have recourse in some circumstances, but the Workplace Relations Commission (WRC) will only have the power to compel an employer to respond to a remote or flexible working request.

The WRC will also have powers to intervene in cases where the employee maintains that their right to a postponement has been contravened. Similar recourse will be available where the employer terminates the arrangement, and the employee believes this is unjustified.

The WRC will have the power to award compensation in certain circumstances – but this is capped at 20 weeks' remuneration in the case of flexible working and 4 weeks' remuneration for remote working.

There are no plans to give the WRC the power to direct an employer to approve a request for a flexible working arrangement – the WRC only has the power to direct the employer to respond.

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# ITALY

## Implementation of remote work

Italian law outlines three different types of remote work: (i) telework; (ii) agile work; (iii) home manufacturing (*lavoro a domicilio*).

I. Telework consists of work performed on a regular basis outside an employer's facilities using information technology and involving work which could also be performed on the employer's premises. Telework is usually performed from a single location (often the employee's home) with the same working time schedule as office employees. Telework is regulated by the social partners' 2002 European Framework Agreement, implemented in Italy by a 2004 Interconfederal Collective Agreement on Telework.

II. Agile work refers to work performed, with or without technological tools, partly on an employer's premises and partly outside them, with employees having a certain flexibility to choose the place of work and the working time deemed more suitable, but within the maximum working hours provided for by law and by the appropriate collective agreements. Agile work is specifically regulated by statutory provisions, as well as by a general collective agreement valid for most industries (the Interconfederal Collective Agreement on Agile Work) and specific sectorial collective agreements. Collective agreements address most aspects of agile work.

III. Home manufacturing work ("lavoro a domicilio") consists of the performance of manufacturing activities by employees at their home or elsewhere. Home manufacturing is remunerated through piece work remuneration tariffs.

Unless specified otherwise, all the comments in this document refer to "agile work".

Agile work is voluntary (therefore, an employer may not impose it) and each side may withdraw from it by giving proper notice.

In principle, agile work must be implemented through an individual agile work agreement between the employer and the employee who is going to perform the agile work. An employee's refusal to perform agile work does not constitute grounds for dismissal for just cause or justified reason, nor does it incur disciplinary measures.

Certain categories of employee have a right of priority in the event that an employer implements agile work: parents of children under 12 or of children with disabilities; seriously disabled employees; or employees who have caregiver responsibilities.

The individual agile work agreement must stipulate the employees' rights and duties, the fixed or indefinite term of the agreement, rest periods and the technical and organizational measures to ensure the employees' right to disconnect from their tech working tools; how employers should exercise their authority to control employees; and any specific disciplinary provisions connected to agile work performance. It is also very common for individual agreements to stipulate such matters as the maximum number of days that should be worked on an agile basis (with the remaining days to be worked at the office i.e. so -called hybrid work).

## Required involvement of employee representatives and public / immigration authorities

Employers have no statutory obligation to involve the unions or the works councils regarding the implementation of agile work agreements, but it is fairly common for the unions to insist and to negotiate such aspects as the reimbursement of costs, the organization of agile work and other matters.

Employers are required to report the names of the employees performing agile work to the Ministry of Labor, as well as the start and termination dates of the agile work. Failure to report will result in an administrative fine of 100 to 500 euro being imposed by the Labor Inspectorate for each employee concerned.

Non-EU national digital nomads performing a highly qualified activity through the use of technological tools for employers not based in Italy need not obtain a work permit. A visa to enter Italy is sufficient, in which case they can obtain a permit of stay for up to one year (upon condition that they have health insurance cover and subject to compliance with tax and social security provisions).

## Equipment & Compensation for remote work expenses

The law and the Interconfederal Collective Agreement on Agile Work do not provide a mandatory obligation on employers to provide equipment to agile workers. Employers usually provide laptops and other similar devices necessary for the performance of agile work. The parties may however agree otherwise. The costs of maintaining and replacing the employer-provided tools necessary for the performance of agile work are borne by the employers. Employees are required to immediately report any damage, loss or theft of said equipment.

There are currently no specific legal provisions obliging employers to reimburse costs (such as electricity and internet bills) incurred by employees when performing agile work. However, this is a frequent request on the part of employees and unions.

Currently, there are no special tax rules in favor of employees who work remotely. However, in connection with the COVID crisis first, and the energy crisis afterwards, the caps for benefits granted by employers to their employees (i.e. not specifically to agile workers, but including energy and

other utility bills) was increased for specific tax years (and such measures might be reintroduced in the future).

## Working time, performance and right to disconnect

There are no special rules on working time for agile workers: they are subject to the ordinary working time rules, as well as to the ordinary recording of working time through the Libro Unico del Lavoro (in 2003 Italy implemented the EU Working Time Directive without any significant deviations therefrom).

One of the principles regulating agile work is the flexibility of working hours. Agile work may be based expressly on objectives rather than working hours. If the agile work performance is based on a due number of working hours, agile workers may not change their required number of working hours but they may flexibly determine when they perform their work (except for any limitations agreed with their employer). In any event, agile workers may not exceed statutory limits on working hours.

Employees have a right to disconnect. The law, however, does not define how disconnection should be implemented in practice. It simply requires individual agile work agreements to define "… the technical and organizational measures necessary to ensure the disconnection of employees from technological tools." The Interconfederal Collective Agreement on Agile Work provides that individual agile agreements must identify the hours during which an employee may disconnect, as well as the technical and organizational measures necessary to enforce that disconnection.

With regard to teleworkers, the 2002 European Framework Agreement on Telework provides that employers may check whether the telework place complies with safety laws, including through inspections. However, when the location of the telework is an employee's home or domicile, such checks require the consent of the employee. Employees are also entitled to request inspection visits. Italian safety laws implemented such principles literally. Their wording is broad enough to also apply to agile employees (and the Interconfederal Collective Agreement on Agile Work provides for this), at least under those circumstances in which a specific recurrent external place of work can be identified.

The limitations, if any, on the timeframe of the agile work must be outlined in individual employment agreements (and/or in policies or collective agreements incorporated by reference in the individual employment agreements). Employers (as well as employees) may withdraw from individual agile work agreements by giving the notice stipulated by law or in the individual agile work agreement (usually no less than 30 days).

The individual agile work agreements must stipulate how employers will exercise their authority to control the employees' performance outside the employer's premises. Employers are, however, required to respect the privacy of employees, in accordance with the ordinary rules. Employers may not, for example, install hidden software on the employees' computers. Controls may be installed on the tools used by the employees in the performance of their duties (e.g. computers, tablets, smartphones) Such controls must, however, be used in

compliance with statutory rules on controls and therefore employees must be informed as to how controls will be conducted.

In the event that an employee fails to abide by his/her commitment to regular or agreed working hours, the employer may initiate disciplinary proceedings in accordance with applicable standard rules related to disciplinary matters.

## Health and safety and data protection

Since agile work may from time to time be performed from an employer's premises and from various unspecified locations, employers are responsible for health and safety in different ways. When employees work from an office (or from another of the employer's facilities) employers are responsible for ensuring health and safety in accordance with the ordinary rules, including ensuring that the workplace complies with all the occupational safety requirements.

However, employers cannot ensure in the same way the safety of the multiple other places from which an agile employee may work. Therefore, employers are required to provide agile employees annually with a written notification outlining the general and specific risks related to the way in which their work is performed. Moreover, employers are required to provide agile employees with all useful information related to the proper use of the equipment provided by the employer; an employer and an employee must agree on the safety requirements relating to the use of tools belonging to the employee. Arguably, in the event of accidents outside the employer's premises, employers are liable (even, if applicable, criminally liable) for any breach of their duty to protect employees, where the notification and the information provided to employees was inadequate. However, they will not be considered in breach in the case of accidents caused by the failure on the part of an employee to follow their employer's instructions.

In the case of teleworkers (as opposed to agile employees), employers are responsible for ensuring that the place of work complies with occupational safety rules.

In order to be as specific and focused as possible, employers may progressively refine their annual notification to agile employees regarding the general and specific risks related to the performance of agile work and may also provide such notification more frequently. Employers may also provide focused training which addresses the potential risks arising from different circumstances.

With regard to teleworkers, the 2002 European Framework Agreement on Telework provides that employers are entitled to verify whether the telework place complies with safety laws, including through inspections. However, when the telework place is an employee's home or domicile, such checks require the consent of the employee. Employees are also entitled to request inspection visits. Italian safety laws implemented such principles literally. Their wording is broad enough to also apply to agile employees (and the Interconfederal Collective Agreement on Agile Work provides for this), at least under those circumstances in which a specific recurrent external place of work can be identified.

There are no special rules specifically addressing the physical health of remote employees, but the ordinary rules are sufficiently broad to also cover the risks that remote employees may face.

Employers are required to comply with data protection laws regarding the processing of data related to agile employees, as well as employment laws on the remote monitoring of employees. The Interconfederal Collective Agreement on Agile Work recommends that a data processing impact assessment always be carried out and that policies be adopted concerning agile work which are consistent with the concept of security by design and which address the management of data breaches and the adoption of adequate security measures (such as cryptography and authentications systems) and provide training on the use, safekeeping and protection of remote connection tools, as well as on precautions to be adopted when performing agile work and the management of data breaches.

## Liability

Employees who perform agile work are in principle entitled to the same protection against accidents as all other employees. Thus, work-related accidents suffered by agile employees are treated in the same way as any other work-related accidents. It may, however, be more difficult for agile employees to prove that an accident occurred during the performance of their work and not during their personal daily activities.

In Italy, there is a mandatory governmental insurance plan which covers accidents at work and occupational diseases (workers' compensation) which also expressly applies to occupational accidents and diseases

arising from risks related to work performed outside company premises. INAIL (the governmental agency which manages said insurance scheme) must assess whether a reported injury or disease is covered by the insurance plan. Reporting occupational accidents and diseases is the obligation of the employer in accordance with the ordinary rules applicable to agile and non-agile employees.

There are no special rules regulating damages caused to employees' or employers' property, respectively, during the performance of agile work. Liability for

those damages must therefore be assessed in accordance with the ordinary rules governing causation, negligence, willful conduct and so forth. The Interconfederal Collective Agreement on Telework instead suggests that all such liability should be borne by employers, subject however to the provisions of individual agreements.

Whether or not a company's liability insurance would cover damages caused to employees' and employers' property, respectively, during the performance of agile work depends on the insurance policy conditions agreed. In principle, coverage applies regardless of whether damages relate to agile performance, but contractual provisions may allocate liability in different ways.

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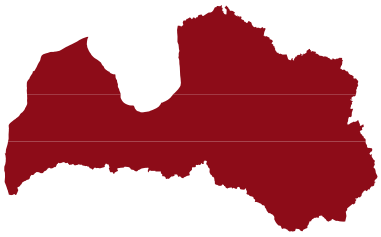

# LATVIA

## Implementation of remote work

According to the Labor Law of the Republic of Latvia, telework is a type of work arrangement in which work, which could be performed at the employer's premises, is carried out elsewhere permanently or on a regular basis. This includes work carried out with the use of information and communication technologies. Work which, by its nature, involves regular travel is not considered to be remote work.

In accordance with the provisions of the the Labour Law, the employment contract must provide details of the employee's place of work, or the fact that the employee may be employed in different places, or that the employee is free to choose his or her place of work. Therefore, the employer and the employee may agree in the employment agreement on remote work at another place, such as the employee's home, or on hybrid work, including the employee's periodic presence at the workplace on the company's premises, if necessary.

If remote work is not provided for in the executed employment agreement, an amendment to that effect must be made by both parties. An employer is not entitled to require an employee to work remotely without his/her consent.

According to the the Labour Law, there is a specific group of employees who are legally entitled to apply for remote working and/or to adjust the organization of working time. These are employees who have a child under the age of 8, and employees who have to personally care for a spouse, parent, child or other close family member, or a person who lives in the same household as the employee and requires significant care or support due to a serious medical condition.

The employer must consider the employee's request and notify him/her of its decision no later than one month after receiving the employee's request. However, the employer is not required to accept the request.

Currently, there are no specific requirements for remote work in the general collective agreements for a specific industry in Latvia. However, if a separate collective agreement is in force in a company, the obligations and rights of the parties as they relate to remote work may be stipulated therein.

Employers who typically employ at least 10 employees are required to adopt internal working policies. In these internal regulations, the employer can specify the procedure for and the rights and obligations related to remote work.

## Required involvement of employee representatives and public / immigration authorities

The Labor Law does not provide for specific involvement of employee representatives; however, employee representatives have general rights to request and receive information on working conditions and employment, to take part in determining and improving the working environment, working conditions, organization of working time and protection of safety and health of employees, and to consult with the employer, for example, before adopting internal work regulations (including internal policies related to remote work).

As the parties have considerable freedom to mutually agree on remote work, there are no statutory provisions that require official notification of the implementation of remote work to the authorities.

Foreigners may also perform telework from the territory of Latvia if they work for an employer registered in another OECD member state or as a self-employed person registered in an OECD member state. A foreign citizen may apply for a long-stay visa in accordance with applicable rules. If the foreigner wishes to extend his/her stay in the Republic of Latvia upon expiry of his/her visa, he/she may apply for a temporary residence permit.

## Equipment & Compensation for remote work expenses

A fundamental principle of employment relations is that employers are responsible for providing, installing and maintaining the equipment necessary for work, unless employees use their own equipment. This means that employers must provide or reimburse objectively justified expenses related to telework, including the cost of an ergonomic desk and chair if requested by the employee, as well as electricity and Internet charges, unless otherwise specified in the individual employment contract or collective agreement. To avoid disputes, it is recommended to agree in the employment contract on the expenses to be covered by the employer and their maximum amount.

The employee and the employer may agree that the employee will take the employer's equipment necessary for remote work, e.g. a computer, an office chair, etc., to the place of remote work. At the same time, the Labor Law allows the parties to agree that the employee will use his or her own equipment for work purposes and that the employer will reimburse the employee for depreciation of the equipment used by the employee.

It should be noted that there is a cap in the tax legislation on the amount of the reimbursement of such expenses that is not subject to taxation (in terms of the personal income tax that the employer calculates and pays to the state budget from the employee's income). If the total amount of expenses reimbursed by the employer for remote work does not exceed 40 EUR per month, such reimbursed expenses are excluded from taxable income in accordance with statutory regulations.

## Working time, performance and right to disconnect

Whether the employee works on the employer's premises or remotely, the general rules on working hours and rest periods apply. According to the Labor Law, the agreed daily or weekly working hours,

as well as the times when work begins and ends, must be included in the employment contract or specified in the collective bargaining agreement, work regulations and/or shift schedules.

The employee's regular daily working time may not exceed 8 hours, and the weekly working time may not be greater than 40 hours. Any work performed by the Employee beyond his/her regular working hours is deemed to be overtime work, which is permitted only if agreed in writing by both parties and only in exceptional cases without the written consent of the employee.

If the nature of work makes it necessary to ensure the uninterrupted functioning of the organization, the employer may establish an aggregated working time with an accounting period of up to three months, thus deviating from the regular daily or weekly working times. Within the aggregated working time, it is prohibited to employ an employee for more than 24 consecutive hours and 56 hours per week. If the aggregated working time is determined, the employer shall ensure that the daily rest period within the accounting period is not less than an average of 12 hours per 24-hour period, and the weekly rest period is not less than an average of 35 hours per week, including the daily rest period.

If an employee works more than 6 hours per day, he/she is entitled to a work break of at least 30 minutes. Breaks must be granted no later than four hours after the start of work.

The organization of remote work depends on the company's specific characteristics and on the duties of the employee's position. If the contract of employment does not define the rights and obligations of both parties, as well as the terms under which the employer may withdraw the permission to work remotely, specific provisions should be included in the company's internal policies, including the organization of working hours and breaks, the procedure for reporting completed tasks, channels of communication, among other issues. It should be noted that if the contract of employment provides for the employee to work remotely, the employer cannot unilaterally withdraw from this arrangement unless the contract of employment grants the employer such rights and conditions.

The employee is required to work during the specified working hours and ensure that he/she is available. The employee is not entitled to unilaterally withdraw from the agreed or fixed working hours; any changes in the working hours must be agreed with the employer in writing. During rest time, the employee has the right to disconnect, as rest time within the meaning of the Labor Law is a period during which the employee does not have to perform his/her work duties and may use it at his/her own discretion.

However, as already mentioned, an employee who, for example, has a child under the age of eight, has the right to ask the employer to adjust the organization of working time. In practice, this means that the employee has the right to ask for a different organization of working time (e.g. to start work later and finish work later, or to start work earlier and finish work earlier, etc.), but the employer may refuse the request (in writing) if this is not possible due to the specific nature of the work in question, and other similar reasons.

The employer is required to record the employee's remote working hours and keep accurate records on each employee. The Labor Law does not specify the manner

in which such time-keeping should be performed. Therefore, employers may keep records of working hours in a manner that is most convenient for the company.

Employers have the right to monitor and track the working time of remote employees, including the time spent on computers and work systems. However, to comply with data protection requirements, employees should be provided with computers. In any case, the Data State Inspectorate of the Republic of Latvia has stated that video surveillance of employees, such as requiring them to work with the computer camera on while at home, is not permitted. To ensure that employees adhere to the prescribed working hours and do not work outside of them, employers may use technical solutions such as restricting access to work emails, servers and systems outside of the prescribed hours.

## Health and safety and data protection

The Labor Protection Law stipulates that the employer is responsible for the safety and health of employees at work. This principle also applies to remote work. Therefore, risk assessment of the work environment, training of employees in occupational safety and other duties to ensure a safe and healthy work environment for employees must also be carried out for remote work.

Initially, it is essential to identify the workplace where the employee primarily works and to assess the work environment risks at the employee's workplace location or for the employee's type of work, such as risks related to the use of computers, ergonomics, and the like. The Cabinet of Ministers' Regulation prescribes the procedures for internal monitoring of the work environment, including the assessment of the work environment risks. Employers must take steps to eliminate or reduce identified work environment risks (including those related to psychological and emotional factors) and ensure the development of a work safety plan. The Cabinet of Ministers Regulation prescribes specific provisions for the prevention or reduction of risks and requirements for the environment and equipment when working with displays, such as requirements for the display screen, keyboard, work desk, work chair, room and workplace lighting, etc.

Employees working remotely must cooperate with the employer and provide information on conditions at their workplace that may impact their safety and health while performing their work. The law does not provide for the employer's right to inspect the employee's home, but different questionnaires to be filled in by the employee himself can be used for this purpose, to assess the environment at the workplace and to ensure that it is suitable for work. To this end, employers may ask the employee for photos of the workplace or to arrange a videoconference.

In addition, employers must provide employees who work with display screen equipment with periodic mandatory health examinations, including eye tests. If it is determined that an employee requires special medical optical corrective devices (glasses) for the performance of his/her work duties, the employer is required to pay for the purchase of glasses in accordance with internal procedures, the employment contract or the collective agreement.

## Liability

Employers are responsible for the safety and health of employees wherever they work, even if the work is conducted remotely. If an employee is injured, the employer must investigate the accident. The procedure for investigating occupational accidents also applies to accidents that occur while working remotely. However, even with remote work, it can be difficult to determine whether an accident occurred in the course of work. Not all cases will result in employer liability. To reduce potential risks, it is important for the employer to have fulfilled all statutory obligations on occupational safety and health, to have provided training to employees on occupational safety and health, electrical safety, safety equipment, occupational hygiene and fire safety, and to have ensured that the employee understands and complies with the requirements of the occupational safety and health instructions.

In Latvia, there is mandatory state social insurance against occupational accidents and diseases, and employees receive compensation for medical expenses, purchase of medicines, medical and social rehabilitation, prostheses, etc., up to the maximum amount set by law. In addition, the employer is required to pay the employee who has suffered a work accident sick pay for the first 10 calendar days, not less than 80% of the average monthly wage, and a benefit equal to one month's salary if the employee has suffered serious bodily harm as a result of the work accident due to the employer's fault. The victim also has the right to file a civil lawsuit and claim compensation for damages in excess of the state compensation, as well as additional compensation for moral damages.

If the employee's property is damaged and the use of the employee's work equipment has been agreed between the parties, the employer must compensate for the damages or the loss of the work equipment, unless the employee is at fault.

