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CONSULTATION DOCUMENT

Second-phase consultation of social partners under Article 154 TFEU on a possible action in the area of workers' right to disconnect and telework

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1. Introduction

1.1. Background

In the current geopolitical and economic context, it is key for Europe to boost its productivity and competitiveness, paving the way for renewed sustainable growth, while promoting quality jobs and preserving a highly competitive social market economy**.** The Commission, during the first 100 days of its new mandate, has already launched several initiatives to achieve this objective, including the Competitiveness Compass for the EU, the Union of Skills, two packages on simplification of EU rules and the Clean Industrial Deal. It also signed with European social partners the Pact for European Social Dialogue.

The foundation of Europe's competitiveness is its people.[1] Ensuring fair working conditions, decent wages, and a healthy work-life balance are essential factors that drive productivity and enhance competitiveness. However, technological advances and demographic trends are profoundly reshaping the world of work.

Addressing the challenges posed by the digitalisation of the world of work and empowering workers and employers to fully reap the benefits it offers will contribute to boosting innovation, productivity and competitiveness.

Digital tools provide employers and **workers** greater flexibility to organise their work, allowing greater autonomy for workers over their working time and place of work and a better work-life balance. Digital tools also help certain groups, such as persons with disabilities, people with care responsibilities, as well as those living in remote geographical areas to participate in the labour market. As noted by Enrico Letta's report on the future of the Single Market, telework can also improve the quality of life and create new job opportunities for cross-border work.[2] For **businesses**, digital tools provide an opportunity to adopt new, more innovative ways of working and therefore benefiting from enhanced productivity and competitiveness. Furthermore, telework possibilities present an opportunity for businesses to attract a wider selection of candidates which, in turn, could help tackle some of the persisting labour and skills shortages in today's labour markets.

1.2. Purpose of this consultation

The current consultation document and the accompanying Analytical Document address the 2nd phase of the formal consultation of the European social partners on a potential EU action on telework and workers' right to disconnect, in line with the procedure laid out in Article 154 of the Treaty on the Functioning of the European Union (TFEU) applicable to new initiatives in the area of social and employment policy.

In her **Political Guidelines** of July 2024, President-elect von der Leyen announced an Action Plan on the Implementation of the European Pillar of Social Rights which will include, among

[1] A Competitiveness Compass for the EU (COM(2025) 30 final)

[2] Enrico Letta (2024), *Much more than a market – Speed, security, solidarity: Empowering the Single Market to deliver a sustainable future and prosperity for all EU citizens*.

others, initiatives looking at how digitalisation is impacting the world of work, from AI management, to telework and the impact of an 'always-on' culture on people's mental health. She also announced her intention to introduce a right to disconnect.

The latter was also confirmed by her Mission Letter of December 2024 to the Executive Vice-President-designate for Social Rights and Quality Jobs and Preparedness, mandating her to propose to introduce a right to disconnect. In addition, the letter underlined that new legislation must ensure that our rules are simpler, more accessible to citizens and more targeted as well as that the principles of proportionality, subsidiarity and Better Regulation are respected.

These commitments follow the resolution of the European Parliament[3] of 21 January 2021 under Article 225 TFEU, **on the right to disconnect.** The resolution highlighted the fundamental role that social partners have in identifying and implementing measures with regard to the right to disconnect and in finding the right balance between reaping the opportunities brought by digitalisation for the workplace and tackling the challenges they pose. The Commission, in its formal response to the European Parliament, while committing to follow up with a legislative act[4], as a first step, invited social partners to find commonly agreed solutions to address the challenges raised by telework, digitalisation and the right to disconnect. In parallel the Commission continued to gather evidence through an exploratory study on the context, challenges and opportunities of telework and the right to disconnect, conducted in 2022[5].

