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Report on the implementation of the

ETUC/UNICE-UEAPME/CEEP

Framework agreement

On

TELEWORK

Executive Summary

Draft (trade union) version

(Last update: 28.10.2005)

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- With the financial support of the European Commission -

In July 2002, a new landmark in the EU interprofessional social dialogue between ETUC/UNICE-UEAPME/CEEP was established by the signing of the framework agreement on telework, which, contrary to the previous EU social dialogue interprofessional framework agreements (i.e. on parental leave, part-time work and fixed-term work), had to be implemented by July 2005 via the member organizations of the signatory parties at each appropriate level (European, national, sectoral and enterprise level) according to the procedures and practices specific to management and labour and the Member States, as laid down in Article 139 § 2 of the EC Treaty. The signatory parties thereby also committed themselves to elaborate a joint report on the actions of implementation before July 2006.

This note provides a quantitative summary overview on the current state of play in the implementation of this framework agreement. A more comprehensive analysis –both from a quantitative and qualitative point of view – is under elaboration.

The information contained in this report was mainly retrieved from two sources: 1) subsequent inputs from the ETUC affiliated organisations during the implementation period¹, and 2) analysis of relevant literature. The quantitative scoreboard looks as follows:

- In seven member states, the implementation at national interprofessional level can be considered finalized (IT, FI, FR, NL, SE, UK, ES) and in eight other countries interprofessional negotiations or initiatives have been initiated and are still ongoing or near to finalisation. (AT, BE, GR, IE, IS, LU, NO, PL).
- At the sectoral level, results were achieved in amongst others AT and IT²; in ES a concrete result in the chemical sector was expected by end of May 2004 and in at least three countries (DK, DE and SE), sectoral collective bargaining on the issue was foreseen to start in 2004, but apparently without much success.
- There are also some interesting developments in three of the new member states (CZ, HU and PL), in particular in Hungary where at the end of April 2004 the EU framework agreement was implemented by law whereby the section on telework now forms an integral part of the 1992 Labour Code.
- At the EU sectoral level, one can highlight the adoption of joint texts in the electricity sector and the municipality and regional authorities sector, whereas discussions are ongoing for other sectors as well.
- Finally, it should be mentioned that, although they are not primarily concerned/addressed by the agreement to ensure an effective implementation, several federal and/or regional governments took or envisage to take (legislative) measures to facilitate the introduction of telework on their labour markets (e.g. BE, PT and HU).

¹ Such as : ETUC NETLEX Conference November 2003 (Brussels) and November 2004 (Bratislava); Social Dialogue Committee meetings (October 2003, June-November 2004, June and November 2005); ETUC Social Policy and Legislation Committee meetings (November 2003, February-November 2004, May 2005); as well as replies to two ETUC circulars of September 2003, May 2004 and September 2005

² Although concluded after the signature date of the EU framework agreement on Telework, there seems however to be no real link between these agreements and the EU agreement

However, it must be admitted that our affiliates were and are still confronted with several problems and/or obstacles in the process of proper implementation. The occurring problems/obstacles can be roughly summarized as follows:

- The fact that only a limited number of translations of the EU agreement were available from the outset, necessitated several organizations to elaborate separately or jointly with the employers' organizations a translation into their respective languages (e.g. CZ, DK, IS, IT, NL, SE); however in several of these countries the demand to elaborate the translation triggered at the same time the launch of the actual implementation process.
- The "nature" and "status" of the EU agreement in particular regarding the commitments of the member organizations of the signatory parties to implement the agreement. Several affiliated organizations were and are confronted with employer counterparts who use the notion of "voluntary agreement" either to delay the implementation or even to avoid concluding (contractually) binding instruments within the national context and to limit the implementation to "code of conducts/practices" or mere recommendations. This is in particular worrying if such non-binding texts are not the normal or traditional outcome of the so-called "procedures and practices specific to management and labour and the Member States" in the country concerned which need to be used to implement the EU framework agreement. (e.g. AT, NO, SE) It must be clear that for the ETUC only the process of entering into EU negotiations is to be considered voluntary; and thus **not** the final outcome of which the member organisations of the signatory parties are committed to ensure an effective implementation.
- The lack of a clear, and in particular joint, interpretation of the EU agreement by the signatory parties which gives too much possibility to uphold or create different interpretations on the different levels within the national context (e.g. BE, HU, SE) It should be remembered that up till now only the ETUC provided for each agreement an own interpretation guide
- Problems relating to social dialogue structures and partners within and with whom a proper implementation needs to be reached, such as the partners represented in the relevant negotiation forums (and will thus determine the actual coverage of the implementation), lack of or insufficient developed national and sectoral social dialogue forums, lack of or weak employer organizations, etc. For the new member states, a current additional problem seems to be an actual understanding of the EU social dialogue and the characteristics of its rules of the game, its terminology and its outcomes.
- Negotiation time calendars in particular for sectoral bargaining (e.g. DE, DK, SE)
- The still undeveloped use of this form of work in the country concerned (e.g. ES and some new member states) or the fact that telework is often conducted on a self-employed basis rather than under an employment contract/relationship and which thus falls in principle outside the scope of the EU agreement (e.g. PT)