However, if the employer's property is damaged by the employee or a third party in the home office, the extent of the employee's civil liability will be determined according to the circumstances of the case, taking into account, in particular, the extent of the employee's or the employer's fault. If the employer's losses were caused by the employee's malicious intent or by the employee's illegal, culpable action not related to the performance of the contracted work, the employee is liable for all the employer's losses.

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# LIECHTENSTEIN

## Implementation of remote work

Under the labor law legislation of Liechtenstein, remote work (home-office, hybrid word, telework, mobile work etc.) is not specifically regulated and the general labor law provisions apply. No collective bargaining agreements exist that contain special regulations concerning remote work.

Based on their authority to give instructions, it is advisable for the employer to issue specific regulations that govern the details of remote work. Such regulations should contain specifics as to the scope (duration/ termination) and principles of remote work (in particular working hours and accessibility for colleagues and clients), including details on the establishment of a workstation at home and access to the system, on cost regulation when performing remote work, on behavior in the event of malfunctions, on the right of access to the workstation at home (especially with a view to preventing unauthorized family members or third persons from gaining access to confidential information), on liability, on security measures (confidentiality and data protection) and health protection, etc. If the regulations contain areas that cannot be instructed unilaterally, the employee's consent must be obtained.

The employer's right to issue instructions is limited. In particular, they have no legal power of disposal over the employee's private rooms and, therefore, an employer does not have a legal right to unilaterally introduce remote work. Likewise, an employee is not entitled to work from home if the employer does not agree. There are, however, exceptions such as the Covid-19 pandemic, when the employee's duty of loyalty meant that they were required to comply with the employer's instruction to work at home, especially at the time when the Liechtenstein government issued a remote work recommendation for fields of work where this was possible. (In rural Liechtenstein, however, unlike its neighboring country Switzerland, there has never been a state-imposed remote work obligation, but merely a recommendation.) In the same way, the employer's duty of care towards the employee resulted in a claim for employees who were very much at risk from the virus to be permitted by the employer to work remotely.

A particular challenge for remote work in Liechtenstein with its only 160 square kilometers is that almost 60% of employees are commuters from neighboring countries (Switzerland, Austria, Germany). In May 2023, the Government of Liechtenstein

recognized the "Framework agreement on the application of Art. 16 (1) of Regulation (EC) No. 883/2004 for cases of habitual cross-border telework" and mandated the Liechtenstein Office of Health to sign this framework agreement (as Germany, Austria and Switzerland have also done). Since the start of the Covid-19 pandemic, telework or home office has become the norm in many employment relationships. In the interests of both employers and employees, a multilateral framework agreement on cross-border telework has been negotiated at EU/EFTA level for the period after the end of the transitional phase on July 1, 2023.

According to the framework agreement, the country of residence of the employer remains responsible for social security for telework up to a maximum of 49.9%. The framework agreement only covers social security law and, in particular, not tax law. The current status of signed framework agreements and participating countries can be found **here**.

## Required involvement of employee representatives and public / immigration authorities

It is not necessary to consult employee representatives when introducing home office. As with Switzerland, Liechtenstein has very liberal labor laws and employee representatives or trade unions play a rather subordinate role, especially in areas where remote work is possible (e.g. office jobs, where again collective labor agreements and trade unions play no role and collective labor agreements do not exist). Employee representatives are nonetheless concerned as surveys show that remote employees perform their work at home more often in the evenings or at weekends. According to those representatives, this increases the risk of self-exploitation.

No obligation exists in Liechtenstein to notify the introduction of remote work to public authorities and there are currently no special immigration regulations for digital nomads who wish to work remotely in Liechtenstein.

## Equipment & Compensation for remote work expenses

According to the law, the employer is required to provide the necessary infrastructure for work. If employees use their own, the employer can compensate them appropriately, depending on the agreement. If the employee works predominantly at the company but has the option of remote work, practice states that the employer has thus already fulfilled his/her obligation to provide a workplace and therefore, in principle, is no longer required to reimburse any further costs for equipment.

If expenses are incurred for work-related reasons, the employer is legally required to reimburse them. However, if the employee works remotely out of self-interest, even though a fully-fledged workplace is provided by the employer, there is no obligation to compensate. A judicial clarification of the question as to whether remote work during the Covid-19 pandemic is to be classified as voluntary or necessaryhas not been clarified in court so far.

In fact, in April 2019, the Swiss Federal Supreme Court, whose case law is relevant

in Liechtenstein as Liechtenstein adopted its labor law provisions from Switzerland, issued a ruling according to which the employer must pay part of the apartment rent if it sends the employee to work from home. The court compared the apartment rent to the use of a private vehicle for work purposes, which usually also entails compensation. However, it must also be borne in mind that, in the case before the Federal Court, the employer was unable to provide the employee with a workplace, which meant that the remote work had an involuntary character. Experts are of the opinion that partial assumption of the rent is only possible in such cases.

To date, no special tax rules in favor of employees have been implemented. With regard to the abovementioned cross-border commuters' challenge, the "Framework agreement on the application of Art 16 (1) of Regulation (EC) No 883/2004 for cases of habitual cross-border telework" brought the desired longer-term clarification.

## Working time, performance and right to disconnect

The usual rules on working time apply and they do not differ from the rules applicable for office work. The relatively and absolutely mandatory provisions of individual labor contract law, and the provisions of the labor code under public law, must be complied with in the case of remote work.

In Liechtenstein, particular labor law issues are raised by so-called (common and widespread) trust-based working time, in which the recording of working time is waived in whole or in part. This leads to difficulties with the mandatory provisions of the labor code, in particular with the rigid obligation to record working hours, which, strictly speaking, forces the employer to document the daily working time of each employee, including all breaks, without any gaps, which means that genuine trust-based working time cannot be reconciled with the current law. Even if an employee has no obligation to record his/her working time and trust-based working time is factually accepted, it is always advisable that he/she has the right to record their working time themself using a comprehensible system (e.g. excel spreadsheet). The burden of proof for the alleged overtime work lies with the employee.

In principle, an employee is - and this is a major advantage of remote work - free to organize his/her working hours while performing remote work in such a way as to guarantee the contractually agreed response time and availability time for work colleagues and clients. At the same time, this freedom entails risks, for example, with regard to non-compliance with maximum working hours or violations of the ban on night and Sunday work. Consequently, the employer should regulate working hours as far as possible, preferably contractually.

A legal right to disconnect does not currently exist under Liechtenstein law. However, there is also no obligation for employees to continue to check their e-mails if they have already completed their daily quota of working hours even though this may in fact occur more and more frequently.

Provided that an employee has no contractual claim to a given amount of remote work, an employer may always

limit or revoke the possibility of remote work and order an employee to work in the office.

Normally, the system for monitoring working time in the office or from home is identical. Time clocks are usually a thing of the past and data is recorded electronically on a computer. Trust-based working time is not recorded anyway. Teleworkers are mainly observed by monitoring their work performance and progress and the result of their work. Often, the work activity also requires the recording of the work performance in order to be able to invoice clients for it.

As a general rule, control measures must not violate the privacy or confidentiality of the employee and this includes the rights relating to his/her house. Without the consent of the employee, an employer has no right to access the employee's home (provided that such access is not justified by an exceptional situation).

An abuse of working time triggers the same consequences as for office work: warning, notice or termination without notice may be the appropriate response of the employer.

## Health and safety and data protection

In Liechtenstein, the employer is legally required - regardless of whether work is conducted in the office or at home - to provide health and safety protection for the employee. The employer is particularly required to take all measures to protect the health of employees which are necessary based on experience, applicable according to the state of the art, and appropriate to the conditions of the company. The employer shall also take the necessary measures to protect the personal integrity of employees; these measures shall also include protection against sexual harassment in the workplace. However, it can be difficult for the employer to comply with this obligation in the case of remote work arrangements.

While working remotely, working hours and rest periods must be observed. The workplace at home must be ergonomic, grant sufficient daylight, cause only low noise and provide a suitable room temperature.

When working from home, increased attention must be paid to confidentiality and data protection. Both the employer and the employee have a responsibility to maintain secrecy and data security. The employer must support the employee in ensuring that confidentiality and data protection can be technically and organizationally ensured in the home office by providing secure transmission channels and appropriate data protection software, and by giving sufficient instructions on data handling and secrecy measures when teleworking.

It is highly recommended that the employer provides a detailed and comprehensive summary of health and safety requirements in the regulations.

## Liability

In the event that an employee is performing work at home and an accident occurs, the same rules apply as if the accident had occurred in the office, and there is mandatory insurance coverage.

Regardless of whether work is performed in the office or at home, the employer is liable for damage caused by his/her employee in the exercise of the latter's contractual duties. The employee must have caused the damage in the course of his/her business activities, i.e. in the performance of his/her function within the employer's work organization (functional connection).

Thus, the employer is also liable for the actions of his/her employee if the employee extends or incorrectly performs tasks on his/her own initiative (exceeding competences) and the employer fails to intervene despite being aware of such activities.

The employee is liable for any damage he/she causes the employer, whether willfully or by negligence. The extent of the duty of care owed by the employee is determined by the individual employment contract, taking due account of the occupational risk, level of training and technical knowledge associated with the work, as well as the employee's aptitudes and skills of which the employer was or should have been aware. In the event that the damage is caused by a third party, they (or their third-party liability insurance) are fully liable.

Generally, the insurance of the damaging party covers the damage subject to any deductible.

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# LITHUANIA

## Implementation of remote work

According to Article 52 of the Lithuanian Labor Code (LC), remote work is a general term referring to a way of organizing work or performing work functions, where the employee regularly performs all or part of his/her work at a distance, i.e. at a place other than his/her usual place of work. Remote work includes all situations, such as hybrid work, where an employee performs only part of his or her work outside the office (for example, only a few days a week), home office, as well as telework, where an employee works using information and electronic communications.

It is important to note that while the LC covers the most basic minimum aspects of remote working arrangements, collective agreements for a specific industry or company may provide better conditions for employees. Employers may establish a general internal policy on remote working, but collective agreements may require the employer to discuss the procedure with a professional trade union representative of the company or industry. Accordingly, an employer is legally required to report at least annually on the status of telework either to the company's works council or, if there is a professional union, to its representatives. It is therefore conceivable that a trade union may start negotiations to improve the conditions of telework.

A general internal policy on telework can be implemented by an employer. In addition, telework may be arranged either at the request of an employee or by mutual agreement between the parties. Such an agreement and its terms must be in writing. However, this requirement is not absolute. Case law indicates that the terms and conditions of telework can be inferred from the general practice of the company. Nevertheless, it is always advisable to put such an agreement in writing to avoid unnecessary disputes in the future.

In certain situations, companies may be required to implement remote working. The Covid 19 pandemic resulted in the introduction of a legal obligation to work remotely in the event of a public health emergency or quarantine declared by the national government. In such circumstances, employers are required to ask employees to agree to work remotely. If an employee refuses, the employer may suspend the employee from work without pay.

An employer may be legally required to allow remote work upon request from employees in certain situations. Specifically, the employer must accommodate an employee's request to work remotely if the request is made by (i) a pregnant employee; (ii) an employee who has recently given birth or is breastfeeding; (iii) an employee who is raising a child under the age of 8; (iv) an employee who is a single parent raising

a child under the age of 14 or a disabled child under the age of 18; (v) an employee who has a disability and whose health care provider has determined the need to work remotely; or (vi) an employee who must care for a family member or a person who lives with the employee as a result of such person's health condition.

## Required involvement of employee representatives and public authorities / immigration

The law does not contain a specific requirement for employers to consult or inform employee representatives when entering into a telework agreement. However, if the company has at least 20 employees and there is no trade union, a works council should be elected to be involved in the employer's telework decisions. In this context, the representatives can influence the company's internal policy on remote working arrangements, including the introduction, implementation and authorization requirements. The employer must inform the works council or, where there is no works council, the trade union at the employer level, on a regular basis, at least once per calendar year, at the works council's request, of the state of teleworking in the company, institution or organization, indicating the number of employees so employed, the positions they hold and, if there are more than two employees in a professional group, the average wage per professional group and gender.

It should be noted that telework is not considered as a separate type of employment, but rather as a way of performing employment-related duties. Therefore, the parties have ample discretion and freedom to decide on remote work without the need to involve public authorities.

## Equipment & Compensation for remote work expenses

When agreeing to work remotely, specific requirements related to the workspace and equipment to be used, and the means to provide them, must be agreed upon. These requirements may be outlined in a general company policy or agreed upon on an individual basis with the employee. The exact amount of compensation and payment must be determined by the parties themselves.

It could be agreed that an employee will use his or her own equipment, such as a laptop or phone, but there must be compensation for depreciation. It is also advisable to agree to reimburse the cost of purchasing and setting up the equipment, as well as any increased electricity or internet bills, although these issues are rarely discussed in practice.

## Working time, performance and right to disconnect

According to Lithuanian law, in the case of telework, the employer determines the procedure for calculating the hours worked. As a rule, a teleworker is free to distribute his/her working time. However, the number of working hours should never exceed the maximum limit and the requirements for the minimum number of rest periods must be met. This means that, while an employee has discretion, he or she may not work more than an average of 48 hours per week (including overtime) or 60 hours per week (including additional work), and must take at least 11 hours of rest between each workday and at least 35 hours of rest in any 7-day period.

To ensure compliance, the State Labor

Inspectorate recommends that employers create internal documentation detailing the duration of work, start and end times, response time to emails and phone calls, the employee's electronic availability hours, and routine supervision schedule, such as regular calls with a direct supervisor. Documentation should also be in place to ensure that work functions are not performed at night, on holidays, on rest days, or during overtime unless otherwise directed and compensated accordingly. In addition, the employer may have an internal policy outlining the circumstances under which a telework authorization may be revoked.

However, monitoring compliance with internal working time documentation remains a challenge. It is widely recognized that employees tend to work longer hours when teleworking than when working on-site. Unfortunately, there is no specific regulation on how to monitor employees without violating their privacy or overburdening them with excessive supervision. In addition, although there have been political discussions about establishing a right to disconnect, such regulations have not yet been implemented. It is therefore advisable to agree in advance on routine supervision, such as the frequency of communication between the employee and his/her manager, regular feedback or performance reviews. If an employee does not adhere to his working schedule, the employer may cancel the option to work remotely, provided such a consequence is specified in the employer's internal policy.

## Health and safety and data protection

The employer retains a general duty to ensure the health and safety of an employee in all circumstances. Teleworkers are subject to the same health and safety conditions as other employees.

Before remote work begins, employees should be briefed on the necessary health and safety measures. In addition, employers must ensure that the workplace meets all necessary requirements, including adequate lighting and furniture. Similarly, measures to mitigate risk factors, such as sitting in the same position or eye problems, should be implemented when teleworking. The law also requires employers to ensure that teleworkers have the opportunity to communicate and cooperate with colleagues and employee representatives. Employees, for their part, have a general duty to follow safety protocols and use equipment properly.

Although Lithuanian law does not explicitly grant employers the right to enter an employee's home, a remote work agreement may include a provision allowing the employer or another authorized person to inspect the workplace to ensure compliance. In addition, it is possible to agree that the employee will provide photographs of the workplace to be used for teleworking.

The data protection requirements based on the GDPR are also an important aspect to be discussed. According to the Lithuanian LC, the employer is responsible for ensuring that an employee's data is adequately protected. While an employer may monitor an employee's activities, the measures should be proportionate and the employee should be explicitly informed about the possibility of being monitored.

If employees use their own computers, it is important to take steps to separate work from personal use. One way to achieve this is to create two separate accounts on

the same computer. In addition, employers have a legitimate interest in protecting their confidential information. It is important to ensure that the Internet used by remote employees is secure. In addition, their devices should be password-protected and their connection to employer databases should be secured.

## Liability

Accidents that occur while working remotely are treated no differently than those that occur in the workplace. Employers have a duty to provide safe and healthy working conditions, but liability depends on whether the accident was caused by the employer's fault or the employee's failure to act responsibly. The main challenge in remote work accidents is determining whether there is a sufficient causal link between the damage and the work functions. If the exact working hours or location have not been agreed in advance, it may be difficult to determine liability for accidents.

However, if an accident occurs during working hours and the employee is not at fault, mandatory state insurance covers loss of income due to temporary inability to work. The employer must cover additional damages, including general and special damages, such as rehabilitation expenses.

When an employee damages the property of a third party, the employer, who is responsible for its agents, must compensate the damage, whereupon the employer acquires a "reverse right" and can require the employee at fault to compensate the employer. Similarly, if an employee or a person for whom the employee is responsible, such as a family member, tampers with the employer's property, the employer may claim damages.

However, an employee's liability for damages depends on the degree of fault. If the damage was caused intentionally, the employee must pay full compensation. If the damage was caused by gross negligence, the employee must compensate the damage up to 6 times the employee's average monthly salary. In all other cases, the maximum amount of compensation is limited to 3 times the employee's average monthly salary.

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# MALTA

## Implementation of remote work

In Malta, the term used in legislation is "telework" which is defined as a form of organizing and/or performing work using information technology in the context of an employment contract or relationship, where work which could also be performed on the employer's premises is performed away from those premises on a regular basis. However, labor laws which make reference to such an arrangement also include the term "remote work". Currently, a collective bargaining agreement which contains special regulations on remote work with regard to public service employees is in place in Malta. This consists of a Remote Work Policy and Guidelines on its Implementation, which complements the Public Service Management Code and regulates teleworking. Teleworking has been phased out in 2023 and has been replaced by Remote Working. Remote Working is defined as a way of performing work which provides employees with full flexibility to work on a regular basis from locations other than their formal office, e.g. from home, from an alternative office closer to home, or at any other location. The policy on remote working deals with the particular rights applicable to employees such as the right to disconnect, the professional standards which must be met by such employees, the provision of equipment by the employer, and data protection issues, among others.

The policy also establishes that an individual remote working agreement is required between the employee and the Head of Department. This is also applicable with respect to employees who are not in public service. Such agreement must be in writing and shall include information such as the location where telework is to be performed and provisions related to the equipment used for telework, the amount of working time to be spent at the place of telework and at the workplace, the schedule by which the employee will perform telework, where applicable, the description of the work to be performed, the department to which the teleworker is attached, his/her immediate superiors or other persons to whom he/she can report, provisions related to monitoring, if any, notice of termination of the telework agreement and, in cases where telework is performed in the course of the employment relationship and there is no reference to teleworking in that employment contract, a reference to the right of reversibility by either party, including the right of the teleworker to return to his/her pre-telework post.

Telework may be required as a condition of employment in an employment contract or, where there is no specific reference to teleworking in the employment contract, by agreement in the course of the employment relationship. Where there is no mention of telework in the employment contract, the employee is free to accept or refuse the offer of telework made by his/her employer,

and such refusal will not constitute good and sufficient grounds for termination of employment, nor can it lead to a change in the conditions of employment. The same is true for the employee, i.e. in the event that an employee expresses the wish to opt for telework, the employer may accept or refuse that request, if such an option is not included in the employment contract. However, workers with children up to the age of eight years and care-givers have the right to request flexible working arrangements for caring purposes. The term "flexible working arrangements" refers to the possibility for workers to adjust their working patterns, including by means of remote working arrangements, flexible working schedules or reduced working hours. In such case, the employer is required to respond to such request within two weeks and, in the event that the employer refuses the request, he/he must provide reasons for that refusal.

## Required involvement of employee representatives and public / immigration authorities

If remote work is introduced by the employment contract or by an agreement following the employment contract, the law does not stipulate that employee representatives need to be involved. In light of this, the potential influence by employee representatives regarding the introduction and design of the remote work is minimal.
In Malta, there is no obligation to notify the introduction of remote work to specific public authorities. However, there is an obligation to include the teleworker in the calculations for determining thresholds for the purpose of worker representation, for the purposes of information and consultation rights, and for the purpose of determining a collective redundancy, in accordance with the respective regulations of Malta.

Since the participation of the employee representatives and the notification of the remote work to public authorities are not provided for under Maltese law, there are no legal consequences if employee representatives do not participate and the public authorities are not informed.

Third-country digital nomads who work remotely in Malta for their third-country employer are not regulated by specific laws. The Maltese laws which regulate telework are applicable to any employee who performs telework, with no exclusion with respect to nationality. Naturally, third-country nationals who are not citizens of an EU member state require work and residence permits in Malta in order to be able to work here.