This consultation also follows the **negotiations by the EU cross-industry social partners** on the review and update of the 2002 Framework Agreement on telework, to be proposed for adoption as a Council Directive, as provided by Article 155 TFEU. The negotiations were carried out between October 2022 and November 2023 and **closed without agreement on a new text**. Additionally, the sectoral social partners in the European Social Dialogue Committee for Central Government Administration EUPAE and TUNED (composed of trade union organisations EPSU and CESI) signed a **Sectoral Agreement on Digitalisation in October 2022**, requesting that the Commission submits a proposal for a Council decision turning their agreement into EU law. Following the aforementioned inconclusive negotiations between the European cross-sectoral social partners, and against the backdrop of the ongoing work on the right to disconnect and telework which could apply to all sectors, the Commission is conducting the assessment of the sectoral agreement in parallel. As part of this, the Commission shared in a letter dated 19 March 2024 a preliminary legal assessment of the agreement, which the Commission services discussed with the sectoral social partners at a meeting on 14 May 2024. The sectoral social partners shared a revised agreement with the Commission on 21 October 2024.

The Commission carried out a **first phase of the consultation of European social partners** to seek their views on the possible direction of EU action in the area of telework and workers' right to disconnect[6], between 30 April and 25 June 2024.

The present document launches the second phase of the consultation of European social partners, in accordance with Article 154(3) TFEU, on the possible content of EU action. The accompanying Analytical Document complements this consultation document with such

[3] https://www.europarl.europa.eu/doceo/document/TA-9-2021-0021_EN.html.
[4] In accordance with the political commitment made by President von der Leyen in her 2019-2024 Political Guidelines as regards resolutions adopted by the European Parliament under Article 225 TFEU, and in full respect of the proportionality, subsidiarity and better law-making principles.
[5] https://ec.europa.eu/social/main.jsp?catId=738&langId=en&pubId=8595&furtherPubs=yes.
[6] Available online.

detailed evidence as is currently available[7] and an analysis of the potential challenges, a presentation of the objectives and the range of possible policy options under consideration, as well as an analysis of their potential impacts and the value added of EU action.

In parallel with this consultation, the Commission is continuing to gather evidence on the nature and extent of the challenges that the potential EU initiative could address and the impacts of possible policy options.

2. Consultation of social partners - first phase

During the first phase of the social partners' consultation on a potential initiative on telework and workers' right to disconnect, **22 recognised European social partners** contributed with written replies among which were six trade unions, 15 employers' organisations and one joint reply from the social partners in the Central Government Administration Sectoral Social Dialogue Committee.

In the first stage of the consultation, the Commission sought the views of social partners on the challenges and opportunities of telework and the 'always-on' work culture, as well as on the need and potential direction of EU action in these areas.

In their responses, **trade unions in general agree with the identified challenges** related to telework and the always-on work culture, though they **call for greater attention** to some aspects, including notably **gender equality** and **trade union rights**.

Employers' organisations call for **more and timelier, post-COVID 19 data** on the challenges and opportunities of telework and an 'always-on' work culture and a better balanced focus on the **challenges of both workers and employers**.

The responses of social partners indicate a **clear divide in the position of trade unions and employers' organisations** with regard to **the need for EU action**.

Trade unions, in general, agree that there is a need for an initiative at EU level, calling for binding legislative action[8]. They also agree that the common objective of such instrument should be (1) to lay down minimum requirements for workers performing telework and (2) ensure the effective implementation of the workers' right to disconnect, covering all workers. ETUC is of the opinion that the right to disconnect already exists in general terms, under the Working Time Directive. Nevertheless, they underline the **need to explicitly spell out this right and ensure its effective implementation through a new legal initiative,** clearly defining exceptions for critical/emergency situations, as well as within the context of the Working Time and OSH Directives and relevant case law, and by ensuring that it does not lead to adverse treatment. Trade unions also draw parallels between the right to disconnect and effective **workload management and work organisation**, and some trade unions also underline the need for effective **recording of working time**. With regard to telework, they 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.

