



## ETUC response to the Commission's first-phase consultation of the European social partners on possible action in the area of telework and workers' right to disconnect

Adopted at the Executive Committee meeting of 25 June 2024

On 30 April 2024, the European Commission presented the first-phase consultation of social partners under Article 154 TFEU on possible EU action in the area of telework and workers' right to disconnect.<sup>1</sup> The European Trade Union Confederation (ETUC) expressly welcomes the Commission's initiative and is pleased to answer the three consultation questions below.

The ETUC would first like to recall that the European Parliament, in its legislative initiative report of 21 January 2021 with recommendations to the Commission on the right to disconnect<sup>2</sup>, had already asked the Commission to present a directive on the right to disconnect. The ETUC expressly supported the European Parliament's request and, in its position on the right to disconnect of 23 March 2021<sup>3</sup>, called on the Commission to launch without further delay a legislative initiative in the form of a European Directive on the application and enforcement of the right to disconnect.

In light of the extreme increase in telework in the context of the COVID pandemic, the European social partners have jointly identified the need to adapt their 2002 Framework Agreement on Telework to the new circumstances and, in this context, to deal also with the right to disconnect. In the work programme for the autonomous European Social Dialogue 2022 - 2024<sup>4</sup>, the European social partners have therefore agreed to negotiate an EU agreement on telework and the right to disconnect, which should be implemented in the form of an EU directive. The ETUC has engaged in a committed way in the negotiations within the framework of the European Social Dialogue. The ETUC is therefore dismayed that the negotiations have failed due to the employers' refusal to put forward the negotiated agreement. It therefore considers it to be consistent for the Commission to take legislative action.

<sup>1</sup> [First-phase consultation of social partners under Article 154 TFEU on possible EU action in the area of telework and workers' right to disconnect, C\(2024\)2990 final](#)

<sup>2</sup> [European Parliament resolution of 21 January 2021 with recommendations to the Commission on the right to disconnect \(2019/2181\(INL\)\)](#)

<sup>3</sup> [ETUC Position on the Right to Disconnect, adopted at the Executive Committee of 22-23 March 2021](#)

<sup>4</sup> [European social dialogue work programme 2022-2024](#)



Before addressing the issues in more detail, the ETUC would like to expressly state that it does not share the Commission's view that a right to disconnect must be introduced but that the right to disconnect as such already exists and should be further described and enforced in form of an EU Directive. Directive 2003/88/EC<sup>5</sup> concerning certain aspects of the organisation of working time and Framework Directive 1989/391/EEC<sup>6</sup> on health and safety at work as well as collective agreements and the individual work contract regulates the time during which the worker is available to the employer. Beyond this, the employer has no claim to the worker's time. This results in a right of the worker not to be contacted by his employer during his free time. It is therefore a matter of further clarifying and enforcing this right to disconnect.

The ETUC also underlines that it does not believe in categorising jobs as teleworkable or non-teleworkable. Instead, a distinction should be made between teleworkable and non-teleworkable tasks. It firmly believes that the tasks of many jobs fulfil the requirements for teleworking. In practice, however, implementation often fails due to the employer consent. In this context, the ETUC would like to highlight the growing concern that workers in jobs where the tasks are mostly not considered to be teleworkable experience a sense of disadvantage that needs to be addressed.

Finally, the ETUC notes that the Commission indicates in the consultation document, that it has started the legal assessment of the agreement on digitalisation (including provisions on telework and the right to disconnect) negotiated by the EU social partners in central government administrations (SDC CGA) with a view to a possible legislative implementation.<sup>7</sup> While recognising that this is a separate process from this consultation, the ETUC urges the Commission to take all necessary and immediate steps to implement through a directive the sectoral agreement, in full transparency and cooperation with the signatories of the agreement.

***To the first question: Do you consider that the Commission has correctly and sufficiently identified the opportunities and challenges related to telework and the right to disconnect? If not, what challenges or opportunities have been incorrectly or insufficiently identified, or what other challenges and opportunities could be considered?***

The ETUC is of the opinion that the Commission has largely correctly identified the opportunities and challenges related to telework and the right to disconnect in its consultation document.