## Equipment & Compensation for remote work expenses

Unless otherwise agreed upon by the employer and the teleworkers in the written agreement on telework, the employer is responsible for providing, installing and maintaining the equipment necessary for the performance of telework and for providing the teleworkers with an appropriate technical support facility. The teleworker is then responsible for taking good care of the equipment and data provided by the employer and is required not to collect or distribute illegal material via the internet.

The costs arising from loss of, damage to and misuse of the equipment and data used by the teleworker will be borne by the employer or by the teleworker in accordance with the provisions of the law. This means that the costs shall be borne by the party responsible for the damage or loss caused. In such cases, the laws applicable to other scenarios where fault

is attributed through negligence or gross misconduct are applied in order to establish the fault of each party and allocate the corresponding costs to such party.

The employer is legally required to compensate or cover the costs relating to communication incurred directly by telework. The law does not establish any other reimbursement which the employee is entitled to for costs incurred by remote work. Due to the generality of such provision, employers in Malta are advised to list the costs which are to be reimbursed to the employee in order to avoid any possible doubts and/or conflict. Since the law limits the reimbursement to the 'communication directly caused by telework', it may be presumed that costs incurred by the employee such as rent and electricity are not included in the list of costs which the employer is required to reimburse.

At this moment in time, there are no special tax rules in Malta in favor of employees who work remotely.

## Working time, performance and right to disconnect

The teleworker has the same collective rights as comparable employees who work on the employer's premises. The teleworker has the right to participate in, and to stand for election to, bodies representing employees. The law does not specify other rights to which the remote employee is entitled deriving from their remote work. However, the law stipulates that the teleworker shall enjoy or continue to enjoy the same rights which would be applicable in an individual agreement or a collective agreement to comparable employees on the employer's premises. Teleworkers also have the same rights of access and right to participate in training and career development programs provided by, or on behalf of, the employer in the same manner as comparable employees on the employer's premises and be subject to the same appraisal policies as comparable employees. Maltese legislation does not specify particular rights applicable to teleworkers.

However, the remote working conditions policy applicable to employees in the public sector establishes the right of remote employees to disconnect. Such employees have the right to disengage from work and refrain from engaging in work-related electronic communications, such as e-mails or other messages, during non-core and non-contact hours. The principle of the right to disconnect does not apply where the contract of employment specifies otherwise or where the worker benefits from an allowance that covers an irregular work schedule.

The employer must respect the privacy of the teleworker and may only implement any kind of monitoring systems if this is agreed to by both the employer and the teleworker in the written agreement on telework. In such cases, the monitoring system must be proportionate to the objective and must be implemented in accordance with established rules on health and safety requirements for work with display screen equipment. Such rules establish particular requirements which the employer must comply with in terms of the equipment provided to the employee, the environment and the operator/computer interface. The law prohibits covert monitoring and therefore the employees must be notified of any monitoring tools installed on their devices. This can be done via an employee handbook, a policy or a notice circulated internally.

The law does not specifically state whether the employer has the right to access the employee's home. However, given that the employer is under the obligation to respect the privacy of the teleworker, it is presumed that access to the employee's home by the employer would constitute an invasion of the employee's privacy and is therefore not permitted unless the employee gives his/her voluntary consent.

Where both parties agree to a telework arrangement, each party shall have the right to terminate that telework agreement and the employee shall revert to his/her pre-telework post. In such cases, notice needs to be given by either party. If the decision is made during the first two months of the telework arrangement, notice in writing must be given three days in advance. If the decision is made after the first two months of the telework arrangements, the written notice needs to be given two weeks in advance, unless otherwise specified in the written agreement on telework. If the decision is made by the employee, this shall not constitute good and sufficient grounds for the employer to terminate the employment to or change the conditions of employment of that employee.

In the event that the employer suspects, or has evidence which proves, that there is an abuse of working time on the part of the employee, the employer is entitled to apply the ordinary remedies established by law, which are applicable in cases where the employee breaches his/her contractual obligations. The custom in Malta is that a written warning is given to the employee in such cases.

## Health and safety and data protection

The employer is responsible for the health and safety of the employees at all workplaces. This means that, irrespective of where the employee is performing his/her work, the employer is responsible for his/her health and safety. The employer must take preventive measures in order to ensure the health and safety of the employees, such as conducting appropriate, sufficient and systematic assessments of occupational health and safety hazards and risks, keeping copies of those assessments and updating them regularly, among other measures. These measures are not specifically related to remote working. However, they apply irrespective of where the employee's workplace is located.

It is not yet clear whether the employer can access an employee's home in order to conduct a risk assessment. However, given that the employer is under the obligation to respect the privacy of the teleworker, it is presumed that access to the employee's home by the employer would constitute an invasion of the employee's privacy and is therefore not allowed, unless the employee gives his/her voluntary consent. A Maltese employer may want to include such a provision in the agreement with the employee in order to permit access strictly for health and safety reasons and subject to the prior written approval of the employee.

Whilst Maltese law does not stipulate specific rules to prevent physical health problems in a remote work context, it does establish rules to prevent the psychological stresses of remote work. The employer is required to take the necessary measures to prevent the

teleworkers 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 his/her work.

In terms of data protection law, the employer is required to take the appropriate measures, particularly with regards to software, to ensure the protection of data used and processed by teleworkers in the performance of their duties. The employer must also inform the teleworkers of the provisions related to data protection and of any measures taken to ensure the protection of the data, including any restrictions on the use of IT equipment, internet or other IT tools and any sanction applicable in the event of non- compliance. The teleworker is also required to comply with data protection rules and the measures taken by the employer in respect of such rules.

## Liability

Accidents which take place at work in the home office or during remote working are the responsibility of the employer. The laws governing occupational health and safety apply to both employer and employee, irrespective of where the workplace is. In such cases, the company accident insurance policy would need to be reviewed on a case-by -case basis in order to ensure that the policy also covers accidents which occur in the home office or the place where employees work remotely. If the company accident insurance policy does not cover places other than the company's office, it is advisable for the employer to amend the policy or to take out supplementary insurance to ensure that the home office is covered by such policy.

In the event that the property of the employee or of third parties is damaged during the home office or remote working activity, the normal rules on liability at the workplace will apply. There are no special rules in terms of liability with respect to incidents which occur during remote working. This also applies if it is the company's property which is lost or damaged. In such a case, the costs would be borne by the employer or by the teleworker, depending on whose fault such damage or loss is attributed to.

In such cases, it is unlikely that the company liability insurance policy will cover the loss or damage. However, insurance policies need to be analyzed on a case-by case basis in order to establish whether the insurance policy will cover such instances or not. To reduce economic risks, it is advisable to clarify the scope of the already existing insurance coverage.

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# NORTH MACEDONIA

## Implementation of remote work

Due to the fact that, until recently, this form of work was a rare occurrence in the Republic of North Macedonia , and mostly in the IT industry, remote work, hybrid work, telework, etc. are not yet regulated in more detail in the Law on Labor Relations. Work from home is only regulated in a few articles in the Law on Labor Relations.

According to the law, work from home is defined as work that the employee performs in his/her home or at premises of his/her choice that are outside the business premises of the employer. It follows that the law does not distinguish between the terms "remote work", "hybrid work", "telework", etc. Also, collective agreements in the Republic of North Macedonia do not contain special regulations governing remote work. However, as a result of the pandemic, this method of working has become popular all over the world as well as in our country. In view of that, a new law is currently being prepared, and changes are foreseen in a section dedicated to employment contracts which will pay particular attention to remote work. However, the draft Law has not yet been published.

In accordance with the Law, the employee and the employer may introduce remote work only by mutual agreement, either from the beginning of the employment, through the employment contract, or afterwards with amendments thereto. Thus, in cases when remote work is not part of the initial employment agreement, both parties are free to propose amendments to the contract, and the other party is free to decide whether to accept or decline the proposal. In conclusion, a legal basis is necessary for the introduction of remote work.

The employer cannot unilaterally introduce remote work, as any such work should be mutually agreed between the parties in the employment contract or through later amendments.

However, during the Covid-19 pandemic, remote work, wherever possible, formed part of the recommendations by the Government in order to prevent the spread of the virus. The Government also issued a mandatory Decision whereby employers were required to enable remote work for endangered categories of employees. This decision is no longer in force.

Employees have a right to request or propose remote work to the employer, but there is no legal obligation for the employer to accept the proposal.

The Employment agreement should cover the duration of remote work (for a definite or indefinite period of time, termination of remote work, introduction of the principle

of equal treatment, i.e. a prohibition on discrimination, the right to equal treatment of the employees, protection of the privacy of the employees who work remotely, rights, obligations and responsibilities regarding the use of work equipment, protection of the health and safety of remote employees and their working conditions (working hours, breaks and holidays).

## Required involvement of employee representatives and public / immigration authorities

Given the fact that remote work must be introduced by mutual agreement between the employer and the employee, there is no legal requirement for employee representatives to be involved in the entire process.

The employee's representatives can influence the introduction and design of the remote work indirectly, mostly through collective bargaining. They are free to offer suggestions, to negotiate terms and conditions, to influence the content of the collective agreement and, at the end, to sign the collective agreement reached.

After entering a contract for remote work, the employer is required to submit the employment contract to the labor inspector within three days from the day of signing. This obligation applies even when the introduction of remote work occurs during the employment relationship. If previously agreed remote work was later revoked by the employer or the employee, the employer is also required to inform the State Labor Inspectorate of the cancelation of remote work.

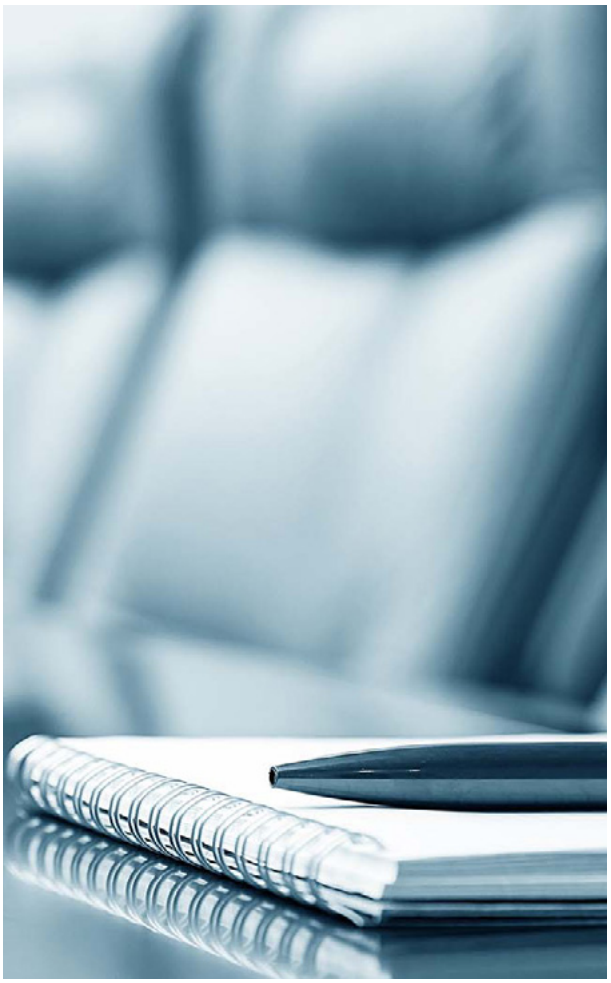
In accordance with the Law on Labor Relations, the employer/legal entity which fails to notify the Labor Inspectorate of the introduction of remote work will be fined 1000 EUR, the person responsible will be fined 30% of the estimated fine and, in the event that the employer is a natural person, the fine can range from 100 to 150 EUR.

North Macedonia is one of the countries that has recently introduced the digital nomad visa. The digital nomad visa for Macedonia was introduced in January 2021.This type of visa allows non-EU citizens to work remotely from this country. In North Macedonia, digital nomads can apply for C -type short-term visa or a D-type long-term visa. To apply for a digital nomad visa, applicants must have a valid passport and a clean criminal record, travel insurance, proof of income and evidence of accommodation. A temporary residence permit will be issued together with the digital nomad visa for Macedonia. In principle, the rules are the same as those for obtaining a normal visa for Macedonia. Those who wish to continue their remote business in Macedonia can apply for a business visa to enter the digital nomad program. Such a visa permits a stay of 90 days in each 180-day period. This visa can be extended upon request.

## Equipment & Compensation for remote work expenses

Employers are usually required to provide employees with the work equipment they need to perform their remote work tasks, unless otherwise specifically provided for in the conditions of employment, a collective agreement, or company policy. The type of equipment depends on the activity and specific work tasks. It may include a laptop, computer monitors, software, telephone,

internet access, headphones, access to applications and other necessary equipment. the employer is legally required to reimburse the work costs of remote employees. The amount of compensation is determined by the employer and the employee in the employment contract. In North Macedonia there are no special tax rules in favor of employees who work remotely.



## Working time, performance and right to disconnect

There are no special rules regulating the working time for remote work. Given that the Law provides an exception in the case of homeworking whereby the employer is not required to take into account the provisions of the law regarding the limitation of working hours, night work, rest daily and weekly rest, we can conclude that the working hours for remote work need to be regulated in the contract. Thus, the said contract should contain provisions as to whether it relates to full-time or part-time employment and provisions which stipulate daily or weekly regular working hours and the scheduling of working hours.

Employees who work remotely can usually organize their own working hours, but they also must adhere to the employer's specifications regarding the work schedule. This means that the employer can specify in the contract the beginning and the end of working hours or a core working time. Employment contracts frequently stipulate that employees may normally work up to 8, and exceptionally up to 10, hours per day, and that a rest period of 12 hours must be observed.

Monitoring employees who work remotely is only possible within narrow limits due to the special constitutional protection of the personal rights of employees and data protection law. The employer may not enter the employee's home without the latter's consent. Measures for surveillance are only permissible when the employer has a well-founded suspicion of a crime or a serious breach of duties on the part of the employee. However, in order to monitor work performance, it is advisable to request reports from the employees at regular intervals on the progress of their work.

In the event of an abuse of working time, the employer can implement the typical measures applying to an infringement of the employee's obligations. The employer can terminate the employment depending on the severity of the working time violation. If the violation is not sufficient to justify termination, a written or verbal warning should be issued in any case.

## Health and safety and data protection

The right to protection at work is a constitutionally guaranteed right for every citizen and is exercised through a series of laws and bylaws in various fields with the sole purpose of to providing the highest possible degree of safety at work, eliminating and/or minimizing specific occupational risks and promoting health at work. The leading legal act that implemented this right of the employees is the Law on Health and Safety at Work. However, this act does not contain any specific regulation regarding health and safety in the case of remote work. On the other hand, as explained, the Law explicitly states that the employer is required to provide safe conditions, and such obligation also arguably applies to remote work. Therefore, in the case of remote work, employers are responsible for health and safety measures and are required to conduct a concrete risk assessment and take measures based on this assessment.

The employer is legally required to take appropriate measures to ensure health and safety at work, including protection from occupational risks in the workplace, providing accurate and timely information related to health and safety at work, and training and coaching for work according to the risk identified in the workplace with emphasis of preventive measures, including the use of personal protective equipment and the appropriate organization of work. At the same time, the employer must adapt the work process to the abilities of the employees, and the working environment and the means of work must be safe and harmless to their health. These measures should be specifically determined in the employment contract. In addition, after the contract is submitted to the State Labor Inspectorate, the latter may find that the remote work is harmful to the employee or to the living and working environment where the work is performed, in which case the contract can be annulled.

In the absence of a specific provision and legal solution, the provisions of the Constitution, as well as the numerous international declarations and conventions on human rights which regulate the inviolability of the home apply, and these can only be limited by a court decision for the purpose of detecting or preventing crimes or protecting human health. Therefore, employers do not have a legal right to enter the home of an employee in order to conduct a risk assessment.

The Law does not prescribe any specific ergonomic safety measures for employees who work remotely. The specific measures depend on the risk assessment which the employer is required to conduct. The workplace must be equipped in a safe manner. Since the employer has no legal right of access an employee's home, the remote work agreement requires a corresponding provision that permits access so that the employer can meet his/her legal obligation to comply with occupational health and safety regulations.

There are no legal obligations for employers to protect employees from the psychological stresses of remote work (e.g. isolation). However, it is preferable for employers to establish mitigating measures in favor of employees who work remotely, such as

scheduling meetings with other colleagues on a regular basis, as well as providing access to company information, etc.

In accordance with the Law on Personal data protection, which does not outline specific provisions regarding the use of a remote workplace, data collection should be limited to legitimate and specific purposes and data cannot be processed to achieve objectives incompatible with the purposes that initially justified it. Therefore, regardless of the implementation of remote work, the obligations of the employer as a controller remain the same. The controller is required to implement appropriate technical and organizational measures to ensure effective compliance with the principles of personal data protection and the requirements of the abovementioned law and to ensure protection of the rights of entities to personal data. The employer, as controller, is therefore required to ensure appropriate data security when introducing remote work. Both technical measures and organizational measures for data protection should be specified in the Contract.

## Liability

Since there are no special rules for employees who work remotely and the Law does not differentiate between employees who work from the employer's premises and employees who work remotely, employers are liable for accidents occurring during the performance of remote work. The employer's obligation to provide employees with a work environment free of recognized risks likely to cause harm, extends to employees working remotely. However, in North Macedonia there is - to date - no case law regarding this matter.

Legally, the company accident insurance extends to accidents occurring during the performance of remote work and there is no need for a supplementary insurance. However, it is important to point out that remote work is not yet clearly regulated in North Macedonia.

If company property in the home office is damaged by the employee or a third party (e.g. family members), the employee is deemed responsible for such damage. The company's liability insurance probably does not cover damages caused by third persons.

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# NORWAY

## Implementation of remote work

As a main rule, the Norwegian Working Environment Act applies even to work performed from home, unless this is covered by the scope of the more flexible regulations governing the home office (*Hjemmekontorforskriften*). The home office regulations were originally introduced back in 2002, but since then there have been significant social and technological changes in society. These changes, together with the consequences of, and the experiences during, the pandemic led to changes in the extent to which employees work from home and how they actually work from home. Against this background, the Norwegian government introduced updated home office regulations which came into force on 1st July 2022. The updated home office regulations state that they do not apply to work which is either brief or occasional and which is performed from the employee's home. Brief work refers to short periods of homeworking. One to two weeks of homeworking as a facilitation measure in connection with sick leave will not be covered by the regulations. Full-time homeworking for a month or more will not normally be considered short-term in the sense of the regulations. Occasional work is when the employee works from home for a few hours now and then. If the work from home has a certain scope and occurs regularly, for example one day every week, it is no longer considered occasional. However, working from home less than one day a week on average will be of such a small scale that it is deemed occasional even if it occurs regularly. Each home office situation must be assessed on a case-by-case basis. The key factor is whether the homeworking is of a certain duration, firmness and scope. Employees who work exclusively in their own homes will always be covered by the specific regulations regarding home office. It is important to note that the home office regulations only apply to work performed from the employee's home. Work performed from the employee's summerhouse or cabin or when travelling from place to place is not covered by the home office regulations. However, if the employee moves to a place which constitutes the employee's home for a period of time, it will be necessary to assess whether or not the home office regulations apply.

If the employee is travelling while working for a Norwegian employer, this should be specifically agreed between the parties and it is also natural that such agreement include guidelines on how the employment relationship should work.

The employee cannot demand to work from a home office unless she/he has an agreement with the employer. This means that the employee is required to attend work in the office if the employer so requires. There is no legal rule that gives the employer the right to impose a home office regime. In some cases, however, the employer can, by virtue of the right of management, order employees to work from home.

When the work falls within the scope of the home office regulations, a written agreement is required. The agreement must cover, among other things:

- the scope of the home office work
- working hours
- availability
- expected duration
- operation and maintenance of equipment, etc.

In accordance with the regulations on home office, an agreement must be entered into with all employees who work from home.

There is a requirement that the employee have a suitable working environment, both from the physical and the psychosocial perspective. The psychosocial working environment is particularly important where work from home lasts for some time and the employee's contact with the workplace and colleagues weakens. It may therefore be appropriate for the employee, through a self-declaration, to assure the employer that the home workplace facilitates a fully responsible working environment.

