

24 JUNE 2024

Response to 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

On 30 April, the European Commission launched the first-stage social partners consultation seeking the views of the European social partners on the need, direction and scope of a potential EU initiative in the area of telework and workers' right to disconnect, in line with Article 154 TFEU. The current document aims to respond to the questions posed by the Commission in the consultation document.

General remarks

1. Ceemet acknowledges the importance of the topic of telework and the right to disconnect considering the changes in telework prevalence during the last few years, especially in light of the advancements in digital transition brought by companies' innovation in a free market economy.
2. Generally, we agree with the European Commission that telework may bring about both opportunities and challenges. However, a macro-level approach, taken by the European Commission, may not capture the full spectrum of issues in an effective way. We recommend that the EU Commission considers a different and more nuanced approach, focusing on facilitating dialogue between social partners at the company and national sectoral levels.
3. In addition to the identified challenges, it is important:
 - to recognize the employer's authority to direct and lead the workforce, as well as the right of companies to make decisions about their own business operations,
 - to avoid additional bureaucracy associated with managing working hours regulations and the introduction of telework,
 - to consider a uniform approach to coordination of national social security law for all 27 Member States to facilitate cross-border telework and
 - to perform a more detailed assessment of the impact of the right to disconnect.
4. Given the above, Ceemet believes that the issues of telework and the right to disconnect should be addressed on the national sectoral level or company level and is of the opinion that no EU action is required as existing EU laws, such as on work time, work-life balance, equal treatment and many more already cover telework and the right to disconnect. For example, the Working Time Directive already stipulates rest time of at least 11 hours in any 24-hour period which also applies to teleworkers. This EU legislation is already reflected in the working time laws of the Member States.

I. 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 European Commission has to some extent correctly identified the opportunities and challenges linked to telework and the right to disconnect. For example, flexible working arrangements may indeed be beneficial for the reconciliation of work with care responsibilities, lead to improved working conditions, improve worker performance and productivity, lead to a better work-life balance. On the other hand, the analysis takes a rather narrow view of the modern world of work and is mostly focused on the challenges and risks for workers and not the companies. As an example, the consultation document does not analyze the challenges and constraints for modern companies to implement telework arrangements and the right to disconnect. When it comes to the right to disconnect, the consultation document presents some views about giving autonomy to the workers, that can lead to a 'state of permanent connectivity/'always-on' work culture', without adequately highlighting the benefits, e.g. the flexibility that autonomy provides to workers to combine their work and personal life.

However, we believe that a macro-level approach, as taken by the Commission, may not effectively address the full spectrum of issues. Telework presents a wide range of opportunities and challenges that are often best understood at the micro-level, within individual companies or through dialogue between social partners at the company or national sectoral level. What may be an opportunity for one organization or one individual could be a challenge for another, depending on various factors such as the nature of the work, the industry, and the specific circumstances of the company.

A legislative one-size-fits-all approach, based on general challenges and opportunities identified at the macro-level, risks creating legislation that is inflexible and which is not fit for purpose. Instead, we believe that it is essential to allow for flexibility and adaptability in addressing the opportunities and challenges of telework. Therefore, we suggest that the EU Commission considers a more nuanced approach, focusing on facilitating dialogue between social partners at the company and national sectoral levels. This would allow for a better understanding of the specific opportunities and challenges associated with telework in different contexts and would enable the development of tailored solutions that are more responsive to the needs of both employers and employees.

Moreover, besides the points highlighted by the European Commission with regard to telework, the following further challenges can be mentioned:

- Additional bureaucracy in the form of the documentation requirements for teleworkers which must be avoided at all costs so as not to hinder the introduction of teleworking.
- A lack of a uniform approach to coordination of national social security law for all 27 Member States, that could facilitate cross-border teleworking.

When it comes to the right to disconnect, it would be advisable to have a more detailed list of the opportunities and risks for companies that offer teleworking. Additional risks may relate to the events of emergencies that have a negative impact on a company, and in such cases, the possibility of suspending the right to disconnect should be foreseen if the damage could be averted or mitigated by involving an employee.

II. 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)?

Ceemet is of the strong opinion that no EU action is required to address the topic of telework and the right to disconnect. As rightly highlighted in the consultation document, there is EU legislation in place in relation to working time and working conditions, work-life balance, privacy, equal treatment, occupational health and safety which is also relevant to telework and the right to disconnect. Moreover, there is an EU autonomous framework agreement of the EU social partners on the topic of telework.

Furthermore, telework is already regulated in all the Member States either by way of statutory legislation or through collective agreements. When it comes to the right to disconnect, it is already subject to the regulation in 11 Member States. Additionally, since the COVID-19 pandemic, many companies have put in place customised solutions for telework that provide the right balance between the companies' operational needs as well as employees' flexibility.

We firmly believe that the subject of telework and the right to disconnect should be addressed on the national sectoral level or company level, and priority should be given to the solutions found between the social partners as they are optimally positioned to understand the functioning of their respective companies.

III. 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?

Based on the above reasoning, Ceemet believes that no action is required at EU level to address the issue of telework and the right to disconnect.