The Commission points out that digitalisation, the use of digital end devices and the simultaneous increase in telework have increased the risk of an "always-on" work culture with potential impacts on the working and employment conditions of workers. It is not uncommon for workers to be connected or to be contacted by any means outside of the collectively agreed working hours. Enforcing the right to disconnect means that workers' personal time is not disrupted and their working conditions and health and safety are protected. The ETUC can therefore only confirm that an enforced right to disconnect contributes to a better work-life balance.

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<sup>5</sup> [Directive 2003/88/EC of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working time](#)

<sup>6</sup> [Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work](#)

<sup>7</sup> [European framework agreement of European social dialogue committee for central government administration \(SDC-CGA\) on digitalisation](#)



An effectively implemented right to disconnect should also include the consideration of the workload and whether this is in line with the agreed working time. For the ETUC, an analysis of the workload also includes an analysis of the staffing levels. Such a holistic analysis and regular review therefore has a positive effect on the health of the worker, its overall satisfaction with its working condition and its productivity.

The ETUC agrees with the described opportunities of working away from the employer's premises in the form of telework arrangements. These might include, among other things:

- helps workers to concentrate better due to fewer disturbances and interruptions;
- improve ability to carry out certain tasks that require particular concentration;
- increase productivity;
- ensure work-life balance;
- contribute to reduce carbon footprint.

However, the ETUC stresses that any EU initiative must ensure the voluntary nature of telework and that no worker should be forced, directly or indirectly, to telework. Depending on the context, certain tasks or situations may be better dealt with at the employer's premises. There may be a need for face-to-face interaction between colleagues and/or with customers or suppliers. For example, the opportunity for spontaneous learning through informal interactions could be enhanced by working at the employer's premises. Possible feelings of isolation and lack of social belonging also need to be considered.

The ETUC is convinced that telework may be beneficial for the inclusion in the labour market as well as the reconciliation of work of most vulnerable workers (e.g. workers with disabilities) and workers with care responsibilities. The ETUC advises against supporting new ways for employers to circumvent their legal obligation, sanctioned by the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), to ensure reasonable accommodation of the workstations, and of workplaces in general, which remains one of the main barriers to the integration of disabled workers into the labour market. However, telework can also foster an unequal distribution of care responsibilities between women and men, in particular. For these reasons, telework should not be used as a substitute for necessary care services and safety nets such as paid sick leave, parental leave and sick children leave. It is paramount to shape telework arrangements in a gender-responsive manner and to ensure that existing gendered inequalities are not exacerbated. The same applies to the possible improvement of the interaction of groups in a vulnerable situation. The ETUC emphasises that workers with disabilities in particular must be integrated into the workplace and that telework should not be misused to avoid the necessary investments for accessible and diverse workplaces. Working remotely can make labour markets more inclusive, but can also increase the risk of isolating people, making workers who face discrimination invisible, which would be detrimental to the fight against discrimination, which remains a legal obligation for employers.

In the consultation document, the Commission also lists possible efficient monitoring, including the use of specific Artificial Intelligence (AI) and algorithmic checks as an opportunity. The ETUC points out that any monitoring must respect workers' and human rights, with a particular focus on the gender dimension. There must be no intrusion by the employer into the private sphere of the workers. Especially when working from home, there is a risk of privacy being violated through intrusive, disproportionate and unjustified monitoring without prior and mandatory information. Furthermore, positive effects of telework, such as increased productivity, may be hampered if workers' autonomy, that comes with telework, is encroached upon. In the case of algorithmic checks, it is also necessary to ensure that workers' data protection is respected and that special attention



is paid to the impact of it on health and safety at work, particularly in terms of physical and psychosocial workload and work rhythm/pace, which can be a source of occupational accidents and diseases. The implementation and use of algorithmic checks for monitoring of workers, must be negotiated in advance with trade unions and/or workers' representatives according to national traditions and practices and with full respect to the prerogatives of trade unions. Also, those systems should be regularly evaluated in full cooperation with worker's representatives or trade unions. In this context, the ETUC reiterates its strong demand for a specific European directive dedicated to algorithmic systems in the workplace<sup>8</sup> to ensure the protection of all workers in all sectors and of human rights in the age of AI.

The Commission has identified challenges in five areas:

- 1) employment and working conditions, working time and work-life balance;
- 2) occupational safety and health, including mental and physical health;
- 3) worker performance, including telework monitoring;
- 4) equal treatment and non-discrimination, including gender equality aspects and the impact on different groups at risk of discrimination (based on disability, age, sexual orientation, ethnicity/race and religion);
- 5) geographical mobility and cross-border telework.