Home office/remote work is rarely regulated in collective agreements in the private sector. Currently, only a limited number of agreements contain such regulations. In the collective agreements that have included provisions on home office/remote work, the purpose of such an arrangement has initially been linked to the fact that it can prove to be an appropriate measure for facilitating the working situation of older workers or workers with reduced functional capacity. In such a situation, the use of home office can often play an important role as a supplement to attendance at the ordinary place of work.

It is worth adding that there has been a change in Norway in recent years, with an increasing number of employees coming back to the office. It has been found that it is more difficult to create a good working environment and build teams when most people work from home. More and more employers expect employees to be in the office more often than was the case immediately after the pandemic.

## Required involvement of employee representatives and public / immigration authorities

There are no specific rules stating that employee representatives must be involved in the introduction of remote work in itself. However, in a situation where homeworking is required following instructions or recommendations from the authorities, instead of a written agreement with each employee on home office, written information can be given to the employees about homeworking and how it should be performed.

The employer must discuss this information with union representatives before it is provided. It is also worth mentioning that, in companies that regularly employ at least 50 employees, the employer must provide information concerning issues of importance for the employees' working conditions and

discuss such issues with the employees' elected representatives. Remote work may be treated as an "issue of importance" to be discussed with the employees' representatives. Please note that this only constitutes an obligation to consult with the employees' representatives, but the latter often have strong opinions as to how things should be done.

It is not mandatory to notify specific public authorities of the introduction of remote work.

There are no special immigration rules for non-EU digital nomads when they work remotely in Norway for their third-country employer. However, a non-EU citizen must either register, apply for a visitor visa or apply for a residence permit depending on the length of their stay in Norway.

## Equipment & Compensation for remote work expenses

The regulations on home office do not stipulate who should pay for the equipment in the home office, beyond the fact that the employer is responsible for the working environment. The employer and employee must therefore agree on who will pay for any additional equipment, or whether the employee can work adequately at the kitchen table and with a laptop on the day he/she works from home. Nor are there specific rules as to whether or not the employer is required to equip other types of remote work.

There are no rules stating that the employer is required to reimburse the employee's remote work costs. This will depend on the terms of the agreement between the parties.

There are several tax consequences when the employer covers costs for home office (premises), equipment for the home office, food in the home office and travel away from the home office. For example, if the employee has a room in his or her home that is used exclusively as a home office, the employer can pay the employee a tax-free home office allowance of approximately NOK 2,050 (2023) per year for the actual space in the employee's home. In some cases, the space is actually rented to the employer. In these cases, the standard rules applicable to rental agreements apply. Coverage of equipment, other than data equipment and furniture that is not owned by the employee, may be tax-free if the primary purpose of use is work-related. For data equipment, all that is required is that it be suitable for the employee's work. If the employee becomes the owner, either immediately or later, the transfer is not taxable if the main purpose is work-related and the employee would have been entitled to a tax deduction if he/she had purchased the equipment. The amount is determined in the annual assessment rules. As an alternative, actual costs relating to the office can be covered. However, it can be difficult to determine what proportion of electricity, insurance, rent, municipal taxes, etc. relates exclusively to home office use. A discretionary assessment may be necessary. If the amount paid is greater than the tax-free allowance or the estimated costs, the surplus must be treated as salary for tax purposes.

When employees incur home office expenses which are not covered by the employer, it may be possible to deduct these in the tax return. However, the deductions will have to be offset against

the minimum deduction. Because the minimum deduction is so high, it may not be profitable for most workers/employees to claim deductions for actual costs above the minimum deduction.

## Working time, performance and right to disconnect

According to the home office regulations, working time regulations will apply in full to cases of homeworking. In practice, this means that the working hours agreed for work performed in the office will also apply to the home office. This also means that employer and employee can enter into agreements on working hours, to the extent provided for by law. Chapter 10 of the Norwegian Working Environment Act contains extensive rules on working hours. There must be an overview showing how much the individual employee has worked. The overview must be available to the Norwegian Labor Inspection Authority and the employees' representatives. This does not apply to employees in leading or particularly independent positions who have been exempted from the rules on working hours in accordance with the Norwegian Working Environment Act. The overview makes it possible for the employer to monitor working time and breaks in order to ensure compliance with occupational health and safety laws. It also makes it possible for the employer to talk to employees who abuse working time.

In principle, employees may not determine their own working hours if they work from home, unless they are in a leading or particularly independent position which has been exempted from the rules on working hours.

Whether or not the employer may limit the duration of remote work, or revoke the possibility thereof, depends on what was agreed with the employee in the homeworking agreement. The employer can, by virtue of the right of management, decide that the employees must be at the agreed place of work during working hours. In principle, therefore, the employer can order employees back to the office, provided that he/she has not limited the right of management through, for example, the employment contract or the collective agreement. In order to avoid limitations on the employer's right to manage the workplace, agreements for home office can only be entered into for a limited period of time. The agreement should also contain a provision that the employer can decide when the home office agreement should end.

The employer does not have the right to access the employee's home.

## Health and safety and data protection

In accordance with the home office regulations, the employer must, as far as is practically possible, ensure that the working conditions are fully suitable. This applies, among other things, to ensuring that the workplace, the work equipment and the indoor environment do not cause adverse physical stress. The employer cannot access the home office without the employee's consent through a separate agreement. In practice, the employer must ensure that the employee either obtains covered equipment, or borrows equipment to take home to enable him/her to perform his/her work, for example, a laptop, monitors and keyboard. When assessing whether

or not an activity causes adverse physical strain, the frequency of homeworking will also be of great importance. In order to make sure that the working environment of the home office is fully safe, the employer must ensure that the employee has the tools required to perform his/her work. The employee must also assess whether or not the indoor environment of the home is conducive to homeworking. Once this has been assessed, the employer can request a written declaration from the employee that the working conditions are fully suitable. The employer is also responsible for the psychosocial working environment and must therefore ensure that the employee has the opportunity to contact and communicate with others, and that the employee is not exposed to harassment from either managers, colleagues or clients, etc.

In accordance with the Norwegian Working Environment Act, as regards health, work environment and safety work, the employer is required to assess measures to promote physical activity among employees. This might be important for employees sitting in a home office.

## Liability

All employers must take out private occupational injury insurance for their employees. This insurance must cover losses, expenses and any compensation in connection with illness or injury sustained in the context of work. The problem is that the insurance is limited to covering occupational injuries sustained while the employee is in the home office and working. It does not cover accidents suffered when the employee is having lunch in the kitchen, participating at meetings while out walking or helping his/her children with their schoolwork.

What the employee will be covered for in legislation is determined by the insurance companies and the National Social Security (NAV). To be covered, the injury must have occurred at work, at the workplace and during working hours. If the accident occurs while the employee is in his/her home office, doubts may arise as to whether the employee was actually working at the time.

Some insurance companies have solved this by giving the employer an opportunity to take out additional insurance which also covers work from the home office.

With regard to who is liable for damage to the property of the employee or a third party during home office or remote working activity, this will depend on what has been agreed with the employer. The same applies for the question as to who is liable for damage to company property in the home office.

Whether or not a company liability insurance covers such damage will depend on the particular type of insurance and the specific insurance agreement the employer put in place.

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# POLAND

## Implementation of remote work

Remote work refers to work performed in whole or in part at a place designated by the employee and agreed upon with the employer, including the employee's home address. The employer and employee may agree on remote work at the time of entering into the employment contract or later.

Certain categories of employees, including parents of a child under the age of 4 or a child with a disability, are entitled to make a request for remote work. In these cases the employer must approve the request, unless remote work is not possible because of the nature of the work performed. If remote work was agreed upon in the course of a previously existing employment relationship, either party may submit a request to terminate the arrangement and restore the previous working conditions on an agreed date no later than 30 days after receipt of the appropriate request.

In addition to the standard remote work described above, Polish legislation provides for two other types of telework. The first relates to exceptional situations, such as epidemics or the temporary impossibility of ensuring safe and healthy working conditions. In such cases, the employer may impose remote work unilaterally, provided that the employee has the necessary skills, technical equipment and space to perform the work properly.

The other non-regular type of remote work is occasional remote work by employees who normally work at the employer's premises. Such employees have the right to request remote work for a maximum of 24 days per calendar year.

## Required involvement of employee representatives and public / immigration authorities

As a rule, employers must reach an understanding with the company union before implementing remote work. If such an understanding is not reached within 30 days, the employer may establish company rules on remote work, taking into account the results of negotiations with the trade unions. If the company does not have a trade union, remote work should be established by the employer in the relevant company policies after prior consultation with a representative elected by the employees. If the company union or the employee representatives are not involved as required, the arrangement will be considered invalid. On the other hand, it is possible to introduce remote work on the basis of an agreement with an individual employee and without any agreement or consultation with trade unions or other employee representatives.

Remote work does not need to be reported to the authorities, and there are no special immigration rules for digital nomads.

## Equipment & Compensation for remote work expenses

Generally speaking, employers are required to provide employees who work from home with the materials and tools, including technical equipment, necessary for remote work. Employers are also responsible for the installation, repair, and maintenance of any equipment used for remote work. In addition, the employer must pay for electricity, telecommunication services and other costs directly associated with telework. This reimbursement is exempt from personal income tax and the terms of such reimbursement should be specified in the agreement or in the company's policy on remote work.

## Working time, performance and right to disconnect

In terms of working hours, remote work is treated as normal work, the only difference being that it is performed at a place other than the employer's premises. Therefore, the general rules that apply to all employees, based mainly on the Polish Labor Code, apply. Generally, an employee is required to be available to the employer only during his or her (scheduled) working hours. Outside working hours, the employee is not required to stay in contact with the employer, including via electronic means. As an exception, the employer may require the employee to work overtime under strict statutory conditions. In such cases, however, the employee is entitled to additional remuneration as provided by the Labor Code. Another exception applies when an employee is required to be on call, i.e. available for work outside normal working hours at a place determined by the employer, including his/her home. On-call duty must not interfere with the employee's right to daily or weekly rest, and should be compensated with time off or remuneration except when the employee is on call at home.

In Poland, employers are required to keep records of their employees' working hours. Considering the particular nature of home-based work, this task can be challenging. However, it is the responsibility of the employer to determine who can make individual arrangements or issue the relevant regulations.

The employer also has the right to monitor the employee's performance while working remotely (regardless of the arrangement) and to introduce work monitoring systems, such as dedicated IT equipment. However, employers are required to define the purpose, scope and method of their monitoring rights through a collective agreement or work regulations. Employees must be informed about the introduction and operation of monitoring systems.

Employers may supervise an employee working remotely, which include the right to inspect the workplace to ensure that it complies with health and safety and data protection regulations. The inspection must not violate the privacy of the employee or his/her family or prevent the reasonable use of living space. The rules on remote work do not explicitly define how supervision is to be conducted, and this should be decided in the remote work agreement or in the company's policy on remote work.

If the employee fails to observe his/her working hours, the employer may impose the usual disciplinary measures for breach of the employee's duties, such as a

reprimand or termination of the employment contract (depending on the severity of the misconduct).

## Health and safety and data protection

In general, employers remain responsible for the health and safety of remote workers and must comply with the ordinary health and safety obligations. However, employers are exempt from certain obligations, which include not having to provide adequate clean and sanitary conditions or the duty of having the workplace (the premises where the remote work is performed) constructed or modified. On the other hand, employers must provide remote workers with safety training and conduct an occupational risk assessment.

In relation to data protection obligations, the employer must lay down data protection rules for data transmitted to the remote worker and, if necessary, provide instructions and training. The employee should confirm in writing that he/she has been informed of the data protection rules established by the employer and that s/he is required to comply with them.

## Liability

Employees working remotely must notify their employers of an accident, following the same procedures as employees working at the company's premises. A visual inspection of the site of the accident will be carried out on the date agreed with the employee. However, if the circumstances of the accident are not in dispute, the post-accident team may decide to waive the visual inspection. Otherwise, the rules applicable in this case are identical to those applicable to work accidents occurring at the employer's premises. The State Accident Insurance Fund compensates the employee provided that all necessary conditions are satisfied. Eligibility for compensation from this type of compensation depends on whether the accident occurred in the course of professional or private activity.

No special rules on liability exist for teleworkers. According to the standard rules, if an employee suffers an accident at work, he/she is entitled to compensation from the employer and for any loss or damage to his/her personal effects or to any equipment necessary for the performance of his/her work, with the exception of loss or damage to vehicles and money.

In the case of telework, the employer must also provide the employee with any tools required including, without limitation, electronic equipment. Damage or loss of equipment entrusted to the employee through accident or theft may result in monetary loss to the employee, as employers often transfer responsibility for company property to the employee. Such risks can be mitigated by extending homeowners or renters insurance to include liability for damage to company property.

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# PORTUGAL

## Implementation of remote work

The Portuguese Labor Code states that teleworkers have the same rights and duties as other workers in the company with the same category or identical function, namely as regards training, career promotion, limits on working hours, rest periods (including paid holidays), protection of health and safety at work, compensation for accidents at work and occupational illnesses, and access to information from employees' representative structures, including the right to:

- Receive, at least, the retribution equivalent to that which he/she would earn on a face-to-face basis, with the same category and identical function
- Participate in person in meetings held on the company premises when called by the trade union and inter-union committees or the employees' committee, under the terms of the law
- Be included in the number of employees of the company for all purposes relating to collective representation structures and have the right to stand for election to those structures

The implementation of a telework regime always requires a written agreement, which may be included in the initial employment contract or be separate from it.

The Portuguese Labor Code allows for telework to be implemented on a full -time or only a part-time basis, which opens up the possibility of hybrid regimes. The teleworking agreement defines the regime of permanence or alternation of periods of distance work and face-to-face work.

The agreement should contain and define the following:

- The identification, signatures and domicile or registered office of the parties
- The place where the employee will habitually perform his/her work, which shall be considered, for all legal purposes, to be his/her place of work
- The normal daily and weekly work period;
- The work schedule
- The activity contracted, indicating the corresponding category
- The remuneration to which the employee will be entitled, including supplementary

and ancillary benefits

- The ownership of the work instruments, as well as the person responsible for the installation and maintenance thereof

- The frequency and method of face-to-face contacts to prevent the isolation of employees working in this regime

In order to validate the stipulations of the teleworking regime, the agreement must be in writing.

Since the implementation of the regime is based on a written agreement between the parties, even though the issue may be provided for by a collective bargaining agreement, its application always presupposes an individual agreement between the parties.

The employee must always expressly agree to the adoption of this regime and, in the event that implementation of the regime was initially suggested by the employer, the employee may refuse its implementation without the need for justification. This refusal cannot be used as grounds for dismissal or any other type of sanction on the part of the employer.

In some cases, employees have a legal right to benefit from the possibility of a telework regime, e.g. employees who are victims of appropriately documented domestic violence, provided that they leave the family home and that the employee's activity is suitable to that regime of work. Additionally, if the employee has a child under 3 years of age, he/she also has the right to telework, provided that there is compatibility between the regime and the tasks to be performed. Furthermore, when certain requirements are met, this right may also be granted to the parents of children up to 8 years of age or when the employee is an informal non-primary caregiver and implementation is compatible with the activity in question and the employer has the means and resources to implement the telework regime.

If the employee complies with all legally established requirements for telework, the employer may not oppose its implementation, unless there are overriding needs and requirements related to the running of the business.

## Required involvement of employee representatives and public / immigration authorities

There is no legal provision regarding the role of employee representatives in the conclusion of telework agreements and, therefore, there are no consequences for omitting their participation in this process.

There is no obligation to notify specific public authorities whenever a telework agreement is entered into.

Recently, in 2022, Portugal approved a new visa for digital nomads which allows them to enter and stay in the country for no longer than one year for the purpose of performing, on a remote basis, a subordinate or independent professional activity for a natural or legal person domiciled or based, respectively, outside the country. To this end, the worker must demonstrate their employment relationship or provision of services, as applicable.

## Equipment & Compensation for remote work expenses

When it comes to equipping the employee for telework, it is the employer's responsibility to provide him/her with all the equipment

and systems necessary to perform the work and for worker-employer interaction. The agreement must specifically stipulate who is responsible for the acquisition of these materials. In other words, whether these are directly supplied to the employee by the employer or, alternatively, if the employee is required to acquire them independently, subject to the employer's agreement as to their characteristics and price.

In the event that these materials are supplied by the employer, the conditions for their use beyond the essential needs of the service are those stipulated by internal regulation. This regulation is, however, not mandatory, and in cases where it does not exist or, where it exists but does not regulate these conditions, they shall be defined by the individual telework agreement.

The application of any sanction on the employee for the use of the equipment and systems beyond the strict needs of the service, when this use is not expressly governed in internal regulations, constitutes a serious administrative offence on part of the employer.

When it comes to additional expenses, those which the employee can prove to have been incurred as a direct consequence of acquiring or using the computer or IT equipment and systems necessary for the performance of his/her work must be borne solely by the employer. This includes any additional costs for energy and the network installed at the place of work, in conditions of speed compatible with communication service requirements, as well as the maintenance costs of the aforementioned equipment and systems. These costs must be reimbursed immediately after they have been incurred by the employee.

Additional expenses are those arising from the acquisition of goods and/or services which the employee did not possess prior to the implementation of the abovementioned agreement, as well as those determined by comparison with the employee's homologous expenses in the same month of the previous year to the implementation of this agreement.

Expenses related to teleworking are tax- and contribution-exempt up to 22 euros per month (for 22 working days). This amount can be increased by 50% (33 euros for 22 working days) if a collective agreement provides for it.

## Working time, performance and right to disconnect

There are no specific rules applying to remote work as regards breaks and maximum working hours. The general rules apply. The remote worker, as with every employee, has the right to his/her privacy, to the fulfilment of his/her working hours and to rest time.

Remote workers must respect the normal daily and weekly work period and the working hours.

A legal right to disconnect exists under Portuguese law and applies to every employee, whether they work remotely or not. Under this legal obligation, the employer must refrain from contacting the employee during his/her rest period, save in situations of force majeure.

However, it is important to take into account the fact that the new right to refrain from contact does not have the effect of limiting or eliminating situations of a contractual or regulatory nature existing or to be

established (exemption from working hours, overtime work, on -call work, among others), in which employees have the obligation to be contactable outside the workplace and outside working hours for situations in which this is deemed necessary.

On the other hand, the legislator did not expressly use the notion of working hours to delimit the obligation to refrain from having limited this obligation to rest periods, namely rest breaks, daily and weekly rests.

The remote work agreement may be entered into for a fixed or indefinite period. Either party may terminate the agreement during the first 30 days of implementation.

When the teleworking agreement is entered into for a fixed term period, this cannot exceed six months and will be automatically renewed for equal periods unless either of the parties opposes its renewal, in writing, up to 15 days before expiry.

On the other hand, when the agreement has an indefinite duration, either of the parties may terminate it by written notice, which shall become effective on the 60th day thereafter.

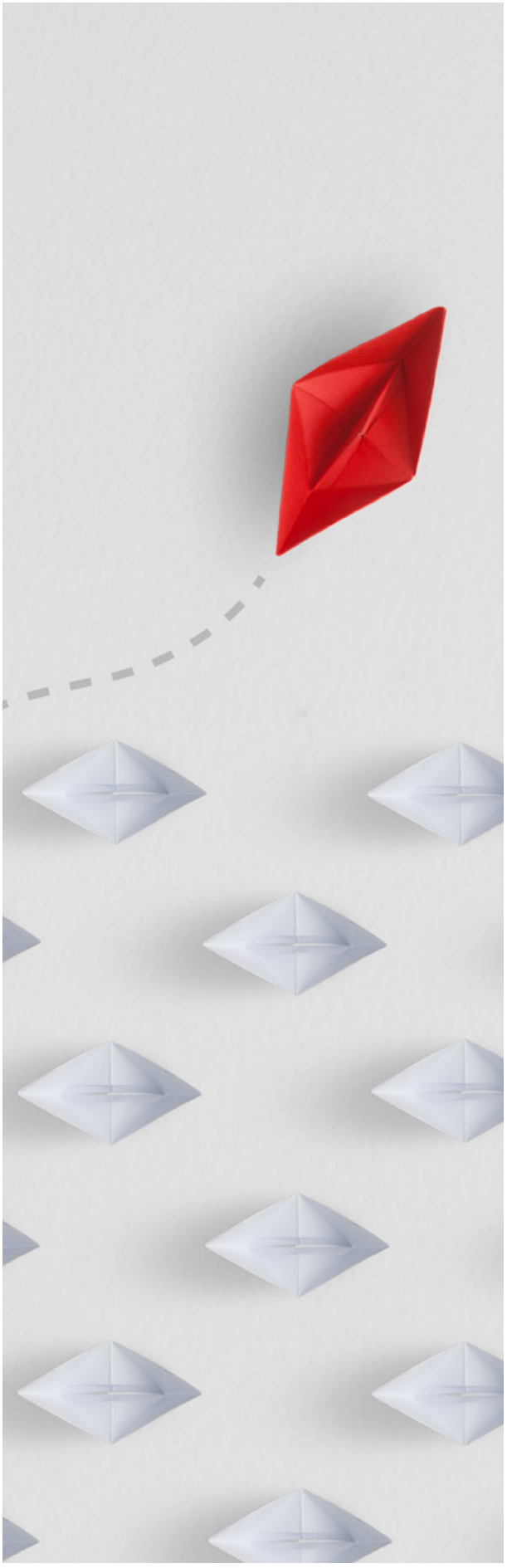
The powers of direction and monitoring of work performance in the case of remote work should preferably be exercised through the equipment, communication and information systems assigned to the worker's activity, according to procedures previously notified to the employee and compatible with respect for his/her privacy. The use of this equipment and these systems for remote monitoring of work performance (for example, the recording of working times) is permitted.

