



ETUC response to the Commission's second-phase consultation of the social partners in the area of workers' right to disconnect and telework

Adopted at the Executive Committee meeting of 1-2 October 2025

The European Trade Union Confederation (ETUC) welcomes the second-phase consultation of the European social partners under Article 154 TFEU concerning telework and the right to disconnect. This reply follows up our reply from the first phase consultation where the ETUC outlined in detail its position regarding the telework and the right to disconnect. This reply builds upon the ETUC contribution to the first phase consultation.

It is clear from the evidence from both the consultation and the analytical document that a legislative instrument with minimum requirements to protect workers at European level is needed. Telework and the right to disconnect raise significant legal and policy considerations that necessitate legislative intervention. These include, inter alia, cross-border implications and occupational health and safety concerns.

Before directly addressing the questions posed in the consultation document, it is important to highlight some cross cutting aspects in relation to this initiative.

To ensure the effectiveness of EU legislation addressing the issues highlighted in the consultation, the role of social partners needs to be fully supported and respected. The ETUC welcomes the statements in the consultation document, that social dialogue and collective agreements will play a key role in establishing the modalities of telework and of the right to disconnect.

Further, in this context, ETUC adopted an action programme at its statutory congress in Berlin in May 2023. In this second-phase consultation of the European social partners ETUC reiterates the 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 social partners to have room for negotiating and collectively bargain. Negative impact and misuse by employers or ‘yellow’ unions must be prevented.”

ETUC reiterates that the right to disconnect is already established under existing EU and national legislation, with the European Working Time Directive providing a clear legal basis for its application. Employers have no claim to workers’ time beyond agreed working hours. The task for the European legislator is therefore not to create a new right, but to clarify, enforce, and strengthen the existing right through binding EU legislation. This point was expressed clearly in the ETUC response to the first phase consultation, however the second phase document is somewhat inconsistent as it often mentions the “introduction” or “establishment” of the right to disconnect. The ETUC therefore reiterates its call in the first phase consultation to refer to the enforcement of the right to disconnect.

The ETUC once again underlines that categorising jobs as teleworkable or non-teleworkable cannot be a starting point. Instead, a distinction must be made between teleworkable and non-teleworkable tasks. The tasks of many jobs fulfil the requirements for teleworking. In practice, however, implementation often fails due to the employer consent.

Habitual telework for cross-border workers has expanded significantly in the aftermath of the COVID-19 pandemic. The Directive should provide for full equality of treatment with national colleagues in terms of individual and collective rights, an explicit guarantee of the right to disconnect in cross-border telework arrangements, and a strengthened role for cross-border social dialogue.

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. 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.

Question 1: What are your views on the objectives of possible EU action set out in Section 7.1?

The ETUC welcomes the European Commission’s acknowledgment of the risks associated with telework and the prevalence of an “always-on” working culture. For the sake of legal certainty, the ETUC wishes to clarify its understanding that references to the “always-on” culture in the analytical document pertain to the right to disconnect. To avoid regulatory fragmentation and ensure coherence, the ETUC underscores the need for a harmonised narrative and consistent definitions across legal instruments.

This reference, included in the second-phase consultation document, reflects the outcome of trade union advocacy during the first-phase consultation, which highlighted the need to address this issue explicitly.

Ensuring transparency and improving working conditions for fair and quality telework will require measures to ensure, inter alia, work-life balance, equal treatment and collective rights.

Therefore, the general objective as well the specific objective are correctly identified as the areas in need of EU legislative action. Several considerations should be taken into account when bringing forward a legislative initiative.

The legislative initiative must not undermine existing legislation or create ambiguity on the applicability of existing legislation, including, for example, on occupational health and safety, information and consultation, respect for private and family life, protection of



personal data or the contractual relationship between employers and workers. Also, the furthering of OSH-related issues in the context of teleworking and the right to disconnect must not be used as an argument to prevent a forthcoming Directive on the prevention of psychosocial risks.

Question 2: What are your views on the possible avenues for EU action addressing the emerging ‘always-on work’ culture as set out in Section 7.2.1?

The ETUC considers binding EU legislation providing for minimum levels of protection essential to address the challenges raised in the consultation document. Recommendations or voluntary initiatives cannot guarantee adequate protection.

As stated above, the right to disconnect already exists in EU law. Directive 2003/88/EC concerning certain aspects of the organisation of working time and Framework Directive 1989/391/EEC 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 for the worker not to be contacted nor being obliged to work in any way outside of agreed working hours. This includes all forms of contact such as email, phone calls, text messages, instant messaging, and digital platforms. It is therefore a matter of further clarifying and enforcing this right to disconnect. EU action must focus on clarifying and enforcing this right, not creating it through a Directive that specifically address the enforcement of the right to disconnect.

Legislative action is necessary to ensure the right to disconnect is guaranteed for all workers. The right to disconnect should not be limited to telework. In line with the principles outlined in ETUC's first phase response, measures are needed to, inter alia, prohibit retaliation against workers exercising their right to disconnect, and ensure the burden of proof lies with employers in cases of adverse treatment. Objective and reliable systems for recording working time, in line with ECJ jurisprudence must be ensured, are a precondition of the enforcement of the right to disconnect.

Enforcing the right to disconnect requires employers to tackle excessive workloads and staffing shortages, which otherwise compel workers to remain connected outside hours including being excessively connected during working hours, without respecting mandatory breaks, which can have negative impacts on health and well-being. The ETUC rejects any suggestion of employer discretion to create exceptions.

The legislative initiative should allow Member States and social partners to implement and complement requirements in line with their national traditions, as outlined in ETUC's Action Program mentioned above. Effective monitoring and enforcement, including sanctions, will need to be ensured and should take into account national systems including the role of labour inspectorates and trade unions at national level.