**ANNEX - Implementation ETUC-UNICE/UEAPME-CEEP Framework agreement on Telework (16 July 2002)
State of play: October 2005**

Country	Implementation results /initiatives
Austria	<ul style="list-style-type: none"> • Interprofessional negotiations still ongoing • Sectoral agreement trade/information and consulting (November 2002) (*) • Official circular on telework in federal public administration (October 2002) (*) • New telework agreement at Telekom Austria (January 2003) (*) • New collective agreement in chemical sector (May 2003) (*) • New collective agreement for employees in insurance sector (June 2005) (*)
Belgium	<p>Interprofessional negotiations near finalisation in National Labour Council (foreseen to end before October 2005)</p> <ul style="list-style-type: none"> • EU agreement distributed to sectoral trade union organisations with a view to start negotiations; but no real results yet • Federal government announced initiatives to adapt existing regulations better to telework at home (i.e. relating to work accidents, work place environment obligations) • Numerous “promotional” (legal) initiatives taken and envisaged by Federal and/or regional governments for both private and public sector.
Bulgaria	<ul style="list-style-type: none"> • No data available
Croatia	<ul style="list-style-type: none"> • No data available; although not yet concerned at moment of signing of EU framework agreement
Cyprus	<ul style="list-style-type: none"> • No data available
Czech Republic	<ul style="list-style-type: none"> • Translation elaborated and agreed upon by the social partners; bilateral interprofessional negotiations started on a national wide collective agreement but are stopped for the moment. The issue of and discussion on telework now forms part of the new draft Labour Code currently before Parliament.
Denmark	<ul style="list-style-type: none"> • Negotiations initiated on several levels, mainly sectoral (public sector)
Estonia	<ul style="list-style-type: none"> • No data available
Finland	<ul style="list-style-type: none"> • Negotiations on interprofessional level started in June 2003 and led to national wide collective agreement of 23 May 2005, which provides guidelines for sectoral collective agreements to be concluded on the issue.

France	<ul style="list-style-type: none"> • Interprofessional collective agreement agreed upon on 19 July 2005 but not yet adopted by all parties who negotiated it. Following that an “extension Decree” will have to be published in the Official Journal
Germany	<ul style="list-style-type: none"> • No initiatives yet, implementation was foreseen during sectoral bargaining rounds in 2004, but apparently without major success. Also on enterprise level there do not seem to be a real follow up /implementation. • Agreement on telework at Coca-Cola AG Berlin (in force since 1 August 2003 and most likely inspired by the EU agreement)
Greece	<ul style="list-style-type: none"> • On the initiative of the Greek trade union GSEE, the new interprofessional national collective agreement for 2004 – 2005 (signed 24 May 2004) foresees “the full implementation of the EU agreement within the Greek legislative framework” and this before 30 September 2004. No further information on results available yet.
Hungary	<ul style="list-style-type: none"> • The EU agreement has been implemented by a recent law (Law n° 28/2004) dealing with several atypical employment (contract) forms, including telework. The concerned section on telework now forms an integral part of the 1992 Labour Code
Iceland	<ul style="list-style-type: none"> • Shortly following the signing of the EU agreement, a trade union negotiation committee was established which drafted a translation and requested the launch of negotiations. So far the Icelandic Confederation of employers did not want to start negotiations as it gave priority to the implementation of various EU Directives. However, negotiations are hoped to start soon.
Ireland	<ul style="list-style-type: none"> • Implementation talks initiated which will most probably result in amendments to the existing Code of Practice
Italy	<ul style="list-style-type: none"> • An interprofessional national collective agreement was signed on 9 June 2004 by the three trade union confederation and 21 employers organisations. This agreement will not affect the already existing national agreements concluded for specific sectors. • National Collective Agreement in the Postal sector (July 2003) – allowing by way of experiment the introduction of telework arrangements (*) • Renewed collective agreement for metalworking sector (2003-2006; signed May 2003) – provides for the establishment of a working group to analyse the possibility of introducing telework in the sector (*) • New national agreement for the garment and textile sector which provides new rules on conditions and procedures for telework (April 2004) (*) • New collective agreement for local public transport workers (November 2004) (*)
Latvia	<ul style="list-style-type: none"> • No data available
Lithuania	<ul style="list-style-type: none"> • No data available
Luxembourg	<ul style="list-style-type: none"> • Interprofessional negotiations still ongoing and it is hoped to finalise them before end of 2005. • Law of May 2003 offering the possibility in public service to do telework from home