The monitoring of work performance must respect the principles of proportionality and transparency. Permanent supervision during working hours, by means of image or sound, is prohibited.

The employer has the right to access the place where the telework is usually performed. Therefore, the worker must permit access to the place where he/she works to the professionals designated by the employer.

This access must take place during a previously agreed period, between 9 a.m. and 7 p.m., within working hours. When telework is performed at the employee's home, the visit to the workplace requires 24 hours' notice and the agreement and presence of the worker. The visit to the worker's home must be for the sole purpose of supervising work performance and the work instruments.

In the event of an abuse of working time on the part of the employee, the employer may have the right to terminate the employment relationship. This depends on the gravity and consequences of the abuse, namely when it brings into question the subsistence of the employment relationship. Abuse of working time might be sufficient to justify the employee's dismissal, for example, in the case of a repeated failure to comply with the obligations inherent to the performance of the work he/she is assigned to perform; or in the case of unjustified absences from work that directly cause serious damage or risks to the company, or which number, in each calendar year, five days in a row or 10 interpolated days, regardless of the damage or risk.



## Health and safety and data protection

The employer is required to implement, in specific and adequate ways, and with respect for the employee's privacy, the necessary measures for the fulfilment of the employer's responsibilities with regard to health and safety at work.

For this purpose, the employer should ensure that health examinations are carried out prior to the implementation of teleworking, and annual examinations thereafter, to assess the physical and mental fitness of the employee to perform the activity and the impact which the activity and the conditions in which it is performed have on the latter's health, as well as for the purpose of adopting any preventive measures that may be appropriate.

Whenever telework is performed at the employee's home, any visit to their workplace requires prior notification of 24 hours and the employee's consent.

Employees are required to provide access to the workplace to the professionals designated by the employer to assess and monitor health and safety conditions at work, in accordance with the law, during a previously agreed period between 9 a.m. and 7 p.m. and during working hours.

Employers are required to respect the employee's privacy, work schedule, rest times and the down times of their family, as well as provide adequate working conditions from both a physical and a psychological perspective.

With regard to the employee's privacy, there shall be no video or image capture, no text, sound, history or other methods of control that might affect the worker's right to privacy. Also, in accordance with the Portuguese Labor Code, the employer is required to ensure face-to-face contact with the frequency necessary and agreed upon by the parties to the agreement in order to prevent the isolation of the employee.

## Liability

An employee in a telework regime has the same legal rights as other workers in the same category or identical functions as regards work accident compensations and professional illnesses. This means that the employer is liable to pay compensation and other costs arising from an accident at work, under the terms set out in the law governing work accidents suffered by an employee during the performance of his/her work.

The legal regime governing compensation for accidents at work and occupational illnesses applies to telework situations, with the place of work being considered the place chosen by the employee to habitually perform his/her activity and the working time encompassing all the time during which he/she is, demonstrably, performing work for his/her employer.

The employer is required to notify the insurance company responsible for work accident insurance of any changes in the way the activity is performed, namely the new place of work (e.g. the employee's home).

During the implementation of the telework regime, the employer is liable for any damage to the property of an employee and therefore, typically, the insurance company will bear that expense. However, for the insurance company to be liable for these expenses, the insurance policy must cover these situations, i.e. the employer must notify the insurance company that the worker is in a telework regime.

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# REPUBLIC OF MOLDOVA

## Implementation of remote work

The Moldovan Labor Code regulates both remote work and homeworking. Remote work is a broader concept than homeworking and permits the employee to perform his/her work duties in locations (not only from the employee's home) other than the workplace organized by the employer, including through the use of IT and communication resources (telework). No legal definition of hybrid work currently exists, but new provisions on flexible work arrangements (i.e. when employees combine office work with remote work or homeworking with a full or part-time schedule or a working week of less than 5 working days) have been added to the Moldovan Labor Code.

With the exception of certain general conditions on remote work included in the collective bargaining agreements in the agricultural and food industry and in the field of research and innovation, no other such agreement exists in Moldova.

As a rule, the introduction of remote work requires the written agreement of the employer and the employee (the employment contract or additional agreement thereto). The agreement between the employer and the employee which introduces remote work regulates the following topics: (i) conditions on remote work performance, including the IT and communication resources to be used therefor (e.g. computer, notebook, smartphone, e-mail, etc.); (ii) the schedule and methods available to the employer for monitoring the activity of the employee during remote work; (iii) the method of keeping track of the working hours of the employee working remotely; (iv) and reimbursement of remote work expenses.

Only in exceptional situations such as a state of emergency, siege and war or public health emergency does the employer have the legal right to unilaterally introduce remote work by changing the workplace of the employees without the legal requirement to amend their employment contract. This unilateral and temporary introduction of remote work must be based on an internal resolution issued by the employer and properly communicated to the employees concerned.

Once every six months, employees are entitled to ask for a reasonable adjustment of their work schedule, including through the introduction of remote work. The employer has 30 days to respond with a motivated decision which takes into account inter alia the costs related to the remote work and the impact on the employees' performance.

## Required involvement of employee representatives and public / immigration authorities

Remote work unilaterally introduced by the employer does not involve employee representatives. The employee representatives only need to be involved in the implementation of remote work when the agreement of the employee is required. This need arises from the general obligation of the employer to inform and consult employee representatives regarding the measures by which new working conditions, technologies and occupational health and safety rules will be introduced.

Information about teleworking conditions must be provided by the employer at least 30 calendar days before the implementation thereof. Based on this information, employee representatives are entitled to formulate notes and obtain reasoned responses from the employer. They should be given the opportunity to negotiate and reach a mutual agreement with the employer regarding the main conditions of remote work before this is introduced. In the event that employee representatives disagree with the introduction or conditions of remote work, they will be able to enforce it only in court after resolving the collective employment dispute via the conciliation procedure.

Failure to duly inform and, where applicable, consult employee representatives, should not affect the validity of remote work if this is introduced by agreement between the employer and the employee, but would entitle the employees or their representatives to claim infringement of their right to information and compensation for any damages suffered by the employees in question.

The introduction of remote work does not require that the employer notify or request the authorization of the Moldovan public authorities.

As part of the national strategy to promote the development of remote business in Moldova, significant legislative amendments have recently been enacted that outline the particularities of work activities for certain categories of foreign nationals. These amendments are intended to facilitate and streamline the engagement of foreign workers in remote work arrangements without the need for specific visas or residence permits, provided that certain conditions are cumulatively met. In particular, the foreign worker should (i) have a valid state personal identification number (IDNP) and digital identity; (ii) not exceed the permitted period of stay in Moldova during the remote employment; (iii) not be a Moldovan resident for tax purposes; and (iv) perform work pursuant to a digitally signed individual employment contract.

## Equipment & Compensation for remote work expenses

All costs related to telework are borne by the employer, unless otherwise agreed by the parties. Employees who use their own devices and equipment for telework are entitled to compensation from the employer for the wear and tear thereof. There are no specific conditions in Moldovan law regarding the reimbursement of the employee's remote work costs.

The provisions of the Moldovan Labor Code regarding remote work were enacted in

May 2022 in response to the needs of the pandemic and the majority of them are merely general rules to be considered by employer and employee when implementing the remote work arrangement. Particular issues raised by this special work regime, including reimbursement of related costs, should be agreed by the parties on a case-by-case basis and stipulated in the employment contract.

From the Moldovan tax law perspective, employees working remotely are treated by the employer in the same way as those working in the office.

## Working time, performance and right to disconnect

The Moldovan Labor Code does not contain special rules on working time for remote employees . The general legal requirements (maximum working hours – no more than 48 hours per week, including overtime, breaks – at least 30 minutes per day, and rest periods – at least 42 hours of uninterrupted weekly rest) apply. The employer has the legal obligation to keep track of the working hours of all his/her employees. However, notwithstanding this legal obligation on the part of the employer, the parties are entitled to agree on a contractual obligation of the employee to keep a record of his/her own time worked, including for remote work, based on the (daily, weekly or monthly) timesheets. In all cases, the record of the working time must ensure that the legal limits on overtime are not exceeded and ensure that teleworking employees are properly remunerated for their work, including at a special rate for overtime and work performed during holidays, on rest days and night work.

In the case of flexible work arrangements, employees are entitled to determine their own working hours. The employees' right to disconnect is not regulated in Moldova but it is implicitly provided for under the legal and contractual obligation of the employees to adhere to their regular work schedule. Therefore, the employer cannot oblige employees to respond to work -related queries in their free time nor apply disciplinary sanctions for the failure to do so.

In the event that remote work is introduced unilaterally by the employer, any amendments, including the limitation and revocation thereof, are subject to his/her discretion and employees must be properly informed of this. For any changes to remote work which has been implemented on the basis of the employment contract or an amendment thereto, the written consent of the employee is required.

With regard to monitoring, the Moldovan Labor Code does not establish any specific requirements. It is up to the employer and the employee to stipulate in their agreement when and how the employer will monitor the activity of the teleworking employee. The common practice is to use TeamViewer, an external server unit, monitor e-mails, establish clear deadlines for reports and deliverables, and conducts checks by the supervisor.

In no event may the monitoring mechanism used by the employer infringe the employees' privacy or the inviolability of his/her home and correspondence. For this purpose, any monitoring of employees must comply with certain conditions generated by relevant ECHR case law: prior and clear informing of the employee; establishing the

scope of the monitoring; establishing a less intrusive system; the existence of legitimate reasons on the part of the employer to justify such monitoring; and sufficient guarantees to protect the rights of employees. Thus, the right of the employer to access the employee's home is only permitted in very limited cases, such as issues relating to health and safety at work (e.g. a work accident).

The Moldovan Labor Code does not specifically regulate the right of the employer in cases when his/her employees abuse working time. As a rule, employees must comply with their working conditions, including their work schedules, otherwise they can be disciplined by the employer for breach of contract. As a rule, overtime work requires the prior written consent of the employee. It must be based on a motivated internal order issued by the employer and not exceed the applicable weekly (no more than 8 hours) and annual (no more than 240 hours) limits on overtime. In order to avoid claims from employees arising from overtime work and the corresponding special -rate remuneration, the employer must properly inform them that only overtime work which has been expressly authorized (requested or accepted) by the employer will qualify as such and be remunerated accordingly.

## Health and safety and data protection

In accordance with the general applicable regulations, the employer is required to ensure the health and safety of his/her employees in all aspects related to their work, including risk assessment and mitigation, the monitoring of employees' health, and ongoing training provided to the employees. The employees, after being properly informed by the employer, must also comply with internal rules and policies on occupational health and safety related to their activity.

Additional health and safety requirements apply to the employees working in front of a screen/display. There is a mandatory level of protection which the employer is required to provide for such work (i.e. permissible noise and electromagnetic radiation levels, ophthalmological exams, screen and keyboard parameters, etc.). If teleworking employees are exposed to other professional risk factors due to their specific work or the place where this work is performed, the employer must implement further health and safety guarantees as regulated by the law in each particular case (e.g. psychological testing before and during employment, where necessary). Recently, these regulations have been amended to adequately address the needs of today's work environment, particularly the emerging practice of remote work. These amendments include a comprehensive definition of a "workplace," including spaces used for remote work. Key changes include recognition of remote work as a management responsibility, specific provisions for remote employees, and clarification of the employer's health and safety duties in this context.

From the perspective of data protection law, the introduction of remote work will require the employer to adopt specific organizational and technical measures in order to ensure the adequate protection of personal data (of teleworking employees and/or handled by teleworking employees). In this respect, the employer will need to adapt his/her security/data protection policies to cover and protect personal data processed in the

context of teleworking, as well as to ensure that employees are aware of, and trained to comply with, these policies. Furthermore, the employer must also ensure secure and stable remote connections/access of teleworking employees to the employer's IT equipment and manage and protect both corporate and personal devices from external and internal threats.

## Liability

In the event that a work-related accident occurs, the employer will be held liable, regardless of the location where the teleworking employee was performing his/her duties.

The Moldovan Labor Code obliges the employer to fully compensate the employee for any pecuniary damage and/or moral loss suffered as a consequence of the performance of his/her work or from discrimination.

Based on the mandatory social contributions made by the employer to the state budget, employees will be entitled to benefits in the event of a work accident, including one which occurs during remote work. These benefits range from an allowance for medical rehabilitation, recovery of work capacity, professional rehabilitation, temporary transfer to another job, to disability benefits and compensation for temporary incapacity to work or death. However, this state insurance does not cover the employer's pecuniary liability towards the employee in such a case, which consists of single allowance for loss of working capacity or death (calculated on the basis of the average monthly salary in the country, for each percentage of loss of work capacity, but not less than the employee's annual salary) and other damages to which the employee and his/her family members are entitled under law. The employer could, therefore, consider taking out additional insurance for this purpose.

At the other end of the scale, the employee is held liable for any loss or damage caused to the employer up to a monthly salary, except in cases where the employee has full pecuniary liability, as regulated by the Moldovan Labor Code (e.g. non-work-related damage, willful damage, etc.). In particular, if the teleworking employee uses the devices of the employer, the agreement between them should provide for the full pecuniary liability of the employee.

For any loss or damage caused by the employee to a third party while performing telework, the employer will bear the liability under the general rules of the Moldovan Civil Code. If the loss or damage is caused deliberately by the employee, the employer and the employee will be held jointly liable. The employer is entitled to pursue the employee in a recourse action, unless the employee can prove that he/she was complying exactly with the employer's instructions.

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# ROMANIA

## Implementation of remote work

The Romanian labor framework enables eligible employees to perform their duties from a place other than the one organized by the employer and under two alternative regimes (work from home and telework). There are, however, several differences which have emerged given the inconsistency of the legislator who established different legal framework applicable to activities that can be performed from home. Basically, whereas "work from home" is governed by the provisions of Art. 108 – 110 of the Labor Code, in the case of "telework", the special provisions of Law Nº 81/2018 apply.

The "telework" regime governs activities that can be performed exclusively by using IT equipment (i.e. laptops, phones, tablets, any device that can work with internet etc.), whereas the "work from home" regime covers activities which entail the use of materials or other instruments (i.e. any other activity that can be performed from home without using IT equipment).

The rules for working under one of the above regimes must be reflected in the individual employment agreement signed by the parties. Specifically, teleworking can be implemented with the consent of both employer and employee, who can agree on either by signing an addendum to the individual employment contract or by agreeing on the possibility of teleworking from the beginning of the contract. During the Covid-19 pandemic, employers were able to unilaterally order telework for a certain period. However, this possibility no longer exists.

General rules on telework may also be provided under a collective bargaining agreement entered into at one of the following levels: company, group of companies or industry/sector level, as well as in the Internal Regulations or internal policies of the employer.

A novelty in the current regulations is that the employee now has the right to request the establishment of individual work programs, which incorporate a flexible way of organizing working time, including the introduction of remote work formulas. In cases where the employer refuses an employee's request in this respect, the employer is required to give reasons for the refusal, in writing, within 5 working days of receiving the request (for example, the failure to meet certain conditions such as having a caring role).

The Romanian legislator has laid down extensive regulations which must be observed when introducing telework. A violation of these regulations can result in a fine of up to EUR 2,000. If teleworking is agreed upon, the working time owed and supervision of the working time owed, as well

as the rules governing the responsibilities of the parties regarding occupational health and safety at work, must be contractually agreed upon.

## Required involvement of employee representatives and public / immigration authorities

There is no requirement for either employee representatives or trade unions to be involved in the agreement. However, employee representatives can be involved in the development of the internal process. This usually increases the level of acceptance of such an arrangement on the part of employees.

Likewise, there is no obligation to inform public authorities of the introduction of telework. However, the employer must enter the changes in the employment contract in the general register of employees (an online database hosted by the Romanian labor authorities on which all employment contracts and any subsequent addenda thereto must be registered).

From an immigration perspective, non-EU nationals can work remotely from Romania on a temporary basis by applying for and obtaining the so-called “digital nomad visa”. Beneficiaries of the digital nomad visas must be employed by a non-Romanian entity (a company with no formal presence in Romania) and must prove that they comply with legal requirements (i.e. minimum income earned, that the activities carried out can be performed remotely using IT equipment, etc.).

## Equipment & Compensation for remote work expenses

The employer has a legal obligation to provide the equipment necessary for teleworking, i.e. laptops, desktop computers, monitors, phones, printers, chargers, office supplies, desks, chairs and other items, unless otherwise agreed by the parties. Moreover, the employer must install, check, and maintain all equipment used in the performance of the telework activity, unless otherwise agreed by the parties.

The law allows employers flexibility in determining how to handle costs related to telework. In this respect, a mandatory clause of the individual employment agreement, or of the addendum with the telework clause, concerns the conditions under which the employer bears the expenses arising from the performance of the activity under the telework regime. To meet this requirement, some employers offer a lump sum or monthly reimbursement (pro-rated based on telework days) to cover essential costs like Internet and electricity.

## Working time, performance and right to disconnect

The general rules regarding working time apply. The working hours must be expressly stipulated in the clauses on telework included in the employment contract. In accordance with labor legislation, an employee may work an average of 48 hours per week, including overtime. If the employee works overtime, the employer must compensate for the overtime by granting an appropriate amount of time off or, if this is not possible, the employer must pay for the overtime. Failure to comply with the above obligation is sanctioned with an

administrative fine of EUR 350 to EUR 650 for each identified employee working overtime.

In Romania, the right to disconnect is not expressly provided for by law. However, employers must observe the employees' right to daily rest periods, especially considering that teleworkers have a greater tendency to work overtime or forget to take the necessary breaks from the screen. For this purpose, the employer is required to record the hours worked by the employee in the telework arrangement. Electronic time sheets and registration and deregistration systems may be used.

The time frame of the telework may be limited and/or revoked according to the arrangement agreed upon by the parties when concluding the employment agreement or at a later date in their employment relationship through an addendum to said employment agreement.

Romanian legislation further provides that written consent is required prior to implementing any monitoring system, through its inclusion in an individual agreement or telework addendum. The employer may thus only enter the employee's home to verify compliance with health and safety regulations if he/she has notified the employee in advance and the employee has agreed to the inspection. To monitor working time, the employer should implement a policy clearly specifying the types of monitoring the employer will undertake, i.e. recording hours worked and providing updates of the remote registration system.

In the case of a suspected abuse of working time, the employer may conduct a disciplinary investigation to look examine the employee's conduct in more detail and assess whether the employee has breached his/her obligations. The outcome of the disciplinary investigation may lead to disciplinary sanctions, including dismissal.

## Health and safety and data protection

The employer is responsible for the health and safety of employees and conducts risk assessments in all work activities, including remote work. In this respect, the employer should implement a specific policy that defines the respective health and safety obligations of the parties, including guidelines for the establishment and maintenance of safe working environments. The employer should demand that the employee inspect his/her workstation for health and safety issues to verify its suitability. In addition, the employer should inform the employee of any questions or concerns regarding appropriate risk prevention, including the provision of sufficient and adequate information and training to remote employees with regard to the use of physical/display screen equipment (covering workstation, chair, work environment, etc.).