With regard to employers' views on the need for EU action, BusinessEurope and SGI Europe, echoed by a number of sectoral employers' representatives, are of the opinion that **there is no clear evidence for the need for EU action** as existing EU rules already provide a

[7] SWD(2025) 589

[8] All trade unions agree with the need for binding legislative EU action. While CESI in its reply does not specifically call for binding EU action, it nonetheless refers to the need for EU action to set boundaries and minimum standards across the EU.

sufficient framework for dealing with the identified challenges. An exception to the above relates to cross-border telework. They are of the opinion that this creates a significant barrier to performing telework abroad due to foreign regulations, which may be complex, difficult and time consuming. Several employer organisations also state that a de facto right to disconnect already exists in the Working Time Directive. They also stress that focusing on further enforcement will result in overregulation and administrative burden. BusinessEurope believes that **there is no strong evidence to suggest that telework poses a risk to workers' health** and that the current OSH Framework already provides the necessary protective measures. Several employer's organisations express the view that **responding to work-related contacts during rest time** is based on the autonomous decision of the worker and **should not be regulated**.

At the same time, SMEunited and other sectoral employers **do see added value in EU action**, though **in the form of non-legislative actions**, such as guidance, exchange of good practices, awareness raising, fostering social dialogue as well as financial support, in addition to the better enforcement of the existing rules, **under the condition that existing social partners' agreements are respected.** They nevertheless highlight that enforcement of the current rules **should not result in higher administrative costs to employers.**

Both sides stress the importance of the telework agreement being voluntary and that an EU initiative should **respect the autonomy and competences of social partners**. Workers, in addition, call for ensuring the **reversibility** of the telework arrangements.

The need for **additional support measures** is also identified (by both sides) in the form of guidance documents addressed to Member States and employers, financial support to businesses, particularly SMEs, training, continued support to social partners' capacity by the Commission, as well as a dedicated fund and the establishment of a dedicated Telework Compliance Agency to help monitor adherence, investigate complaints, and provide guidance.

Regarding the Sectoral Social Dialogue Committee (SSDC) for Central Government Administration (CGA) **2022 Sectoral Agreement on Digitalisation**, the social partners from that SSDC, as well as EPSU and ETUC separately, request that the Commission propose a Council Directive implementing that Agreement. Given the large convergence of the areas covered by that agreement and the current potential initiative, the Commission will consider the appropriate response to that agreement in the context of the broader, cross-sectorial initiative which is the topic of the current consultation.

A detailed overview of the responses of social partners to the first-stage consultation is presented in the Annex of the accompanying Analytical Document.

3. Context

3.1. The 'always-on' work culture and its prevalence

Digital tools, particularly ICT tools at work, have paved the way for more flexible work arrangements, in which workers enjoy more **autonomy** over when and where they work. Flexibility can contribute to a better work-life balance and overall mental health for workers, with benefits to workers' well-being and productivity. This can result in positive outcomes for businesses, in terms of lower risks to workers' physical and psychosocial health, reduced absenteeism, a more resilient workforce, higher job satisfaction and the ability to attract and retain talent, resulting in enhanced productivity and competitiveness. However, the same tools are contributing to an 'always-on' work culture, whereby workers are encouraged or compelled to be constantly available beyond regular working hours

The possibility to work 'anytime and anywhere' has, in many jobs, given rise to a pressure to work 'always and everywhere', in particular in knowledge driven sectors and occupations, turning more autonomous and flexible work arrangements into a 'double-edged sword'.[9] This phenomenon is particularly manifested through trends such as: an increase in work-related contacts during workers' rest time; the extended availability of workers; an increase in working hours; and difficulties in disconnecting from work. Nevertheless, significant differences exist among Member States, sectors and occupations, on which the accompanying Analytical Document provides further details.

Data referring to the situation after the COVID-19 pandemic (2022 onwards) is scarce. However, already data from before the pandemic points towards a trend of increased work-related contacts during leisure time. In 2019[10], for instance, 14 % of employees in the EU-27 reported being contacted several times for work-related purposes outside working hours, while 23 % were contacted occasionally. This varied considerably between countries and was highest in Finland and Sweden, where more than 30 % of employees were contacted outside normal working hours.

