

Commission opens consultation on plan for right to disconnect/remote work

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The European Commission has opened a two-stage social partner consultation on a proposal to legislate across the EU on remote work (telework) and a 'right to disconnect'.

This week, the first stage of a consultation of European social partners opened on the “possible direction of EU action on ensuring fair telework [remote working] and the right to disconnect”.

The Commission cites EU Labor Force Survey statistics that show the overall proportion of people working from home in the EU has almost doubled in the last few years, from 11.1% in 2019 to 20% in 2022, but notes that “significant differences exist in this respect across industries, sectors and work profiles, also depending on a job’s ‘teleworkability’, i.e. to what extent it is feasible to be carried out remotely.”

It says that evidence shows those workers who can and do telework “clearly appreciate its benefits, notably its flexibility, with over 60% of respondents to a 2022 Eurofound survey confirming they want to work from home at least part of their working time”.

But it also raises questions on how to ensure workers’ rights are respected in a more digitalised work environment. This includes ensuring adequate working conditions and health and safety at work.

The use of digital tools for work and the possibility to work remotely can carry the risk of an ‘always-on’ work culture, the Commission says. This has led to calls by different stakeholders for a ‘right to disconnect’, to draw clear boundaries between one’s professional and private life.

FAILED NEGOTIATIONS

The social partners had started to negotiate on possible EU-level measures for remote working and the right to disconnect in October 2022 but the process proved unsuccessful by last November, with the matter going back to the European Commission to move it forward.

As with other policy changes signalled by Brussels, there is the option for the social partners to agree new rules and have them “rubber stamped” by the Commission. However, the

current limits of social dialogue were demonstrated by the failure to agree rules between employers and trade unions.

Other employment policy areas, such as revising EWC law, could not gain consensus for negotiation, putting the matters back into the hands of the Commission to legislate for change.

RELEVANT AREAS

While there is currently no legislation at EU level that specifically regulates telework or the right to disconnect, there are EU laws that also apply to the context of remote working and address certain aspects linked to the right to disconnect.

The 2021-2027 Strategic Framework on Health and Safety at Work sets out key priorities and actions to ensure the protection of workers' safety and health at work.

The Working Time Directive sets rules on daily and weekly rest periods, annual leave, and limits on weekly working hours.

The Directive on Transparent and Predictable Working Conditions gives workers without a predictable working pattern the right to know in advance when and where work will take place. This was ultimately transposed in Ireland in late 2022 via the European Union (Transparent and Predictable Working Conditions) Regulations 2022 (see [IRN 01-02/2023](#))

The Directive on Work-Life Balance "helps parents and caregivers balance work and family life by providing rights related to suitable leaves and flexible working arrangements", the Commission notes. This was transposed in April 2023 with the Work Life Balance and Miscellaneous Provisions Act.

The Commission can proceed with a directive on remote working and the right to disconnect, or, if there is considerable resistance to an EU-wide legal measure, a "communication" or non-binding "recommendation" can be made.

One area mentioned in the Commission's consultation document on the right to disconnect and remote working is on collective information and consultation rights. It notes that an EU initiative on telework "could aim to ensure that teleworkers enjoy the same collective information and consultation rights as they would if working from the employer's premises and as comparable workers do. Employers could be required to inform and consult workers' representatives and, in their absence, workers themselves on any changes to the organisation of work."

The consultation will be open until 11 June 2024. The Commission's consultation document is available at the Employment, Social Affairs & Inclusion section of ec.europa.eu.

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