The employee has the right to be assisted by the health and safety officer in implementing those regulations. If a personal assessment is not possible to every individual employee, this may constitute a failure on the part of the employer to meet his/her health and safety obligations. Failure to comply with health and safety obligations is punishable with fines ranging from approximately EUR 550 to EUR 2,000.

Romanian legislation outlines detailed provisions to be included in the employment agreement or addendum, including the

employer's obligation to provide measures to prevent remote employees from feeling isolated from the rest of the employees and to ensure the possibility of meeting up with colleagues on a regular basis.

The provisions regarding the implementation of telework also impose the obligation of confidentiality to ensure that the employee does not violate applicable data protection laws. Employers must prevent data breaches by implementing a secure information management process that includes home and remote working.

To avoid any risk of an inappropriate use of IT equipment, the employer should review his/her IT and telecommunications policy to ensure that it clearly outlines the extent to which IT systems or equipment may be used for private purposes. The employer should also consider arrangements such as passwords and encryption to protect knowledge of competitive value, such as intellectual property, documents, and customer data, and provide a secure filing cabinet and shredding container.

Such monitoring may require regular training of employees with regard to company policies and guidelines. The company should review these frequently to ensure that practices are up to date, with the goal of ensuring that employees are constantly aware of their data protection obligations.

## Liability

In the event of an accident while teleworking, the competent authorities, upon notification by the employer, investigate the case and determine whether it constitutes an accident at work. The employer may be held liable for the accident if he/she has failed to train the employee in occupational health and safety matters at work.

The public insurance company is liable for damages suffered by the employee during telework. Nevertheless, the employer can take out private insurance and confirm whether or not the insurance covers potential claims in the event of occupational accidents.

If the parties have agreed in the telework arrangement that the employee will use his/her own equipment when performing telework, the employer may be required to provide for the maintenance or replacement of and damaged equipment provided that the damage is considered to have been caused by the employee during the performance of his/her duties.

As a rule, the employer is also liable for damage caused by his/her employees to the property of third parties where the damage caused arose from the tasks assigned to him/her by the employer. However, the employer cannot be held liable if the damage was caused in connection with a non-work-related activity and the third party was aware of this.

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# SERBIA

## Implementation of remote work

An employment relationship may be established for performing activities outside the employer's premises.

The employment relationship for performing activities outside the employer's premises includes remote work and work from home. Remote work and work from home may be introduced:

1. by the initial employment contract or
2. by an annex to employment

An employment contract entered into for remote work or work from home, in addition to the mandatory elements prescribed under the law, also stipulates:

1. the duration of working hours according to work norms
2. the method for supervising the work and the quality of the employee's work
3. the work equipment for performing tasks that the employer is required to procure, install and maintain
4. the use and utilization of the employee's own work equipment and the reimbursement of expenses for the use thereof
5. compensation of other labor costs and how this is calculated
6. other rights and obligations

The basic salary of the employee engaged in telework cannot be lower than the basic salary of the employee who performs the same work on the employer's premises. The provisions of the Labor Law regarding working hours, overtime work, redistribution of working hours, night work, vacations and absences also apply to the employment contract for telework, unless otherwise provided for by a general act (Collective Bargaining Agreement or Employment Rules) or employment contract. The quantity and deadlines for the performance of work subject to an employment contract for remote work or work from home may not be determined in a way that prevents the employee from enjoying the right to rest during daily work and daily, weekly and annual time off, as provided for in law and general regulations.

If remote work or work from home was not agreed upon when the initial employment relationship was entered into, the employee and employer may agree that the employee spends a part of the contracted working hours working from home. In the event that the employee rejects the annex to his/her employment contract which introduces remote work or work from home (one or more days a week), this rejection cannot serve as basis for the termination of employment.

The Labor Law is silent as regards the terms and conditions that apply to telework when the employee only works from home for a

limited number of hours. In practice, the terms and conditions governing contractually agreed telework also apply to "partial" telework. As an exception to the rule that remote work or work from home is only possible if employer and employee agree to it in an employment contract or annex thereto, the Serbian government issued a special regulation on the organization of work during the state of emergency caused by the Corona pandemic (the "Decree").

The Decree imposed an obligation on employers to enable remote work for all employees whose work could be done on a remote basis. In accordance with the Decree, in the event that the employer's Employment Rules (pravilnik o radu) or individual employment contracts did not regulate teleworking, the employer was required to issue individual decisions on teleworking to each employee affected. The decision had to determine (i) the duration of work hours; and (ii) the manner of supervision of the work performed remotely. In addition, the employer had to keep a record of the employees working remotely. The Decree is no longer in force.

## Required involvement of employee representatives and public authorities / Immigration

There is no requirement to involve employee representatives and no obligation to notify any specific public authority apart from the duty to register work from home with the social security fund.

There are no special immigration rules for third-country (non-EU) digital nomads when they work remotely in Serbia for their third-country employer except that they are required to obtain a residence permit (and possibly also a work permit). Obtaining these permits can be challenging in cases where a foreigner does not reside in Serbia for the purpose of working for a local employer, or for educational or family reasons, etc. And the foreigner may be required to register as an entrepreneur in the Serbian Commercial Registry or set up a company in Serbia in order to acquire said permits.

## Equipment & Compensation for remote work expenses

The employer is responsible for setting up the teleworking space and, in principle, also bears the associated costs. For teleworking, the employee requires certain equipment that is provided, installed and maintained by the employer in the employee's home. Other working conditions for performing telework are agreed upon in the employment contract in accordance with the law.

Therefore, in addition to the work equipment that the employer is required to procure, install and maintain in the room in the employee's home where the work is going to be performed, the law provides for the possibility of allocating funds to cover the work of the employee and compensate for other labor costs and how these costs are calculated. This refers to the use of resources and equipment belonging to the employee him/herself to perform telework on behalf of the employer, for which the employer is required to reimburse the costs. By other labor costs that the employer is also required to reimburse the employee for, we refer to costs arising from the use of electricity, water, gas, etc. These costs are determined in the employment contract and, where it is not possible to calculate their amount based on the amount of work performed, they can be covered by a flat monthly amount. The compensation of expenses paid by the employer to the teleworking employee is

subject to income tax at the rate of 10%, while social contributions are not payable on these amounts as they do not represent part of the salary.

## Working time, performance and right to disconnect

The provisions of the Labor Law regarding the working hours schedule, overtime work, the rescheduling of working hours, night work, rest periods and leave, also apply to the employment contract for remote work and work from home, unless otherwise stipulated in a bylaw or employment contract. The volume of work and deadlines for the completion of tasks performed under the remote work and work -from -home contract may not be determined in a manner that prevents the employee from enjoying rest periods in the course of a working day, rest between working days, weekly rest and annual leave, in accordance with the law and bylaws.

The applicable regulations do not govern the employee's right to disconnect nor do they prohibit it.

Monitoring teleworking employees is only possible within narrow limits due to the special constitutional protection of the private home and data protection law. The employment contract or telework annex thereto should also govern the manner in which the employee's work and the quality of that work is monitored. The employer may not enter the employee's home without the latter's consent. To constantly monitor work performance, it is advisable to request work reports from the employees at regular intervals on the progress of the work and, if necessary, partial work results. The employer can also require the employee to keep and present activity records.

In the event of an abuse (suspected abuse) of working time during remote work or work from home, the employer can initiate a disciplinary procedure against the employee and sanction such behavior (including by dismissal) if the abuse constitutes a breach of work duty or work discipline.

## Health and safety and data protection

The employer is responsible for health and safety during telework. There is no change in his/her legal obligations under the Serbian Law on Workplace Health and Safety. An employee who performs work outside the employer's premises has the right to health and safety at work provided by the employer. The employer ensures the health and safety at work of telework employees in several ways: by introducing telework only for employees who perform tasks that are not dangerous or harmful to the health of the employee or third persons; and in the manner determined by a general act or collective bargaining agreement or, in the event that the company has ten employees or less, through an employment contract detailing the rights, obligations and responsibilities of employer and employees in the sphere of health and safety at work, health and safety measures that must be applied at work to protect the lives and health of employees, and the method of ensuring the application and implementation of these measures, as well as responsibility for their implementation.

With regard to the special rules on the working time of teleworking employees, the Labor Law stipulates that its provisions on working hours, overtime work, redistribution of working hours, night work, vacations and absences shall also apply to the employment contract for telework, unless otherwise provided for by a general

act (Collective Bargaining Agreement or Employment Rules) or employment contract. It also stipulates that the quantity and deadlines for the performance of work subject to employment contract for teleworking may not be determined in a way that prevents the employee from enjoying rest periods in the course of a working day, rest between working days, weekly rest and annual leave, in accordance with the Labor Law and general acts. In our opinion, the teleworking agreement should oblige the employee to comply with the rules on working time. Furthermore, the agreement should oblige the employees to provide a record of the working hours performed daily.

In terms of data protection law, the employer must ensure appropriate data security when introducing telework. The employer must ensure secure transmission channels and appropriate data protection-compliant handling. This also applies if the employee uses private means of telecommunication. Both technical measures (e.g. setting up a VPN client) and organizational measures (e.g. specific instructions on data handling and secrecy measures in the home office) should be specified in the teleworking agreement. In particular, the teleworking agreement should stipulate regulations on data handling and/or safety precautions to be observed by the employee.

## Liability

In the event of an accident at work, the same regulations apply as in the case of an accident at work on company premises. The employer is required to notify the state social security fund about the accident using a special application form. Nevertheless, in the case of telework, it should be noted that the state social security fund has the right to assess whether such an accident constitutes a work accident. This depends on whether the accident occurred during a professional or private activity. For instance, if an employee fell down the stairs and injured him/herself because he/she wished to check the interrupted internet connection on the ground floor required for business communication, this accident would be insured. If, on the other hand, the employee fell down the stairs on the way to the kitchen to make coffee, this would not be considered an accident at work.

In terms of liability, there are no special rules for teleworking employees. In the event that the property of an employee is damaged due to home office work, the employer is liable. Thus, a company liability insurance would (normally) settle the claim. The same applies if the property of a third party is damaged (e.g. if the equipment made available for the home office causes a fire in the employee's rented apartment). To reduce economic risks, it is advisable to clarify the scope of the already existing business liability insurance and, if necessary, to extend the insurance to cover the activities of employees in the home office.

In the event that a third person (e.g. a family member) damages a device belonging to the employer (e.g. the employee's spouse pours water over the laptop), that third person is fully liable. The company liability insurance would probably not cover such damages.

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# SLOVAKIA

## Implementation of remote work

In Slovakia, remote work (i.e. when employees perform their duties outside the regular workplace) is regulated by the Slovak Labor Code.

The legal regulations governing remote work encompass:

- homeworking;
- telework; and
- work from a home-office,

For the purposes of this contribution all of the above will be referred to as “remote work”, unless expressly stated otherwise.

The legal provisions for homeworking and teleworking are very similar. The main difference between both is that the term telework refers to work performed at a distance using information technology with regular electronic data transmission.

The common characteristic of homeworking and teleworking is that they are performed regularly from the employee's home within the limits of the prescribed weekly working time or the pro rata part thereof. Work performed by the employee from home on an occasional or exceptional basis, with the employer's consent or by agreement with the employer, provided that the nature of the work performed by the employee under the employment contract allows it, is not deemed to be homeworking or teleworking (this is known as home-office and there are significant differences between the conditions applicable to home-office and the legal provisions governing homeworking and teleworking).

For the purposes of telework, an employee's home is regarded as an agreed place of work outside the employer's premises. The agreed place of work can also be outside Slovakia, but in this case the parties must also consider and clarify fiscal and social security aspects, as well as specific legal regulations related to the content of the employment contract and related information obligations.

The employer and the employee may agree on homeworking or teleworking in writing in the employment contract or in an addendum. In both cases the rights and obligations of the parties should be specified, which includes the duration and possible termination of the homeworking or teleworking arrangement, health and safety measures, working hours, data protection, liability issues and reimbursement of expenses of the employee, if any.

There is no legal limit to the duration of homeworking or teleworking, which depends only on the agreement between the employee and the employer. However, some general statutory limitations must be taken into account, mainly as regards respecting conditions for the fixed-term employment.

The employment contract may stipulate:

- that the homeworking or telework will be performed, in whole or in a part, at a place to be determined by the employee, if the nature of the work allows it

- the scope of homeworking or telework or the minimum scope of work that will be performed by the employee at the employer's workplace, in the event that homeworking or telework is not to be performed exclusively from the employee's home

- that the employee will schedule his/her working time over the course of the week during homeworking or telework or that the homeworking or telework will be performed within flexible working hours.

There is no obligation to negotiate the implementation of remote work with employee representatives (including trade unions), but collective agreements may regulate certain details of the conditions for the implementation of remote work including, for example, costs, liability, special regulations regarding technical and personal requirements and the provision of hardware and software by the employer.

The Slovak Labor Code was amended in response to Covid-19. There is special legislation that may be applied during the implementation of measures to prevent the emergence and spread of communicable diseases or in cases of public health hazards ordered by the competent authority pursuant to a special regulation. In these cases:

- the employer is entitled to instruct the employee to work from home if the nature of the work so permits and, if these conditions are met, the employee may not object to such an instruction; and/or

- The employee has the right to decide unilaterally to perform his/her work at home, if the nature of the work to be performed allows it and there are no serious operational reasons on the part of the employer that prevent the work from being performed at home. However, the employer may object to the employee's decision only if the nature of the work to be performed does not allow its performance at home or if the employer has serious operational reasons that do not allow the work to be performed at home

In these cases, there is no need for the parties' agreement, as it is a unilateral decision taken by the relevant party nor is there any need to amend the employment contract. A notification by the employee or the employer to the other party is sufficient. In Slovakia, the state of emergency arising out of the COVID-19 pandemic has been lifted and therefore this legislation is not actually applicable. However, these special provisions may also be used in connection with any pandemic situation declared by the competent authority.

An employee who works remotely cannot be discriminated against or favored for this reason.

## Required involvement of employee representatives and public / immigration authorities

The Slovak Labor Code does not impose an obligation to involve employee representatives (including trade unions) in the implementation of remote work. However, collective agreements may provide for certain particulars concerning the conditions for the performance of remote work (as mentioned above).

In general, employee representatives (including trade unions) have the right to co-determine and/or supervise issues relating to health and safety at work and working conditions, even in the context of teleworking.

There is no obligation to notify official authorities of the establishment of remote work.

There are also no special immigration regulations for digital nomads who wish to work remotely in Slovakia. If employees want to work remotely in Slovakia and they are not EU citizens, they usually need a residence permit together with a work permit. However, there are many exceptions to this rule, including the possibility to seek a residence permit and/or a work permit via a simplified procedure.

The Government of the Slovak Republic is currently drafting an amendment to the Act on the Residence of Foreigners, which is intended to modify/simplify the conditions for obtaining a residence permit for the purpose of work in certain specific cases, but this proposal does not contain any specific regulation regarding IT nomads.

## Equipment & Compensation for remote work expenses

As a general rule, the employer is required to provide the employee with the necessary work equipment and to bear any related costs. This obligation applies to all workplaces. However, there are some open issues, particularly concerning the employer's obligation to bear the costs if homeworking or telework is not performed solely from the employee's home. This includes the cost of a desk, office chair and other furniture, reimbursement of rent, electricity costs, etc. It should be noted, however, that in the case of homeworking and telework, the costs are increasingly being borne by the employer. This is because the employee's home has become his or her regular place of work. In the case of home-office, however, there is no such obligation on the part of the employer, as it involves the occasional and intermittent performance of work in a place other than the employee's usual place of work. Nevertheless, employees may use their own equipment with the employer's prior approval. In addition to this general rule, in the case of homeworking or telework, employers are required to implement appropriate measures, particularly in regard to:

- the provision, installation, and regular maintenance of any technical equipment and software necessary for the performance of telework, except where the employee performing telework uses, in agreement with the employer, his/her own technical equipment and software
- ensuring the protection of any data processed and used during telework, in particular in the case of software
- reimbursement of demonstrably increased expenses incurred by the employee in connection with the use of his/her own tools, equipment, and other resources necessary for the performance of homeworking or telework
- informing the employee of any restrictions on the use of hardware and software, as well as the consequences of failing to comply with those restrictions.

As previously stated, in accordance with the Slovak Labor Code, the employer is only required to cover the employee's increased expenses related to the use of the employee's own tools/equipment if used with the employer's consent. However, this is subject to the employee proving that the costs were incurred or increased specifically as a result of homeworking or telework, and only if a separate agreement has been entered into between the contracting parties or if a collective agreement covers this issue. To avoid disputes, employers are advised to contractually stipulate regulations regarding the reimbursement of demonstrably increased expenses incurred by the employee.

The employee performing homeworking or telework is required to immediately inform the employer about any technical problems associated with a malfunction of technical equipment and/or software, a malfunction of the Internet connection or software, or other similar incidents that prevent him/her from performing his/her work.

There are no special tax rules applying to remote work.

## Working time, performance and right to disconnect

The scheduling of working time during homeworking or telework is subject to the terms of the employment contract or any amendments thereto. Working time during homeworking or telework may be scheduled (i) only by the employer, the Slovak Labor Code contains no special provisions on working time. Therefore, the same working time regulations shall apply as in the case of work performed on the employer's premises.

(ii) only by the employee, in which case specific conditions apply (see below). Alternatively, the parties may agree on the homeworking or teleworking conditions within the scope specified in the contract of employment. For example, the employer may specify the beginning and the end of the working hours or mandatory working hours, while other matters may be determined by the employee.

In the event that, during homeworking or telework, the employee is entitled to schedule her/his own working hours, the employment relationship is governed by the Labor Code with the following differences:

- the provisions on the schedule of specified weekly working time, uninterrupted daily rest and continuous weekly rest do not apply
- the provisions on downtime do not apply, except for downtime for which the employer is responsible
- the employee is not entitled to be paid wage compensation where significant personal obstacles arise at work, except for the wage compensation expressly stipulated in the relevant section of the Labor Code
- the employee is not entitled to paid compensation for overtime, for work performed during his/her annual leave, for work performed on Saturdays or on Sundays, for night work or for performing work under difficult conditions, unless agreed otherwise.

An employee engaged in homeworking or telework is entitled to uninterrupted daily and weekly rest periods, unless they are on-call or if overtime work is ordered or agreed with them at that time, during leave, on a holiday (if the employee is not required to

perform work) and in the event of obstacles at work. The employee is not required to use work equipment for homeworking or telework. It is not considered a breach of duty if the employee refuses to perform the work or comply with an instruction given within the periods specified in the previous sentences (right to disconnect). In Slovakia, employers are required to keep records of their employees' working time. Considering the specificity of remote work, complying with this duty can be challenging. However, it is the responsibility of the employer to establish the rules as to who may make individual arrangements or issue the relevant regulations. Monitoring remote work is only possible within legally prescribed limits due to the special constitutional protection of the individual personal rights of employees and personal data protection. The employer may not enter the employee's home without previous approval. The employer may monitor the employee's performance while they are working remotely and introduce work monitoring systems, provided that they comply with the specific legal conditions stipulated in the Labor Code. These conditions include a requirement for a justified reason based on the specific nature of the employer's activities and the obligation to negotiate with employee representatives the scope of monitoring, the manner of performing the monitoring, and its duration. The employer must also inform the employees about the above conditions.

The employer may inspect the equipment assigned to the employee for the purpose of inventory, maintenance, servicing, repair, or installation, to ensure its compliance with workplace health and safety regulations. Inspections to be carried out in the employee's home may only take place with the employee's permission.

If the employee misuses his/her working time, the employer may take the usual disciplinary action, such as issuing a warning letter or terminating the employment contract. The severity of the misuse will determine the appropriate course of action.

## Health and safety and data protection

Employers are responsible for the health and safety of employees who work remotely, whether the employee works at the employer's premises or remotely. This means, for example, that the employer is responsible in any case for ensuring compliance with the regulations on working with display units, including mandatory medical examinations, as well as the regulations on the ergonomics of the work environment). Under the Slovak Occupational Safety and Health Act, the employer must ensure that risks to the life or physical and mental health of its employees are prevented and that other risks are kept to a minimum.