Work-related contacts during workers' rest time were slightly higher for men than for women and for employees with temporary contracts while substantial differences were also noted between occupations and sectors. Work-related requests during rest time were also found to be **connected to flexible work schedules and teleworking.** Data also points to **gender differences** in terms of work–life balance while teleworking. For instance, women teleworkers and in particular, mothers, have been found to suffer more from a blurring of boundaries between work and their private life. This is partly attributed to the fact that women still largely bear the responsibility for childcare and domestic chores when working from home. The accompanying Analytical Document offers further details on these aspects.

3.2. Telework and its prevalence in the EU

Telework is not a recent concept and practice. As outlined in the Commission's 2022 exploratory study on telework and the right to disconnect,[11] for decades scholars have highlighted how globalisation and technological change have increased competitive pressures on firms and altered the environment in which they operate[12].

The way telework is defined demonstrates extensive variability in the EU. While telework remains the most popular term, other terms that are frequently used include remote work, distance work, home-based work, and hybrid work. In addition, practical telework arrangements vary in terms of, frequency, pattern, working time, location and formality.

'Teleworkability' is defined as the **technical possibility of providing labour input remotely** into a given economic process and depends on the mix of tasks carried out in each job, and their physical and social context[13].

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[9] Dén-Nagy, I. (2014), 'A double-edged sword? A critical evaluation of the mobile phone in creating work-life balance', *New Technology, Work and Employment*, 29(2), pp.193-211.

[10] Eurostat, EU-LFS 2019 module on Work organisation and working time arrangement, lfso_19fxwt14, employees aged 15 to 74.

[11] European Commission (2024), Study exploring the social, economic and legal context and trends of telework and the right to disconnect, in the context of digitalisation and the future of work, during and beyond the COVID-19 pandemic (Research conducted in 2022).

[12] Castells, 1996

[13] European Commission (2024), Study exploring the social, economic and legal context and trends of telework and the right to disconnect, in the context of digitalisation and the future of work, during and beyond the COVID-19 pandemic (Research conducted in 2022).

For the purpose of this consultation **a wide concept for the definition of teleworkhas been applied which encompasses any form of work that takes place away from the employer's premises and involves the use of digital tools, without, however, imposing any temporal restrictions regarding regularity**. This is also in line with the definitions of telework in national legal systems which, in the majority of MS, do not impose any such restrictions[14].

The prevalence of telework (i.e. the share of employees who worked from home at least sometimes) in the EU highly depends on the degree of teleworkability of jobs across the EU. The incidence of telework is also related to national regulation, as well as broader contextual aspects that impact the prevailing national work culture, including workers' bargaining positions, social inequalities and gender norms.[15] The accompanying Analytical Document provides further details on the aspects of national and regional teleworkability.

According to the European Union Labour Force Survey (EU-LFS), following the pandemic, the number of persons who worked from home either usually or sometimes doubled compared to the pre-COVID era (21.9% in 2021 compared to 11.1% in 2019)[16] and has remained at higher levels since then. Since 2021, a slight decrease is being observed in the prevalence of telework (to around 20% both in 2022 and 2023) driven by a decrease in the frequency of telework. Nevertheless, this indicates that **telework is probably here to stay** and is in line with current trends that teleworking is often combined with working at the employer's premises, resulting in hybrid working arrangements. Evidence from the Commission's 2022 exploratory study shows that the prevalence of telework is expected to continue to grow in the medium and long term[17], with more workers working from home "sometimes".

In terms of **prevalence at national level,** in 2023, in line with the overall trend at EU level, all Member States, except for Croatia where the trend stagnated, experienced a decrease in teleworking compared to 2021, when looking at the indicator 'usually teleworking'[18]. The extent of the decrease in terms of 'usually teleworking' varied across Member States. Nevertheless, in all Member States, the share of employees that worked from home at least sometimes remains higher than before the COVID-19 pandemic. The prevalence of working from home varies according to four main factors: **occupation, sector, size of the business, and degree of urbanisation** (urban/rural) as well as on the basis of personal characteristics (gender, age, educational level). The accompanying Analytical Document provides detailed information on these dimensions.