Question 3: What are your views on the possible avenues for EU action to improve working conditions for fair and quality telework as set out in Section 7.2.2?

The ETUC is of the opinion that minimum standards for telework as a work arrangement must be laid down by a European legislative initiative establishing minimum levels of protection. Such an initiative must also ensure a strong role for social partners, through social dialogue and collective bargaining at all relevant levels.

The ETUC welcomes the analysis presented in this second phase consultation. One aspect that must be reiterated again, however, is that the ETUC does not consider the term "teleworker" to be appropriate. Under no circumstances is telework a new or another form of employment or category of worker. The performance of telework should have no effect on the employment status of the worker nor on the contractual relationship.

As stated above, the ETUC would like to once again underline that categorising jobs as teleworkable or non-teleworkable does not reflect the realities of the modern labour market and is therefore not appropriate. Instead, a distinction must be made between



teleworkable and non-teleworkable tasks. The tasks of many jobs fulfil the requirements for teleworking.

The ETUC recalls the principles laid out in its response to the first phase consultation which outline these minimum standards. Key requirements are:

- Voluntary and reversible: Telework must always be voluntary and reversible. Workers must retain the right to a permanent workplace at the employer's premises.
- Equal treatment: Teleworking should not lead to different treatment with regard to, inter alia, pay, working conditions, training, career development, OSH standards, and trade union rights. Telework must not be interpreted or understood as another form of employment or category of worker.
- Employer responsibility for costs: The employer must cover all equipment, internet, data protection, software, and energy costs linked to telework, as well as appropriate training.
- Occupational health and safety: Employers must assess telework risks and provide preventive measures. Psychosocial and physical risks, musculoskeletal disorders, isolation, and gender-based violence in the context of telework must be addressed. Remote risk assessments should be ensured and must respect privacy. Risk assessments can be guaranteed through appropriate training, guidance, or tools such as EU-OSHA's OiRA software¹. The employer must ensure that workers have clear and accessible means of contacting occupational health services.
- Monitoring and surveillance: Monitoring tools should be negotiated and agreed between social partners, at the appropriate level. 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. Workers and their representatives must have control over data collection and usage.
- Digital trade union room and communication channels: Trade unions and workers' representatives must have information about workers performing telework and have guaranteed digital access to the workers and vice versa, and the employer must take all possible measures to ensure this access and provide them with a secure and confidential communication channel, ensuring that participation rights are fully upheld.
- Participation and collective rights: The participation of workers who telework in all company activities should be promoted so that the social life in the company and the participation and use of their collective rights do not cease to exist. Participation rights of workers who telework - including industrial action - should be fully upheld. Telework must not reinforce inequalities in unpaid care or isolate vulnerable groups. The use of telework — when balanced between genders — can contribute to a more equitable distribution of family responsibilities. A gender-responsive and horizontal approach is essential. Safeguards for workers with disabilities must be guaranteed. 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.

¹ <https://oira.osha.europa.eu/en>



Occupational safety and health legislation must be strengthened and updated, particularly in light of the rapid evolution of digital tools and new methods of work organisation with regards to telework.

The ETUC considers that the OSH directives on the workplace and on display screen should be updated, and that the opinions of the Advisory Committee on Safety and Health (ACSH) regarding their revision must be given due regard. It is essential to avoid fragmentation and the creation of parallel regulatory regimes in matters of occupational safety and health. Rather than developing separate regulations exclusively for telework and the right to disconnect, the focus should be on identifying and addressing specific risks within the broader framework of existing OSH legislation. For this reason, the ETUC supports that the OSH-related aspects of telework and the right to disconnect are addressed in the framework of the revision of the two OSH directives on workplace and display screen.

Further, the OSH dimensions of the right to disconnect should be highlighted, stressing that we are seeking to enforce an existing right provided by the Working Time Directive, which should not be reopened.

Finally, we must ensure consistency between the wording of the ACSH's opinions and that of the consultation document, particularly in relation to the use of references to telework, "always on work culture" and "home working". This is essential to avoid regulatory gaps, especially given the differing narratives used by some stakeholders when referring to telework or homeworking across the two texts.

Statistics on reported work-related accidents occurring during remote work should be collected and made publicly available to support improved prevention efforts.

Question 4: Are the European social partners willing to enter into negotiations with a view to concluding an agreement under Article 155 TFEU with regard to any of the elements set out in Section 7.2?

The ETUC has consistently shown its commitment to a strong European Social Dialogue that delivers tangible results for workers in Europe. In the Work Programme of the European Social Dialogue 2022 - 2024, the ETUC agreed to negotiate an EU agreement on telework and the right to disconnect, to be implemented in the form of an EU directive. Over the course of 15 negotiation rounds spanning 13 months, the ETUC fully committed to delivering a legally binding agreement to address telework and the right to disconnect through European social dialogue. At the end of this process, the refusal by the employers to put forward the negotiated agreement for adoption effectively closed the way forward on our joint work in this area work at European level.

The consultation documents prepared by the Commission for this two-stage consultation have clearly shown that a Directive is needed more than ever. The ETUC remains committed to using social dialogue to deliver legislation to improve working conditions where possible. However regarding telework and the right to disconnect, restarting or reopening negotiations would not provide an effective way forward to deliver the solutions that are needed.

Therefore, as the employers have refused to put forward the negotiated agreement for adoption, the ETUC urges the Commission to proceed with a legislative proposal without delay.

The ETUC has built upon the discussions that took place during the negotiations to provide comprehensive replies to this consultation and remains committed to support the Commission and co-legislators as they go forward addressing the challenges identified.