Slovak legislation does not provide for specific measures for employees working remotely (e.g. regarding possible physical health problems or psychological stress). Generally, specific measures depend on the risk assessment that the employer is required to carry out. The workplace (including the remote workplace) must be safely equipped. Since employers have no legal right of access to the employee's home, the employment contract that includes remote work must include a provision that allows the employer to comply with its statutory health and safety obligations. It is strongly recommended that the employer's internal rules and/or the employment contract permitting remote

work include a detailed and comprehensive summary of health and safety requirements.

In terms of data protection law and in relation to the Labor Code, the employer is required to ensure appropriate data security when introducing remote work. The required documentation drawn up in accordance with the GDPR must also cover cases of remote work and the related transfer and protection of personal data. The employer must provide particularly secure transmission channels and appropriate data protection procedures. Both technical and organizational measures should be specified in the employment contract allowing remote work or in the employer's internal rules/ GDPR documentation. The employer must assist the employee in ensuring that confidentiality and data protection can be technically and organizationally ensured by providing adequate training on data processing and security measures when teleworking.

According to the Slovak Labor Code, in the case of homeworking or teleworking, the employer is required to take appropriate measures to prevent the employee from being isolated from other employees and to allow him/her, if possible, to come to the employer's workplace to meet other employees.

## Liability

There are no specific laws governing liability for damages related to remote work. However, these general rules also apply to remote work:

- employers must provide their employees with working conditions that enable them to perform their duties properly without putting their life, health or property at risk. Employers are liable to employees for any damages caused to the employee as a result of the employer's violation of statutory obligations or intentional conduct contrary to morality in the performance of the employee's work (employer's duties) or in indirect connection therewith. Where the employee sustains a loss or fatal (occupational) injury in the course performing his/her work, the employee is liable for the resulting damage to the employee

- employees are required to act in such a manner as to prevent any danger to life or health, damage to or destruction of property, or unjust enrichment. The employee is liable to the employer for any damage caused by him/her to the employer as a result of a negligent breach of the employee's obligations related to or directly connected with the performance of his/her work.

In accordance with the general provisions, any employee who has suffered an accident at work is entitled to compensation from the employer for any loss or damage related to his/her:

- health, which is covered by mandatory public social insurance. However, if certain legal conditions are satisfied, the Slovak social security may claim reimbursement from the employer for social insurance benefits paid to the extent that the employer is liable for the employee's accident

- personal belongings or those necessary for the performance of work, or other property, except for a specific item such as a car. Damage to personal

belongings or other property is not covered by public social security. Therefore, employers should take out private insurance to cover their liability for this type of damage.

If an accident occurs during work performed remotely, the same rules apply as if the accident had taken place at the employer's premises. Compulsory public accident insurance compensates the employee to the same extent as if the activities had been performed at the employer's registered office. The right to compensation from public accident insurance and the amount depend on whether the accident occurred during professional or private activity and must be assessed on a case-by-case basis.

Public health insurance covers the cost of treatment for injuries sustained by employees in the course of their work; there are no specific legal provisions applicable to remote work. However, if certain legal conditions are fulfilled, the public health insurance system may claim reimbursement from the employer for any medical expenses incurred to the extent that the employer is responsible for the employee's accident.

If the employee suffers a loss that is not covered by mandatory social security, he/she may claim compensation from the employer.

If a third party (e.g. a family member) or the employee damages the employer's equipment or other property, the employee and/or the third party are fully liable. If the relevant statutory conditions are satisfied, there may also be joint or several liability with the employee who violated his/her duty to protect the employer's property. The same applies in the event of damage to the property of a third party (e.g. if the employer's equipment provided for remote work causes a fire in the employee's home).

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# SLOVENIA

## Implementation of remote work

In Slovenia, only homeworking is regulated, this being defined as work performed at the employee's home or at a location chosen by the employee away from the employer's premises. As such, homeworking also covers teleworking performed by the employee using information technology. Employees who work remotely and regular employees both share the status of employee and enter into an employment contract which establishes the same rights and obligations, with some specific features for remote employees.

There are several collective agreements that regulate telework for various sectors, e.g. in the postal and courier sector, education and training, real estate, etc. What they all have in common is that they mainly regulate compensation to employees for the use of their own resources, the provision of safe conditions, the rights and obligations of the employee, and the form of the telework agreement. In the event that the abovementioned provisions are not regulated in the collective agreement, employers shall adopt those provisions by means of internal regulations.

Telework must be established in the employment contract, which means that telework generally requires the consent of both parties.
If the employee proposes to perform work from home during the employment relationship because of work-life balance needs, the employer must give reasons for its decision in writing no later than 15 days.

Under Slovenian legislation, teleworking may be introduced on two legal bases, either contractually or unilaterally ordered by the employer, but only under exceptional circumstances. On a contractual basis, telework may be introduced with an agreement based on the employee's consent, i.e. by a new employment contract entered into specifically for telework, where the current employment agreement did not already include such provision. Any agreement should include obligatory provisions related to telework, i.e. which areas of the employee's home are considered as working areas, remuneration for the use of his/her own equipment and resources, if not provided by the employer, and working hours. Telework may also be introduced on a unilateral basis in the event of natural or other disasters, if such an event is foreseen or in other exceptional circumstances that endanger human life and health or the property of the employer. In that case, the place of work specified in the employment contract may be temporarily changed without the consent of the employee, but only for as long as such circumstances persist.

## Required involvement of employee representatives and public / immigration authorities

The Slovenian teleworking rules do not impose an obligation to involve employee representatives in the introduction of remote work, as it is up to the employer and the employee to determine this. However, the employer must notify the Labor Inspectorate prior to the introduction of telework for each employee. Failure to inform the Labor Inspectorate regarding the intended organization of telework prior to the commencement of said telework is subject to a fine ranging from 750 to 2,000 EUR.

There are no specific immigration regulations for digital nomads who wish to work remotely in Slovenia. In order to work remotely in Slovenia, employees from third countries need a single work and residence permit.

## Equipment & Compensation for remote work expenses

The employer's obligation to provide the employee with all the necessary resources and working materials to enable the employee to perform his/her duties applies to all employment relationships in general, and there are no specific regulations regarding teleworking.

When working from home, the employee is entitled to the reimbursement of food costs during work time and compensation for the use of his/her own resources. When an employee works from home, it is important that employer and employee agree on who will provide the materials and work equipment to perform the work at home. The Slovenian Employment Relationship Act does not specify which costs related to homeworking are to be borne by the employer. Based on the agreement or arrangement between the employer and the employee as to who will provide the resources and equipment for work, the employee may be entitled to compensation for the use of his/her own resources.

The Employment Relationships Act does not specify the amount of compensation to be paid. The amount can either be stipulated in a branch/company collective agreement or in the employment contract. The criteria for the determination of compensation may also be established in the employer's internal regulations. However, the Personal Income Tax Act determines the highest untaxed amount of compensation for an employee´s remote work expenses, as explained below.

The Personal Income Tax Act stipulates that the compensation for the use of own resources for homeworking in accordance with the rules governing employment relationships, provided that it is determined by special regulations or on the basis of a collective agreement or general act of the employer, is not included in the taxable amount of income from employment, up to a maximum of 0.20% of the last known average annual salary of employees in Slovenia, calculated on a monthly basis, for each day of homeworking, i.e. EUR 4.44 per day as from 1.3.2024.

## Working time, performance and right to disconnect

With regard to working hours, night work, breaks and daily and weekly rest, teleworking is exempted from statutory provisions if working hours cannot be planned in advance or if the employee can plan his/her own working hours, under the condition that the health and safety at work of the employee are ensured.

There are no exceptions for telework in the area of working time record-keeping. The employer must keep a daily record of the employee's working hours. The employee and the employer can also agree in the employment contract on how to report on the results of the work.

The right to disconnect is defined in general terms in the Slovenian Employment Relationship Act. As part of this right, the employer must ensure that the employee is not available to the employer during his/her rest or justified leave from work in accordance with the law and the collective or general agreement. To this end, the employer must take appropriate measures. The right to disconnect must also be guaranteed to teleworkers. The standard rules on maximum working hours and the right to breaks apply in the same way as for on-site employees.

An employers' options for monitoring remote workers are quite limited, especially due to the protection of privacy of the employees. If an employer chooses to use apps to monitor the employee (e.g. time and attendance registration with clock-in and clock-out via a mobile device), he/she may only collect the personal data of employees which are necessary, appropriate and proportionate for the purpose of monitoring homeworking. Measures for surveillance, such as the use of keylogger software or the taking of screenshots, are not yet regulated.

An employer's entry into an employee's home without the latter's consent constitutes an infringement of the employee's right to spatial privacy, which is constitutionally protected. The enforcement of working time rules may be supervised by the authority responsible for labor inspection. If the employee refuses to allow

entry to his/her home, the labor inspector must obtain a prior judicial authorization. In the event of an abuse of working time, the employer can impose the typical measures applicable in cases of an infringement of the employee's obligations. The employer can issue a warning or terminate the employment contract, depending on the severity of the abuse.

## Health and safety and data protection

The employer is responsible for the health and safety of the employee during telework. Under the Slovenian Employment Relationships Act, the employer is expressly required to ensure and provide safe conditions for teleworking, meaning that the employer has the same level of responsibility in the case of teleworking as when the employee is working on the employer's premises, while taking special consideration of the working environment, working equipment, stress and mental wellbeing, the fact that the employee is working alone (in the event of an accident) and other risks arising from teleworking (manual lifting of burdens, danger of electric shock, etc.).

Therefore, the employer must take measures to ensure health and safety at the workplace. These include the prevention, elimination and containment of risks at work, informing and training the employees, adjusting and organizing the work process accordingly, and providing the necessary resources.

Slovene legislation governing health and safety at work does not contain any provision on how to enforce and monitor whether the conditions for health and safety in teleworking have been complied with. Therefore, it is the employer's responsibility to decide how to ensure that adequate measures are being implemented (e.g. by sending a qualified person to review and examine the workstation or by having the employee fill out a questionnaire). If the employer chooses to send an expert to review the workstation at the employee's home, the employer will need to obtain the prior consent of the employee to access his/her home.

With regard to working hours and breaks, teleworking is exempted from statutory provisions if working hours cannot be planned in advance or if the employee is permitted to plan his/her own working hours, under the condition that the health and safety at work of the employee are ensured. In this respect, the employer must organize teleworking in such a way as to ensure regular short and long breaks during the working day (10-15 min breaks after every hour of continuous work with a computer or, if that is not possible, then at least 1-2 minutes of break once or twice per hour).

In the case of personal data handling, the employer must ensure appropriate data security when introducing telework. The employer must ensure secure transmission channels and appropriate data protection-compliant handling. Both technical and organizational measures should be specified either in the teleworking agreement or in the employer's internal regulations, including the regulations on data handling and/or safety precautions to be observed by the employee.

## Liability

The employer is liable for compensation for accidents arising from or in connection with work, regardless of whether the employee works on the employer's premises or at home. If the performance of the work constitutes a dangerous activity, the

employer is liable for any injury sustained by the employee under the rules of strict liability (which means that he/she can still claim the employee's contribution to the damage or injury) but otherwise the rules of vicarious liability apply, i.e. only if the employer is found to be at fault for the damage or injury.

All employees are compulsorily insured for work-related injuries. The Health Insurance Institute of Slovenia covers the costs of treating injuries sustained by employees in the course of their work. There are no specific legal provisions regarding telework. However, the Health Insurance Institute may claim reimbursement of the medical expenses incurred by the employer to the extent that the employer is responsible for the employee's accident. The Health Insurance Institute also reimburses employers, to a certain extent or under certain conditions, for the costs of wage compensation paid to employees for periods of absence from work due to injuries sustained at work.

Due to the increasing use of recourse claims by the Health Insurance Institute against employers for the reimbursement of medical expenses and wage compensation, employers are increasingly forced to take out insurance contracts to cover their liability in the event of injuries to employees at work.

Employees are often also additionally covered by collective supplementary accident insurance in the event of injuries.

Slovenian law does not specifically regulate liability for damage caused by teleworking. Under the general rules, employers are liable to third parties for damage caused by their employees to third-party property. Employers can, however, claim compensation for damage caused by the employee in the context of a recourse procedure in the event that the employee caused the damage intentionally or by gross negligence. Furthermore, in the event of damage to the employee's own assets in connection with teleworking, the employer is consequently liable to compensate the employee for damage to the latter's property, unless the employee has caused such damage intentionally or by gross negligence. In the event that a third person causes loss or damage to the employer, that third person is fully liable.

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# SPAIN

## Implementation of remote work

There are two (2) different arrangements for employees who perform their duties away from the workplace: Remote Work and Telework. Both are regulated within the framework of Law 10/2021 of July 9, 2021, on Remote Work. Specifically, the term "telework" is a subtype of "remote work". It refers to work performed using exclusively or predominantly computer, telematic and telecommunication means and systems.

In fact, the provisions applicable to remote work apply also to telework and vice versa, and both terms are therefore used indistinguishably. However, it should be noted that not all remote work is covered by Law 10/2021, but only "regular" remote work. Remote work is considered regular if, during a reference period of three months, at least thirty percent (30%) of the working hours, or the equivalent proportional percentage depending on the length of the employment contract, are performed remotely.

In addition to the above general provisions, there is currently an increasing trend for collective agreements to include specific provisions on remote work, such as technical and personal requirements for remote work, the provision of equipment by the employee, the right of the employee/employer to access and terminate remote work, or the reimbursement of expenses arising from remote work, which must be met by the employer.

As a general rule, remote work arrangements must be set out in writing, and the applicable collective bargaining agreement may set out further formal requirements. These arrangements may be included in the employment contract or made at a later date, but in any case must be formalized before the commencement of the remote work. A copy of the agreement must be provided to employee representatives.

Remote work is voluntary for both the employee and the employer. This means that employees have the right to request to work remotely, but permission may not be granted in all cases.

Without prejudice to the relevant provisions contained in the applicable collective bargaining agreements, the document setting out the rules applicable to remote work must cover the following matters: the length of the remote work, an inventory of the required equipment and tools, a list of the expenses that the employee may incur and the compensation that the employer must pay, the employee's work schedule (including the percentage of remote work in the case of hybrid work), the employer's work center to which the employee is assigned, the location chosen by the employee to work remotely,

notice periods for exercising reversibility situations, the control of the activity by the company, the procedure to be followed in case of technical difficulties, and instructions on data protection and information security.

## Required involvement of employee representatives and public / immigration authorities

A copy of any remote working arrangements between the employer and employees (and any amendments thereto) must be provided to the employee representatives. In addition, employee representatives must be involved in a number of matters related to remote work, such as actively participating in the drafting of the employer's data protection instructions and the internal policy on digital disconnection and information security.

The employer and the employee representatives may negotiate specific terms and conditions applicable to remote work in addition to the general terms and conditions and other provisions contained in the applicable collective bargaining agreements.

A copy of all remote work arrangements must be submitted to the labor authority.

Failure to formalize the remote work agreement in writing or in accordance with the applicable regulations is considered a gross administrative infraction, punishable by fines ranging from 751.00 euros to 7,500.00 euros.

Spain is seeking to attract digital nomads and has laid down legislation applicable to digital nomads, which includes a visa to work remotely in Spain. Non-EU nationals working remotely for companies based outside Spain can apply for this visa, which has a minimum duration of one year, unless the remote working period is shorter, in which case the visa will have the same length.

## Equipment & Compensation for remote work expenses

Teleworkers are entitled to the provision and adequate maintenance by the employer of all resources, equipment, and tools necessary for the performance of telework in accordance with the inventory included in the telework agreement and the provisions of the applicable collective bargaining agreement.

Expenses incurred by the employee as a result of remote work must be reimbursed by the employer. Therefore, the employee may not bear the expenses related to equipment, tools and resources related to remote work. Collective bargaining agreements may establish the mechanism for determining, reimbursing, or paying for these expenses.

This is a controversial issue that has resulted in various court rulings, which have generally clarified that teleworkers are not entitled to general expense reimbursement, but that any expenses must be properly justified to be covered by the employer.

A case-by-case analysis of the compensation paid by the employer to the remote employee is necessary to confirm the tax treatment applicable to such compensation.

## Working time, performance and right to disconnect

Currently, there are no specific rules on working hours for remote work. Therefore, the general rules (including digital disconnection rules, as discussed below), which are mainly

contained in the Spanish Labor Act and collective bargaining agreements, apply to remote workers.

Moreover, employers in Spain must implement a system for recording working time, including the specific start and end time for each employee. This system must show the actual working time performed by employees (including remote employees), recording entry and exit times, breaks, and the actual working time spent by employees outside the company's offices.

In addition, all employees have the right to digital disconnection during non-working hours. The employer, together with employee representatives, must draw up an internal policy covering certain aspects of this matter such as methods for exercising the right to disconnect or training for employees to avoid the risk of computer fatigue.

Along with the mandatory timekeeping system, the employer may monitor the activities of employees working remotely and introduce work monitoring systems. However, the purpose, scope, and method of application of monitoring must be defined in a company policy or a collective agreement between the employer and employee representatives. Collective agreements may also include provisions in this regard. Employees must be informed of the existence of monitoring systems and their operation. Monitoring activities must be commensurate with the principle of proportionality; otherwise, the employer might be deemed to have violated the employee's fundamental rights.

In any event, the employer does not have the right to enter the employee's home, and the employee's consent is mandatory even for occupational health and safety purposes.

If the employee violates his/her working time obligations, the employer may take disciplinary action against him/her, including termination of employment in the case of gross and culpable breaches.

## Health and safety and data protection

Employers are responsible for health and safety in the workplace (home office or remote work) and remote employees are entitled to the same protection as other employees. Employers have extensive legal obligations to provide a safe working environment and any breach of these duties can result in serious liabilities.

It is common practice in Spain for employers to engage specialist health and safety evaluation companies. The employer's basic obligations include assessing and knowing the risks in the workplace, understanding how those risks may affect or are affecting employees, and planning and implementing measures to prevent or minimize those risks. These measures include providing employees with information and training, as well as appropriate means and tools.

In the case of remote employees, the risk assessment and preventive measures must take into account the specific characteristics of remote work. In addition, this assessment must only cover the work area and must not extend to other areas of the employee's home or the place where the employee performs his/her work.

If it becomes necessary to inspect the employee's home, a written report explaining the circumstances must be drawn up and made available to the employee and the health and safety delegates. The inspection requires the employer's consent and, in the

absence of such consent, the employer's health and safety obligations must be based on the risks arising from the information provided by the employee in accordance with the instructions of the health and safety service provider.

The risk assessment must take into account specific factors such as psychological, ergonomic and organizational elements, as well as the accessibility of the actual working environment. It must also consider the distribution of working hours, availability times and the provision of breaks and rest periods during working hours.

The employer is required to implement a wide range of precautions to avoid violations of data protection regulations related to data security and data transmission. The Spanish Data Protection Agency recommends the following: defining an information protection policy for remote work situations, choosing reliable and guaranteed solutions and service providers, restricting access to information, periodically configuring equipment and devices used in remote work, monitoring external access to the corporate network from the outside, and rationally managing data protection and security.

## Liability

The Spanish social security system protects the situation of an employee on sick leave. For this purpose, it is necessary that a Social Security doctor determines the beginning and duration of sick leave, which can be based on an occupational illness or accident. The process and coverage of sick leave is detailed in the

Spanish Social Security regulations and also in certain collective bargaining agreements. Finally, it should be noted that accidents that occur in the workplace and during working hours are presumed to be work-related.

An occupational illness or accident resulting from inadequate safety measures may give rise to a number of liabilities and penalties for the employer, including administrative fines and penalties, damages and, in certain circumstances, even criminal liability.

Although in practice it may be difficult to prove that remote work was the cause of the injury, if so, the employer would be liable to compensate the employee (or even a third party) for damages. On the other hand, the employee could be held liable in case of improper use of work resources and tools provided by the employer.

Spanish labor courts tend to broaden the concept of occupational accidents in remote work situations. Recent court rulings consider that the home workplace is not limited to the specific work area (i.e., table, chair, and computer) and often consider as occupational accidents those that occur not only in the actual work area, but also in nearby areas of the employee's home during working hours.

An insurance policy may cover contingencies such as damage to company property at home by the employee or his or her family members. Remote working agreements sometimes include the existence of such policies.