Cross-border telework, where workers perform work enabled by ICT across EU borders, experienced also a slight decrease in 2023, as compared to 2021. In the employees' survey carried out under the Commission's 2022 exploratory study, **2.32% of respondents indicated that they carried out cross-border telework from January to June 2022,**[19] with the majority (39%) working from home only one or two days per week. Estimates of cross-border telework shares based on the EU -LFS[20] indicate that in 2023, the overall percentage of cross-border

[14] The accompanying Analytical Document provides a more detailed overview of national definitions of telework.
[15] Chung, 2022
[16] Source: Eurostat, dataset: lfsa_ehomp, employees aged 15 to 74.
[17] Commission's 2022 exploratory study – own calculations under the baseline scenario, using triangulation of various sources, such as Eurostat, Cedefop and estimates from the US based on employer surveys suggest a four-fold increase in hours worked remotely postcrisis (Barrero et al, 2021).
[18] Source: Eurostat, dataset: lfsa_ehomp, employees aged 15 to 74.
[19] Commission's 2022 exploratory study; the analysis excluded responses from Germany, the Netherlands, Italy, and Spain (N=275).
[20] Source: Estimations based on Eurostat, EU-LFS ad hoc extractions.

teleworking of the total number of cross-border workers is slightly lower than in 2022 (16% as compared to 17% in 2022).

According to the 2022 Living, working and COVID-19 survey[21] by Eurofound, **the preference to work from home remains very strong among respondents**. Over 60% of both women and men would prefer to work from home at least several times per month, with the preference to telework being somewhat higher among women (68% compared to 61% for men), or among respondents aged 30-44 (71%) followed by young respondents (65%). The same Eurofound report identifies a gap between respondents' preferred option and current place of work.

In addition, evidence from the surveys of employers and workers[22] conducted as part of the Commission's 2022 exploratory study shows that a large share of both workers and employers place importance on the freedom to work from anywhere (52% and 48%, respectively). The surveys also show that the majority of employers (66%) offer telework because workers enjoy a better work-life balance, while the majority of teleworkers cite saving commuting time and costs (63%) and the ability to concentrate better at home (45%) as the main reasons for teleworking. The same survey also shows that the relative majority of respondents (47%) did not telework because they were not given the option by their employers. On the other hand, the third most cited reason why workers teleworked was because they were requested to do so by their employer (33%). In addition, even in cases where there may be a preference to telework, access to telework may be restricted by eligibility requirements. The surveys of workers and employers showed that 37% and 54% of respondents respectively felt that clarity on eligibility requirements for telework is one of the main areas where improvement is needed.

In terms of cross-border telework, overall, based on the estimations based on the EU-LFS, the share of cross-border teleworkers is likely to follow the same trend as for telework in general. There is an increasing prevalence to sometimes perform cross-border work from home (12% in 2023, as compared to 10% in 2022), while there is a downward trend for cross-border telework as a 'usual' working pattern (4% in 2023, as compared to 7% in 2022).[23] .

The same survey also revealed that for cross-border teleworkers, flexible schedules, work-life balance, personal health and well-being, as well as combining work with private life are among the **main reasons for choosing this particular work pattern**. Self-employed cross-border teleworkers may benefit from a wider and diversified client base and access to additional opportunities for professional development.