Malta	<ul style="list-style-type: none"> • No data available
Netherlands	<ul style="list-style-type: none"> • Recommendation (and supplements) adopted by National Labour Council and which should form basis for sectoral and enterprise agreements; a monitoring of the results achieved on these levels is scheduled in 2005 and 2006.
Norway	<ul style="list-style-type: none"> • Joint interprofessional social partners committee is established and it finalised a report on telework in Norway in August 2005. A meeting where the social partners will decide on how to implement the agreement is foreseen for November 2005.
Poland	<ul style="list-style-type: none"> • Preparatory discussions started in National Social Dialogue Forum for European Integration (OSDSIE) and on 11 May 2004 the national social partners represented in the OSDSIE adopted a common recommendation to start negotiations. On 10th June 2005 an interprofessional agreement was signed, but the parties are now discussing an annex to this agreement which identifies proposals for necessary legislative changes.
Portugal	<ul style="list-style-type: none"> • Section on telework in amended Labour Code (in force since 1 December 2003) • Complementary interprofessional collective bargaining has not yet started and this is also the case or lower level bargaining • UGT concluded in January 2004 a model of collective agreement as a tool for future negotiations by their affiliated organisations.
Romania	<ul style="list-style-type: none"> • No data available
Slovak Republic	<ul style="list-style-type: none"> • New version of Labour Code of April 2002 (i.e. before EU agreement) dealing with different types of contract, such as home work but unclear to what extent it applies as well to telework.
Slovenia	<ul style="list-style-type: none"> • Law of April 2002 (i.e. before EU agreement) dealing with different types of contract, such as home work but unclear to what extent it applies as well to telework.

Spain	<ul style="list-style-type: none"> • The “National Agreement for Collective Bargaining 2003” (extended to 2004) foresees in chapter VII that the national social partners will ensure the wide spread implementation and knowledge of the EU framework agreement and also puts forward some concrete priorities and issues to be taken into account by negotiators in future negotiations at the different levels. Also the National Agreement for Collective Bargaining 2005 foresees also some provisions relating to telework which mainly relate to the role of telework can play in modernising the work organisation, but also lay down some principles which need to be respected while introducing telework in the enterprise (voluntary character, equality of rights with “office” workers, etc.). A concrete result is expected for the chemical sector where a national wide agreement was to be signed before end of May 2004. Other more “piece meal” results were reached in certain enterprises and for certain organisms in local authorities. On the interprofessional level, a committee is established to monitor the actual implementation and to ensure the most adequate use of telework in conditions which are favourable to both employers and workers • A judgment of the “Tribunal Suprême” of 11 April 2005 recognises the voluntary character of conducting telework at the workers home thereby using amongst others the EU agreement as argument..
Sweden	<ul style="list-style-type: none"> • Interprofessional social partners agreed “common guidelines” reiterating the main principles of EU agreement with a view to stimulate negotiations on lower levels • Our Swedish affiliates were going to ensure further implementation during the different sectoral negotiations in 2004-2005. The largest trade union affiliate of TCO, i.e. Sif, found out that out of 46 collective agreements in their sphere 23 of them tackling in some way or another telework. Examples can be found also in the municipal sector. Also LO Sweden reported that in several sectors results were booked in the implementation (packing industry, newspaper sector, industrial sector, metal sector.(steel, chemical and mining), transport (for taxi switch board operators)
Turkey	<ul style="list-style-type: none"> • No data available
UK	<ul style="list-style-type: none"> • Interprofessional social partners adopted a non-legally binding “Telework guidance” to serve as guidelines for bargaining on lower levels
European Sectoral Level	<ul style="list-style-type: none"> • Joint Declaration in Electricity sector (EPSU-EMCEF/Eurelectric – November 2003) • Joint Statement for the municipality and regional authorities (EPSU –CEMR-EP – 13 January 2004); in October 2004 these organisations discussed the establishment of a monitoring system at a joint social dialogue seminar. • Negotiations between EPSU and the Directors General of the Public Administration sector are suspended

* (*) = Although concluded after the signature date of the EU framework agreement on Telework, there seems to be no real link between these agreements and the EU agreement.