Finally, employers must pay special attention to possible international remote work situations, which have various relevant legal implications, especially with regard to the law applicable to the employment contract, social security obligations, required work permits/visas, and occupational risk prevention obligations.

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# SWEDEN

## Implementation of remote work

In Swedish legislation there is no legal definition of what remote work is. Thus, even though it is common knowledge that remote work usually means that the employee works to a greater extent at a specific location other than the employer's office or equivalent (usually the employee's home), there are no regulatory differences between the different types of remote work in Sweden.

Employer and employee representatives in the Swedish Labor Market have entered into a central agreement which seeks to comply with the European Framework on Remote Work. This agreement, which is formally not a collective bargaining agreement, establishes that remote work shall be of a voluntary nature. This means that, unless otherwise agreed in the original job description, the employee has the right to reject an offer to work from a remote location. Up until now, collective bargaining agreements have been quite rare and usually entered into between an employer and the local union. Such local collective bargaining agreements usually contain provisions on the technical and personal requirements of the employee, the employer's obligation to provide working tools, cost and liability issues, and responsibility for the working environment.

There are no requirements that remote work be subject to an agreement between the parties. However, due to the fact that all employers are required to provide information regarding the employee´s workplace, and to prevent any disputes regarding the content of the arrangement, it is our considered opinion that the introduction of remote work should be subject to regulation in a supplement and/or a policy which includes the terms agreed.

The employer cannot, through a unilateral order, implement a permanent change which obliges the employee to work from home or from another remote location. A permanent arrangement of remote work may be considered to constitute such a significant change to the employment relationship that the employer must apply the principles of re-regulation of employment contracts in order to implement the remote work. If no agreement can be reached regarding re-regulation (i.e. The proposed introduction of remote work) with the employee, is legally possible for the employer to enforce the introduction through a redundancy

procedure in which the employee is given the alternative between accepting the transfer to a new position which includes remote work or having their employment terminated on the grounds of redundancy. Although it is legal to enforce remote work through a redundancy, it is our considered opinion that this measure should be reserved for situations where the employer does not have any other reasonable options. Unilateral decisions without the employee's prior consent can only be taken in situations of force majeure, such as during the pandemic when the authorities recommended to all employer's that work should be performed from home.

There is no mandatory legislation in Sweden that obliges employers to allow employees to work from a remote location.

We recommend that the agreement and/ or the policy regarding remote work should regulate the following conditions::

- the scope of remote work;
- routines for notification and reporting to the employer and a regulation which establishes how remote work can be terminated;
- the practical issue of insurance cover with regard to both personal injury and property damage;
- IT security and confidentiality;
- responsibility for the work environment; and
- issues relating to working time, where it should be stated whether trust-based working time or some other form of working time is to be applied.

## Required involvement of employee representatives and public / immigration authorities

There is no obligation to inform public authorities about the introduction of remote work. However, prior to any major decisions regarding the introduction of remote work , the employer must negotiate with the union representatives to which he/she is bound by collective bargaining agreement. If the employer is not bound by a collective bargaining agreement and the decision constitutes a major change for an individual employee who is a member of a union, the employer is required to enter into consultations with that union.

The idea behind union consultations is that the union is given the possibility of influencing the decision before any final decision is taken. However, it is important to note that the parties are not under any obligation to reach an agreement and that unions do not have any right of veto against the decision.

Failure to comply with the requirement to consult with the union does not make the decision void. However, it gives rise to liability for general damages.

In the event that a foreigner wishes to work remotely in Sweden and he/she is not a citizen of an EU member state, he/she will normally need a residence title together with a work permit. Sweden has not enacted any special immigration rules for (non-EU) digital nomads.

## Equipment & Compensation for remote work expenses

There are no mandatory explicit rules that an employer shall provide certain equipment for employees who work from a remote location.

However, the greater the requirement that the employer places on the employee to work remotely, the greater the requirement to provide work equipment such as a computer, desk, chair and lighting.

If an employer makes a contribution to an employee's private purchase of, for example, an office chair or a height-adjustable desk, the contribution is considered taxable as income from employment. The same applies if the employer is involved in financing an employee's private purchases of equipment of various kinds, such as headsets, webcams, printers and computer screens. The employee is thus taxed on the reimbursement and the employer must pay employer contributions. This scenario assumes that the equipment thus purchased is the private property of the employee. If, on the other hand, the employer is responsible for the purchase itself, the assessment may be different. The employer then makes the purchase directly or reimburses the employee against the submission of a receipt. The expense receipt must then be used as verification in the employer's accounting. Equipping an office for an employee who works from home with suitable office furniture does not normally give rise to any tax consequences. Of course, this presupposes that what is purchased can be justified on the basis of the employee's work situation. The employer must be able to argue that he/she is not bearing any of the employee's private living costs. Otherwise, a taxable benefit arises for the employee.

Unless otherwise agreed by the parties, there is no obligation to reimburse the employee's remote work costs.

## Working time, performance and right to disconnect

No special rules have been enacted in Sweden regarding work that is performed from home or other remote location. Thus, the employer is required to comply with the mandatory legislation in the Swedish Working Hours Act or, in the event that the employer is party to a collective bargaining agreement, with the corresponding framework of the agreement.

Unless the parties have agreed that the employee shall determine his/her own working hours, it is up to the employer to decide and determine the allocation of working hours.

Sweden has not enacted any special legislation regarding the employee's right to disconnect. Thus, in the absence of mandatory legislation, it falls to the parties in the labor market to agree whether the employee of a particular employer or in a certain sector shall have the right to disconnect.

Usually, the individual agreement or internal policy includes detailed information about which rules (if any) the employer needs to follow if the duration of the remote work is to be changed or if the remote work is to be revoked. In the event that an employee refuses to give up the right to remote work, it is possible for the employer to enforce such a change by using the principles of re-regulation of employment contracts which means that the employee may be given the alternative between a termination of employment on the grounds of redundancy or accepting the new proposed terms (i.e. to work from a remote location).

Monitoring remote working employees is only possible within narrow limits due to the special constitutional protection of the individual rights of the employees and data protection law. The employer cannot enter the employee's home without consent. Measures for surveillance, such as the use of keylogger software to track the keystrokes of employees or the taking of screenshots, are only permissible if the employer has a well-founded suspicion of a crime or a serious breach of duty (e.g., working time fraud) on the part of the employee. However, to constantly monitor work performance, it is advisable to request reports from the employees at regular intervals on the progress of the work and, if necessary, partial work results.

Even if the employer is ultimately responsible for the work environment, this does not mean that the employer has a legal right to access the employee's home.

In the event of an abuse of working time, the employer can impose the typical measures applicable in the case of an infringement of the employee's obligations, such as verbal and written reprimands and, in serious cases, termination of the employment agreement.

## Health and safety and data protection

It is the employer who is responsible for the work environment, regardless of whether the employee is working from his/her home or from another remote location.

In order to achieve a healthy working situation at home, positive cooperation and regular dialogue between the employer and the employees are necessary. In a situation where an employer has many employees working from home, it is important to keep track of their work environment routines, such as conducting investigations and risk assessments and implementing measures and action plans. Furthermore, it is important for employers to update the personnel handbook/policies with guidelines for work from home/remote work. For instance, if the work environment at the remote workplace is not considered to be satisfactory during a follow-up inspection by the employer, the company policy may state that the employee must work from the main workplace.

As mentioned above, the employee does not have a legal right to enter the employee´s home to conduct a risk assessment. The starting principle is that everything which can lead to ill health or accidents must be addressed in order to eliminate the risk of such ill health or accidents. The employer must consider the risk of ill health and accidents that may result from the employee performing work alone. While it is not always possible to completely eliminate the risk of ill health or accidents, the employer must in any case take measures to reduce such risk.

The Swedish Work Environment Authority has issued provisions and general recommendations regarding ergonomics for the prevention of musculoskeletal disorders and work -related stress resulting from screen work.

When planning and organizing solitary work, the employee's opportunities for contact with other people must be considered. Particular attention must be paid to ensuring that the employee has sufficient training, information and instructions to perform the

work alone. Special consideration must also be given to the employee's physical and mental conditions for work.

In terms of data protection law, the employer must ensure appropriate data security when introducing remote work.

## Liability

The employer is liable for work-related accidents and must report the work-related injury to the Swedish Insurance Authority (Försäkringskassan) and, in serious cases, also to the Swedish Work Environment Authority. The same applies when employees are working from home or are working remotely. Furthermore, the employer is responsible for taking all necessary measures to prevent the employee from being exposed to ill health or accidents.

In Sweden, all employees are covered by statutory workers' compensation insurance. All employees of an employer who is bound by a collective bargaining agreement are covered by safety insurance in case of work injury (TFA or ***Trygghetsförsäkring vid arbetsskada***). TFA is an insurance solution which is also available for those employers who are not bound by a collective bargaining agreement. Generally, TFA covers accidents related to work. However, since it can sometimes be difficult to assess whether an injury is work related or not, many employers purchase additional insurance to cover all incidents that might occur when the employee works at home or remotely at another location.

Employers may be liable for property damages which occur during the home office or remote working activity. However, some difficulties of demarcation and proof may arise as to whether the accident was directly connected with the work that the employee performs. The same problems apply to TFA insurance. Supplementary insurance options are available for employers who wish to extend the protection of their remote working employees.

The general rule is that the employee is responsible for company property, unless the employee can show that the damage was not caused by his/her (or a family member's) negligence. In most cases, employers will have insurance to cover company property and the employees will have home insurance to cover damages occurring in the home. However, some property insurance sometimes include requirements on caution regarding company property and its use when the employee works from home. The right to compensation can be reduced or lost in the event that the employee has been negligent by, for example, leaving the work computer in his/her car. Employers who provide equipment for remote work should inform their employees of the company's insurance policies and what they do and do not cover.

Employers who provide equipment for remote work should consider extending the company's insurance to apply outside the workplace, regardless of whether the accident occurred in relation to a work-related activity or not and, if possible, also exclude negligence.

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# SWITZERLAND

## Implementation of remote work

In Switzerland, remote work (hybrid work, telework, home-office, etc.) is not regulated and is therefore subject to general labor law provisions.

Consequently, even collective bargaining agreements containing special regulations on remote work do not exist. If they do, they are very rare and the rules are general (i.e. they regulate the possibility to perform remote work on voluntary basis).

However, when introducing remote work, it is advisable to create an agreement or a supplementary instruction which complements the employment agreement. The State Secretariat for Economic Affairs (SECO) issued a **brochure** which provides helpful guidelines for employers; in any case, the same rules established by Swiss labor law and the Swiss Code of Obligations apply to teleworking.

Without a specific agreement between the parties, the employer has no legal right to unilaterally introduce remote work and, at the same time, the employee has no legal right to work remotely. However, the employer can oblige the employee to telework in two specific cases: 1) when the place of work is not stipulated in the employment agreement; and 2) when the need to telework prevails in the face of temporary special circumstances ( e.g. the Covid-19 pandemic).

The remote work agreement or supplementary regulation should especially cover the following points: duration (hours/ days per week), availability period and response time, recording of working time, prohibition on working on Sundays and at night (between 23:00 and 6:00), instructions for the set-up of the working location and, in the event of technical problems, reimbursement of devices and expenses, data protection and liability.

## Required involvement of employee representatives and public / immigration authorities

On the one hand, employee representatives have the right to be informed timely and thoroughly about all the issues that are crucial in order for them to carry out their tasks correctly. The employer must inform them, at least once a year, about the consequences of the company's business on employment and on the employees themselves.

On the other hand, the employee representatives cannot influence the introduction of telework or any other company decision, except in the following areas: safety, company transfer, mass redundancies and pension fund affiliation.

There is no obligation to inform public authorities about the introduction of remote work.

In any case, the introduction of remote work beyond emergency situations entails an amendment to the employment conditions, and this needs to be agreed in reasonable advance by the parties (employee representatives or the employees themselves, as applicable).

Self-employed people who work remotely for a foreign employer without a direct connection to the Swiss labor market, and without contact with clients in Switzerland, are considered as persons without a gainful activity, and therefore they will only require a residence permit.

## Equipment & Compensation for remote work expenses

Unless otherwise established by agreement or custom, the employer is required to provide the employee with the tools, technical equipment and materials required for the performance of the work; where the employee him/herself supplies such tools and materials with the employer's consent, he/she is entitled to the appropriate compensation.

The employer must reimburse the employee for all the expenses incurred in the performance of the work and for his/her necessary living expenses if the work is done off the employer's premises. Any agreement whereby the employee must bear all or part of such expenses is void.

The above-mentioned rules are applicable to teleworking. This means that the employer is responsible for setting up the teleworking space and, in principle, also bears the associated costs.

Depending on the employee's Canton of residence, there may be the possibility of deducting some professional expenses related to remote work in the personal tax return. Therefore, it will be necessary to check the corresponding guidance on a Canton-by-Canton basis.

## Working time, performance and right to disconnect

Regardless of the place of work, the rules governing working time and rest periods are unchanged. The working week cannot exceed 45 hours for office work, and the same applies in the case of telework. The minimum rest period between two working days must be at least 11 hours. As already mentioned, it is forbidden to work on Sundays or at night (23:00-6:00) without a special authorization.

There is an obligation to record working and rest time on a regular basis. Upon agreement between the parties, it is possible to introduce a simplified method of recording this or, under specific conditions, to waive such recording. A legal right to disconnect does not currently exist in Switzerland.

It is forbidden to introduce surveillance systems to monitor the employee's behavior in the workplace (on or outside the company's premises). However, upon agreement with the employee, it is possible to organize inspections to verify that the safety instructions and the quality/productivity criteria are being complied with. In this respect, the employer can also demand that the employee keep and present activity records.

In the event of an abuse of working time and, depending on the severity thereof, the employer can either give a warning to the employee or terminate his/her employment.

## Health and safety and data protection

There are no special rules to prevent certain physical health problems arising from remote working but merely guidelines. However, the employer is still responsible for the health and safety of the employees who work remotely. There is no change in these legal obligations under the Swiss Labor Law. The employer must ensure that risks to the life and to the physical and mental health of their employees are prevented and that the remaining risks are kept to a minimum.

Therefore, the workplace must be equipped in a safe manner and the employer must organize work in such a way as to protect employees from health risks. The employer will require the cooperation of the employees in order to safeguard their health in the best possible way.

Since teleworkers spend most of their working time sitting in front of their computers, they tend to adopt a posture which is incorrect from an ergonomic point of view. Therefore, it is very important that the employer informs the employees about the risks related to this kind of work and provides them with instructions and tips on how to set up a suitable workplace (e.g. adjustable chair, sufficient space around the desk, good illumination, an outside view). Furthermore, there is also the risk that the employees will tend to work more hours when working from home. The employer might try to prevent this risk by giving the following advice: plan the working activities in advance, plan work time (work tranches, breaks), set a beginning and end hour for work.

As mentioned above, the employer is still responsible for protecting the health of his/her employees and therefore he/she should also try to protect them from the psychological stresses of remote work. There are no specific rules that the employer is required to comply with but merely guidelines. For example, it is suggested that employers organize weekly regular video calls or meetings at the office with the entire staff to maintain social relationships.

The employer is still liable for appropriate data treatment and protection when introducing telework. The employer must ensure secure transmission channels and appropriate data protection-compliant handling. Both technical measures and organizational measures should be specified in the teleworking agreement, for instance: automatic screen lock, safekeeping of confidential paper documents, rules for the destruction of documents, VPN to ensure encrypted data transfer.

## Liability

In the event of an accident at the home office or while an employee is working remotely, the same regulations apply as in the case of an accident at work on company premises.

The employer's accident insurance compensates the employee for the health expenses incurred ( e.g. drugs) and compensates the employer with an accident indemnity covering at least 80% of the salary. There is no need for supplementary insurance in the case of teleworking.

In the event that the property of the employee or a third party is damaged during home office or remote working activities, the person who causes the damage is fully liable.

Employees are not only required to exercise due care when performing their work but are also liable for any damages caused to company property. In the case of remote work, this kind of damage could include data loss or breach. It is recommended that the employer inform the employees about the consequences of such damages, e.g. by adding a specific section to the remote work regulations. In the event that a third-party damages company property in the home office, the third party is fully liable.

It is necessary to check the company liability insurance to verify if this kind of damage is covered or if the company needs to take out additional insurance.

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# UKRAINE

## Implementation of remote work

Ukrainian labor laws recognize the following specific regimes of work:

- telework - a way of organizing work whereby work is performed by an employee outside of an employer's premises/territory, in any location chosen by the employee and using information-telecommunication technologies;

- homeworking - a form of organizing work whereby work is performed by an employee at his/her home or some other specifically determined location (other than the employer's premises/territory) and the employee is equipped with all equipment and other resources necessary for the production of goods/provision of services

- combined work – a combination of telework with work at the employee's workplace on the employer's premises/territory

There are some regulatory differences between the above regimes, mainly related to particularities of the performance of work under each of such regimes. However, the general principle is that all of them shall be introduced on the basis of the mutual consent of employee and employer and shall be regulated by a written employment agreement on teleworking (which may contain provisions on combined work) or homeworking, entered into according to the standard form agreement approved by the state regulator. A standard form agreement may not be amended by the parties but may only be completed with working conditions of the individual employee concerned.

However, in cases of emergency, such as a pandemic or military aggression, teleworking may be introduced by the employer on a unilateral basis by issuing the relevant internal order, in which case it is not mandatory to enter into a written employment agreement on teleworking/homeworking. An employee must be notified of such and order within in two days of its issuance and in any event prior to the introduction of teleworking/homeworking.

Certain categories of employees (such as pregnant women, employees with children) can request that the employer permit them to work remotely/at home, if such work is technically/technologically feasible.

## Required involvement of employee representatives and public / immigration authorities

There is no obligation to involve employee representatives in the introduction of telework, as it is introduced either upon the mutual consent of the employee and the

employer through a written employment agreement or by the order of an employer (in the event of a pandemic / epidemic / military aggression).

However, the employee has the right to seek assistance from employee representatives (if any), when negotiating with the employer on the conditions of the telework.

There is also no obligation to inform state authorities about the introduction of telework.

There are no special immigration rules for third-party digital nomads.

## Equipment & Compensation for remote work expenses

Conditions on the provision of necessary equipment, software, data protection means, reimbursement by the employer of the employee's expenses in connection with the use of his/her own equipment, software, data protection means or other expenses incurred by the employee in connection with teleworking, may be stipulated in in the written employment agreement on teleworking. There are no statutory rules to be followed by the employee and the employer in this regard.

If the written employment agreement is silent on the above matters, it shall be presumed that the employer is responsible for providing the employee with all equipment, software and other resources necessary for teleworking, as well as reimbursing the relevant expenses incurred by the employee in connection with the use thereof.

There are no specific tax rules in connection with teleworking.

## Working time, performance and right to disconnect

Teleworking employees can decide at what time to perform their work, unless otherwise stipulated in the written employment agreement on teleworking but are always subject to applicable statutory working time standards.

Teleworking employees shall have a clearly determined rest period, during which they are permitted to disconnect from the employer's network and such disconnection shall not be considered a disciplinary offense.

## Health and safety and data protection

The employee is responsible for ensuring safe and non-harmful working conditions at his/her teleworking place of work. The employer is not required to verify the employee's compliance with the statutory measures applicable to working conditions.

The employer is responsible for the safety and proper technical condition of all equipment which he/she provides to the employee. The employer shall conduct regular training sessions on the use of the equipment so provided.

There are no other specific statutory provisions regarding occupational safety, psychological stress or data protection in connection with teleworking.

## Liability

Accidents during teleworking are not specifically regulated. According to the general rules, the employer is liable for accidents that occur during the performance of work tasks. That principle also applies to telework.

The labor laws permit the employer to enter into a full material liability agreement with a teleworking employee which provides for the full liability of the employee for any material damage caused to equipment provided to the employee by the employer. If no such agreement is entered into, the employee shall be liable for the direct real damage caused by his/her guilty action/omission within the amount of his/her average monthly salary.

The laws do not require the employer to take out any specific insurance in connection with teleworking.

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This guide provides an overview of the termination procedures of remote work by each country as it relates to Employment and Labor Law provisions regulations by local governments. This guide includes information as it pertains to specific countries on general Employment measures, in specific countries as provided by the member and collaborating firms of Andersen Global.