4. Identified challenges

The increasing digitalisation of the world of work in recent years and the possibility to work remotely and at any time have opened up new opportunities for workers and businesses and reshaped many jobs. New working arrangements enabled by Information and Communication Technologies (ICT), such as telework, can enhance workers' flexibility and autonomy, can contribute to a better reconciliation of work with private and family lives, and lead to an overall improvement of work-life balance. Telework can also lower the entry-barrier to the labour market, particularly for persons with care responsibilities, with disabilities, with reduced mobility or living in rural areas and areas with lower business density, inlcuding through de-

[21]https://www.eurofound.europa.eu/en/publications/2022/fifth-round-living-working-and-covid-19-e-survey-living-new-era-uncertainty

[22] Commission's 2022 exploratory study, weighted employer survey data. N=2241, weighted employee survey data. N= 7669

[23] Eurostat, EU-LFS 2023.

clustering cities and industrial areas.. For employers, it may generate cost savings while allowing them to attract and retain talent, even in geographically remote areas. It can contribute to furthering the Single Market by facilitating the free movement of workers in the context of cross-border telework.

However, these new opportunities are accompanied also by new challenges as described below. The identified challenges are the **(1) emergence of an 'always-on' work culture**, and **(2) challenges with fair and quality telework**. These are mainly based on the Commission's 2022 exploratory study, supported by evidence in the academic and research literature, as well as other, subsequent research and literature from, among others, Eurofound, EU-OSHA, and the Commission's Joint Research Centre (JRC). It is important to note that additional evidence-gathering is currently ongoing into the existence, nature and extent of the challenges set out below.

4.1. The challenges related to the emergence of an 'always-on' work culture and its drivers

The digitalisation of the world of work, technological advances, the COVID-19 pandemic and, in some cases, a further increase in the prevalence of telework, have led to instances of extended availability and longer working hours for workers in teleworkable jobs. This contributed to the emergence of an 'always-on' work culture which may have an impact on people's mental health. For example, a Eurofound study[24] found that the share of workers reporting that they work at high intensity increased from 27% to 40% between 2015 and 2021. The study also notes that high work intensity was more prevalent among women, workers between the ages of 25 and 55, as well as managers. Post-pandemic EU-wide comparative data on this is scarce. Based on non-comparable national data, a 2022 Eurofound report found that a significant share of workers perform overtime with some regularity, in most cases reaching double digits. Several studies at national level further substantiate these trends[25] while some also provide evidence on significant health risk factors associated with extended availability. According to the EU-OSHA survey, using 2022 data, 46% of workers were exposed to severe time pressure and overload of work, which were also found to be the strongest risk factors to mental health.

A more recent survey by Eurofound[26] carried out in Belgium, France, Italy, and Spain in 2022, **found that over 80% of respondents were contacted for work-related purposes outside their contractual working hours, with nine out of ten of them responding to such contacts**. What is more, the study found that working remotely also increased the likelihood of workers feeling obligated to respond to work-related communication during rest time (60% of teleworkers compared to 51% of those working solely at the employer's premises).

The survey also showed that, while the existence of a right to disconnect **did not reduce the likelihood of communication from the employer** during the worker's rest time, workers in companies without a right to disconnect policy reported working additional hours because they received more work-related contacts during rest time than respondents from companies with such a policy (19% compared to 14%). However, satisfaction with work–life balance was reportedly higher among workers in companies with a right to disconnect policy compared to those with no such policy (92% compared to 80%). In addition, 45% of respondents felt that work-related contacts during rest time were detrimental to their work-life balance and overall

[24] Eurofound (2023), *Psychosocial risks to workers' well-being: Lessons from the COVID-19 pandemic*.
[25] For details see the accompanying Analytical Document
[26] Eurofound (2023), *Right to disconnect: Implementation and impact at company level*.

health and well-being. This was more prevalent among women and young people aged 25 to 39-year-old.

Company 'right to disconnect' policies, therefore, seem to hold potential for counterbalancing the 'always-on' work culture and contributing to better work-life balance and improving the mental health of workers. The surveys of employees and employers carried out in the context of the Commission's 2022 exploratory study, show a close to balanced picture among both workers and employers as regards the existence of right to disconnect policies in their organisation. Specifically, slightly less than half of them reporting that such policies are not in place (45% and 49 % respectively).