The ETUC agrees and has identified an additional challenge in the area of trade union and workers' representation rights. Telework makes it difficult for trade unions and workers' representatives to reach large parts of the workforce and exercise their representation mandate in a meaningful way. The ETUC therefore calls for a duty of the employer to ensure in-person and digital access to workers for trade unions and workers' representatives. This includes ensuring secure and protected communication channels which enables workers to communicate in a confidential way with its trade union or workers' representatives and vice versa.

Furthermore, the gender equality dimension of telework is not sufficiently emphasized, both as a stand-alone issue and as a cross-cutting issue. Teleworking and the shift to digital working methods pose specific risks for women, as highlighted by the ETUC project "Safe at work, safe at home, safe online", which also shows evidence of an increase in domestic violence during the pandemic, revealing a structural link to workplace issues and a role for social partners in preventing and mitigating the consequences for workers exposed to domestic violence.

Additionally, beyond work-life balance, research shows that women who telework are more exposed to psychosocial risks and work-related health problems due to the unequal distribution of unpaid working time, leading to "time poverty" for women and a greater conflict between work and private life. In this context, the ETUC emphasises the need to combat the widespread work culture of the "ideal worker", in which employees are expected to prioritise work over everything else by working long hours and being virtually always available outside working hours.

#### *On employment and working conditions, working time and work-life balance:*

At this point, the ETUC would like to emphasise that telework is neither a form of employment nor a category of worker but a work arrangement in which part of the work is performed outside the employer's premises. It is important to emphasise that this work arrangement does not affect the employer's responsibility for the work organisation. This

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<sup>8</sup> [ETUC Resolution calling for an EU Directive on Algorithmic Systems at Work, adopted at the Executive Committee of 6 December 2022](#)



remains fully in the responsibility of the employer regardless of the location from which the work is carried out.

The voluntary character of telework for the worker is crucial in order to achieve the opportunities described by the Commission. The ETUC therefore criticises the fact that some companies and public administrations use telework arrangements as a pretext to cut costs by reducing office space to a point which makes the reversibility of telework difficult or even impossible. These measures not only worsen the working conditions of workers, but also counteract the voluntary nature of telework. This puts workers in a situation where they are forced to work at least partly from home. It is therefore essential to ensure the voluntary nature of teleworking by securing the worker's right to work at the employer's premises if they so wish. Any reorganisation of the workspace must be negotiated with trade union or workers' representatives, in accordance with existing European and national legislation on information, consultation and participation, and could be further clarified in the upcoming Directive.

Since telework is a work arrangement, workers who telework are subject to the same rights and obligations as well as the same employment and working conditions as workers who are not performing telework and working from the premises of the employer. The ETUC emphasises that any initiative on telework must include the principle of equal treatment and non-discrimination. This includes ensuring that the exercise of telework does not lead to unjustified different treatment at any point. There must be no difference between workers performing telework or not in terms of working conditions, health and safety requirements, duties, pay or any other rights and obligations arising from the employment relationship.

In particular, telework poses the risk that, unlike in the office, working time is not respected and the risk of working overtime increases. It is therefore important to effectively implement the right to disconnect and to ensure that the workload can be managed within the agreed working hours, regardless of the place of work.

For the ETUC the cost of the work equipment must be borne by the employer. This includes adequate equipment for the home office, such as ergonomic chairs, screens and any other equipment or technologies necessary for office work. It also includes the compensation for any other additional costs, such as energy costs, incurred as a result of workers using the home environment as an office. Another important aspect is of costs the installation of data protection equipment and its communication costs, which include but are not limited to internet costs and calling platforms such as ZOOM, Webex or others. These costs must be met by the employer as they are directly related to the performance of work duties.

#### *On occupational safety and health:*

The ETUC recalls that it is the employer's responsibility to ensure the protection of the occupational health and safety of its workers. The employer is thus obliged to comply with all relevant occupational health and safety regulations, regardless of whether the worker is performing telework or not. The risks posed by telework should therefore be listed in the risk assessment. The employer's obligation to provide necessary preventive measures in matters of occupational safety and health can also be explained in the light of anti-discriminatory practices provided by European legislation. Granting such rights to on-site workers but not to those teleworking would be an infringement of anti-discriminatory guarantees. This includes, in particular, protection against physical and mental health risks such as musculoskeletal disorders, headaches, eyestrain or isolation or depression. It may be more difficult for the employer to carry out an appropriate risk assessment of the workplace outside the employer's premises for workers performing telework.



However, it is not impossible and depends to a large extent on the equipment provided. It is timely to point out that technology allows for the possibility of undertaking remote risk assessments. The OiRA instrument from the EU-OSHA agency<sup>9</sup> is a good example of this. Additionally, trade unions and employers have reached agreements on this issue in many European companies and public services (e.g. education). It goes without saying that remote risk assessments must be conducted with zealous respect for fundamental rights to privacy, including more specific rules through the General Data Protection Regulation (GDPR). As mentioned above, the ETUC is of the opinion that the employer must provide the worker performing telework with adequate equipment, including an ergonomic chair, for its home office. Properly implemented, this should minimise such physical risks. In addition, every worker should receive information and education on the risks associated with teleworking and have access to appropriate information and training during working hours on specific risks associated with teleworking and on how to optimise their workplace, costs of which have to be covered by the employer.

The ETUC welcomes the fact that the Commission refers to psychosocial risks in its consultation document. Psychosocial risks are indeed a significant source of ill health in the European Union. According to a recent study of the ETUI<sup>10</sup>, 6190 workers died of coronary/ ischaemic heart disease attributable to different psychosocial factors in 2015. The burden was equally high for depression, with 4,843 deaths attributable to exposure of this kind. Considered together, the burden of psychosocial risks was three times heavier than that of workplace accidents, which amounted to 3,502 fatalities in the same year. Moreover, these estimates are conservative, since only a limited set of psychosocial work factors and health outcomes were included. The OSH Pulse survey conducted by EU-OSHA in 2022 shows that 27% of workers experience stress, anxiety, or depression caused or exacerbated by work. Additionally, the ESENER survey of the same agency indicates that 89% of employers state that complying with legislation is the main reason they manage occupational health and safety.

Telework, if not properly designed and without an effective right to disconnect implemented, can increase those risks. Especially if it leads to the delimitation of working time and/or isolation and exclusion from formal and informal communication. It is therefore important that the work organisation is adapted accordingly and supplemented by training with the aim of avoiding such risks. However, psychosocial risks are not a telework specific problem and must therefore be addressed as an overall risk to workers' occupational health and safety. The employer should be legally obliged to do so, regardless of whether a worker performs telework or not. The ETUC therefore continues to call for a directive on psychosocial risks and underlines that an EU action on telework and the right to disconnect can by no means replace a directive on psychosocial risks.<sup>11</sup>

The ETUC underlines the need to give special attention to the prevention and elimination of gender-based violence in the context of telework, in particular gender-sensitive approach to occupational health risk assessments as well as targeted measures for victims / survivors of domestic violence.

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<sup>9</sup> [Online interactive Risk Assessment \(OiRA\)](#)

<sup>10</sup> [ETUI Benchmarking Working Europe 2024, pp. 70-73](#)

<sup>11</sup> Some very few European countries do have legislation in the prevention of psychosocial risks, yet with wide divergence in the approach and prevention outcomes European Commission (2019) Peer Review on "[Legislation and practical management of psychosocial risks at work](#)". European Commission



### On worker performance and privacy:

The ETUC emphasises the positive effect of telework on workers' performance and productivity. The ETUC does not agree with the statements in the consultation document that workers could use telework to declare more working hours than they have actually worked. Studies tend to show that, on average, more work is done and overtime is not compensated. Managing teams may be more complex. As a result, employers, companies and public services need to invest more in the training of managers and workers to ensure effective management, adapt work organisation and ensure proper team communication.

The ETUC rejects intrusive digital monitoring as well as surveillance and the use of biometric data. In particular, the digital application for biometric and emotional recognition mentioned in the consultation document or the monitoring and recording of movement profiles are an unacceptable intrusion into the privacy of workers and should be forbidden. Monitoring the movement and location of vehicles or devices can also provide information on whether someone is meeting with trade unions.

The ETUC underlines that the employer may only monitor the performance of work, telework included, for a limited period of time and for limited scopes to verify compliance by the worker with his or her obligations and duties with respect for human dignity. Such monitoring must be lawful (i.e. with full respect for fundamental rights to privacy, including more specific rules through the GDPR) and cannot be based on individual consent. The monitoring cannot lead to any sanction for the worker and should be collectively evaluated every year. Employers should also be responsible in providing the necessary tools and training to ensure the respect by workers in telework of security rules. Workers must not be sanctioned for any security or data breach. The upcoming Directive needs to reflect on these points.

### On equal treatment and non-discrimination:

As mentioned above, the principle of equal treatment in all aspects of the work relationship is paramount for any initiative on telework. In addition, telework must be shaped in a gender-responsive manner, aiming to eradicate gendered inequalities. Safeguards must be introduced to protect workers against any gender, racist, anti-trade union or other potential bias from AI or algorithmic management. Therefore, all aspects of telework have to ensure legal certainty and clarity, transparency include accessible complain mechanisms for workers' who experience discriminatory behaviour.

### On geographical mobility and cross-border telework:

The principle of equal treatment should also apply to frontier workers. Inflexible social security and tax regulations can lead to a frontier worker not being able to claim the full entitlement to telework in contrast to its colleagues who live in the same member state in which the company is based, taking into account also the Framework Agreement on the application of Article 16 (1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework.



***On question two: Do you consider that EU action is needed to address any of the identified issues? If so, what should be the direction of that action? What should be the precise scope of that action (namely, should it cover telework, the right to disconnect, or both; and should it address all identified aspects of those topics, or only certain subsets thereof)?***

In the 2022-2024 work programme on the autonomous European social dialogue, the European social partners have already jointly identified the need to adapt the 2002 Framework Agreement on Telework to the changed circumstances and at the same time to regulate the enforcement of the right to disconnect. An adapted agreement should have been implemented by means of a directive.

The ETUC is of the opinion that EU legislative action is needed to ensure the effective exercise of the workers' right to disconnect and to protect the rights of workers performing telework. The ETUC calls for a comprehensive legislative proposal in form of a Directive that regulates the modalities of telework and the workers' right to disconnect. The areas to be regulated are so interlinked that, in the ETUC's view, one comprehensive legislative proposal is best suited to protecting workers' rights and their health and safety at work. However, it is of the utmost importance to ensure that the workers right to disconnect, applies to all workers and is not limited to workers performing telework. This needs to be reflected in the scope of the upcoming Directive.

The role and functioning of collective bargaining is central to achieving the objectives of the forthcoming Directive and should therefore be promoted and supported as part of the Directive.

***On question three: Do the potential areas for EU action set out in Section 7 of this document present a comprehensive overview of the action needed? If not, what actions should not be pursued, or what other action could be considered?***

*On establishing the right to disconnect:*

As already mentioned, the ETUC does not share the Commission's view that a right to disconnect needs to be established. Rather, it is about the enforcement of the right to disconnect (meaning the right not to be contacted nor obliged to work outside working time), outside of their scheduled working time as established in collective agreements and the individual employment contract. After the fulfilment of their working time, workers have the right not to work and to be contacted by their employer or other colleagues. If the employer wants its worker to be available to the employer, the employer must conclude collective agreements on on-call time and provide respective compensation. The ETUC therefore calls on the Commission to change its wording in this respect and to refer to the potential EU action as enforcement of the right to disconnect.

The ETUC considers the workers right to disconnect should be defined in such a way to ensure that workers have the right to switch off their digital devices and have not to engage in work-related activities or communications by means of digital tools, directly or indirectly, outside working time and if they receive communications, they are not obliged to take them up before resuming worktime. The ETUC emphasises its view that this implies that there is no room for exceptions in exceptional and unexpected circumstances, unless provided for in collective agreement or other national practices. Workers should not suffer from any adverse treatment from their employer for being offline. The measures for the application and enforcement of the right to disconnect should apply to all workers and all forms of telework according to national regulations and/or practices, irrespective of their employment status, their activities, if they





performing telework or not, and the sector, both public and private, they are employed in.

Employers should be effectively prevented from requiring or promoting workers to be directly or indirectly available or reachable outside their agreed working time, also co-workers should refrain from contacting or communicating with workers outside collectively agreed working hours for work purposes. The Directive should also recall that time during which a worker is available or reachable for the employer is working time, given the inherent link between the right to disconnect and working time. Effective recording of working time can contribute to respecting contractual working time and the Directive should ensure employers set up an objective, reliable and transparent system enabling the duration of time worked to be recorded/measured as laid down by the European Court of Justice.<sup>12</sup>.

Beyond the working time minimum requirements, the Directive should link the right to disconnect not only to working time but also to the workload and workload assessment to avoid workers to feel obligated to reconnect. Even if the right to disconnect is respected, its full effectiveness thus also relies on a reasonable regulation of the workload.

Workers should also be fully informed about their working conditions in general and in particular for the purpose of applying and enforcing the right to disconnect. The Directive should provide for the establishment of internal prevention measures with an effective assisting role for trade unions or workers' representatives in their absence in the workplace with safeguards against any retaliation, such as an internal alert mechanism which allows for announcing/reporting the degradation of the workers' working conditions in the undertaking compliant with the worker's right to privacy. Workers, including those who are trade union/workers' representatives, using the measures / instruments to apply and enforce their right to disconnect should not face the risk of adverse consequences, such as dismissal or other retaliatory measures (including in relation to promotion). They should have adequate and rapid access to judicial and administrative proceedings against any adverse treatment. The burden of proof that there was no adverse treatment shall lie with the employer.

#### *On ensuring decent employment and working conditions for workers performing telework:*

The ETUC welcomes an legislative initiative in form of a Directive which lays down minimum requirements for workers performing telework. The ETUC strongly emphasises that it does not consider the term "teleworker" to be appropriate. Under no circumstances telework is a new or another form of employment or category of worker. The performance of telework have no effect on the employment status of the worker nor on its contractual relationship. The directive must define minimum requirements for workers who perform telework. Telework means a form of performing work, using mainly information and communication technologies (ICT) where work, which could also be performed at the employer's premises, is carried out away from those premises on a regular, not merely occasional basis.

The directive must ensure the voluntary nature of telework. No worker may be directly or indirectly forced to perform telework. This also includes the availability of a permanent personal workplace on the employer's premises. The principle of non-discrimination is of paramount importance. The directive must ensure that the exercise of telework does not lead to different treatment at any point. There must be no difference between workers performing telework or not in terms of working conditions, health and safety

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<sup>12</sup> [European Court of Justice, CCOO versus Deutsche Bank SAE, judgement from 14 May 2019, C-55/18](#)



requirements or any other rights and obligations arising from the employment relationship, including income and benefits.

Permanent monitoring of workers should be prohibited and the situations in which employers could make use of monitoring tools should be defined and listed by the directive or by collective bargaining. The monitoring should be time- and scope-limited and monitoring tools should be negotiated with social partners, at the appropriate level. The directive must include requirements that prevent an increase of monitoring, ban surveillance and protect the privacy of the worker performing telework and always respecting human dignity. An effective minimum level of protection must be guaranteed for the collection and processing of personal data in the following areas: Surveillance at the workplace and in the private sphere, access to personal or relatable data when using modern means of communication, scope of the employer's and employer's right to ask questions, use and storage of data. Compensation and sanction regulations must be ensured in the event of non-compliance. In particular, the implementation of teleworking and the availability of electronic data must not lead to an increase in the monitoring of behaviour and performance; statutory prohibitions on the use of evidence are necessary in this context. However, attention must be paid to ensuring that new legislation does not undermine existing legislation on fundamental rights to privacy, including more specific provisions under the GDPR.

To protect the occupational health and safety of workers performing telework, the directive needs to ensure that the employer includes the risks of telework in the risk assessment, and that the employer provides the adequate equipment and the technical support to perform telework, which includes among others ergonomical chairs and additional screens. In addition, the employer has to compensate the worker for extra costs like electricity, internet etc.

In order to monitor the employment and working conditions of workers performing telework, Member States and the Commission, through its agencies Eurofound and EU OSHA, should carry out extensive and ongoing research on the subject.

#### *On protecting health and safety for workers performing telework:*

The Directive on telework and the workers right to disconnect must reaffirm and uphold the employer's responsibility for the protection of the health and safety of workers performing telework in compliance with all relevant legal regulations and collective agreements. The Resolution of the European Parliament on the right to disconnect of 2021 already highlighted that the use of digital tools for extended periods of time, as well as interruption of workers rest time in addition to muscle strain and musculoskeletal disorders, may cause a reduction of concentration as well as cognitive and emotional overload, isolation, techno-addiction, sleep deprivation, emotional exhaustion, work fatigue, eyestrain, psychosocial, mental and physical problems, such as anxiety, depression, burnout and technostress.

The genuine definition of standards of occupational health and safety can be supported through the Council Directives 90/270/EEC<sup>13</sup> (work with display screen equipment), by explicitly mentioning the form of telework. If the standards are regulated there, on the one hand, it will guarantee the same standards at all workplaces, and on the other hand, we will probably achieve results faster, as a revision has already been initiated there. Especially since the relevant technical and work organisation requirements for work with display screen equipment should not be described in different legal places. The

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<sup>13</sup> [Council Directive 90/270/EEC of 29 May 1990 on the minimum safety and health requirements for work with display screen equipment](#)



commission should therefore make the revision of the directive subject to the clear requirement to take telework into account and to speed up the process.

Even if workers who performing telework regularly are exposed to an increased psychosocial risk, these risks do not only apply to these workers. Rather, such risks affect all workers, regardless of whether they performing telework or not. A directive on telework and the right to disconnect should therefore include a specific obligation for the employer to implement preventive measures to mitigate psychosocial risks for workers who telework.

#### *On addressing collective information and consultation rights:*

The ETUC has pointed out several times in this response that the same rights and obligations apply to workers who perform telework as to those who do not. Therefore, a recognition in the directive that workers who performing telework enjoy the same information and consultation rights is not necessary but self-evident. As has been made clear several times, this is not a special category of worker. The status of a worker does not change as a result of telework.

However, the directive should ensure that trade unions and workers' representatives have information about workers performing telework and have guaranteed digital access to the workers and vice versa, and that the employer must take all possible measures to ensure this access and provide them with a secure and confidential communication channel. The participation of workers in all company activities should be promoted so that the teleworker's social private life in the company and the participation and use of their collective rights do not cease to exist.

#### *On providing information to workers:*

The directive should stipulate that the employer informs its workers, and trade unions or other workers' representatives, comprehensively about the modalities of telework arrangements and the collective agreement in place. The information must also include details of whom, including trade unions or workers' representatives in their absence, a worker can turn to in confidence if they are concerned that they will be discriminated against or experience any adverse treatment because of the request to perform telework. The information must also include means of contact of workers' representatives and trade unions.

#### *On promoting the role of social partners:*

The ETUC adopted an action programme at its statutory congress in Berlin in May 2023<sup>14</sup>. In the context of this first-phase consultation of the European social partners ETUC reiterates following paragraphs from its action program:

“A core task for the ETUC is to promote social rights and workers' rights in the EU legal framework. The challenges facing workers in the EU member states are different, yet the fight for higher wages and better working conditions are universal. The integrated EU internal market makes the strive for a level playing field without social dumping and with respect for social and employment rights more important than ever.

The ETUC will always support its national affiliates in their strive for collective bargaining and their freedom to maintain, conclude and enforce collective agreements which may be a better tool to implement and complement EU-legislative initiatives according to national practices and frameworks. In this respect acknowledging the importance for the

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<sup>14</sup> [ETUC Action Programme 2023 - 2027](#)



social partners to have room for negotiating and collectively bargain. Negative impact and misuse by employers or ‘yellow’ unions must be prevented.”

*On ensuring enforcement:*

The employer must give objective reasons in writing, which can be in final instance legally challenged, for refusing to allow the worker to telework. The Directive must ensure that it is properly enforced and that workers are effectively protected against any adverse treatment or unfair dismissal as a result of exercising the rights enshrined in the Directive. Employees must be given a valid justification for any treatment that may be considered unfavourable to them. The burden of proof that this was not the case lies with the employer. Workers, or trade unions and workers' representatives on their behalf, must have effective access to justice to enforce their rights. The Directive must provide for dissuasive sanctions against employers who violate these rights.

A Directive shall also ensure effective controls and inspections conducted by competent authorities in accordance with national traditions and practices. In this context, it has to be ensured that the capability of the competent authorities is adequately developed in particular through training to proactively target and pursue non-compliant employers and ensure channels to report malpractices and poor working conditions.

Finally, the Directive has to include a strong non-regression and more favourable provision clause.