The risk of an 'always-on' work culture seems to be higher among teleworkers than among workers at the employer's premises. According to the Eurofound's European Working Conditions Survey (EWCS, 2021), 44 % of teleworkers worked overtime, 14% more than on-site workers in occupations with some degree of teleworkability. There are also important differences, albeit less marked, concerning long working hours. Among full-time employees, 21 % of teleworkers worked between 41 and 48 hours per week, and 14 % worked more than 48 hours, compared to 17% and 9% respectively of workers at the employer's premises. In addition, according to the employee survey carried out in the context of the Commission's 2022 exploratory study, one-third of respondents who teleworked (34 %) reported working more than their contracted hours without additional compensation, which was 5% more than non-teleworkers.

A 2023 Eurofound study[27], also using data from 2021 and examining the psychosocial risks to workers' well-being, found that **stressors such as work intensity, work–life interference, and working in free time, were higher among teleworkers than for those working at their employer's premises**. This could be related, among other things, to the widespread use of ICT in telework, which though providing more autonomy can also lead to work intensification and more work–life conflicts. An EU-OSHA study[28] shows that the use of digital technologies in the workplace, is linked to instances of increased workload, reduced autonomy and work-related stress.

According to the same Commission surveys, the right to disconnect seems to be a priority for both workers and employers, with 59% and 46% of them, respectively, considering it as one of the main areas of improvement in the future. In addition, one of the most important issues according to nearly one-third (34%) of the workers surveyed is the wish not to be contacted outside working hours. Interestingly, 51% of employers also prioritise avoiding contacting employees outside working hours. This indicates that there is a problem relating to the quality of rest time that is not being sufficiently addressed under the current arrangements.

Against these challenges, some Member States have introduced a right to disconnect in their national legal systems, in an effort to protect workers against the 'always-on' work culture. These vary significantly, both in terms of scope and content. The accompanying Analytical Document provides a thorough analysis of Member States' regulations on the right to disconnect.

Social partners and social dialogue at cross-sectoral, sectoral and company level, play a significant role in defining and implementing the right to disconnect. Even in Member States with legislation on the right to disconnect, the modalities and conditions for the right to disconnect are, in most cases, left to be determined through collective bargaining agreements and, in the absence of the latter, at company level, usually after consulting with worker's

[27] Eurofound (2023), *Psychosocial risks to workers' well-being: Lessons from the COVID-19 pandemic*.
[28] EU-OSHA (2024), *Mental health at work after the COVID-19 pandemic – What European figures reveal Data*.

representatives, and/or at individual level between the employer and the worker. Collective agreements regulating the right to disconnect are not limited to those countries which have specific legislation on it. However, a Eurofound report has found that these countries[29] have higher numbers of negotiated provisions on the methods of connection and disconnection and associated measures such as awareness raising and training.

Further demonstrating the role of national-level social dialogue, a number of concrete projects on work-life balance and the modalities of connecting and disconnecting are currently being implemented under the 2020 Framework Agreement on Digitalisation by cross-industry and sectoral social partner organisations[30].

The **challenges identified in this section are mainly driven by** (1) Behavioural biases and work norms on extended availability and (2) Issues with interpretation and enforcement of existing working time regulations in the context of work-related communications and work requests during rest time, which are discussed in detail in the Analytical Document.

4.1.1. Behavioural biases and work norms on extended availability

Various factors have contributed to the emergence of an 'always-on' work culture, including 'behavioural biases'. Research shows that the 'always-on' work culture cannot be attributed to a single cause; it is rather a complex sum of interdependent work-patterns and social norms[31], gradually consolidating trends of extensive availability, both online and while working at the employer's premises (presenteeism). Some countries and companies may have a pronounced 'ideal worker culture'[32], while others may be more supportive of autonomy when it comes to arranging working time[33] and maintaining work-life balance. In this regard, Eurofound[34] provides evidence of important differences in company cultures, including those within the same country, regarding respect for disconnection and work-life balance.

In addition, the Commission's exploratory study demonstrated that small shifts in temporal structuring (i.e. increased professional availability towards clients or presenteeism of employees) reinforced a culture of working hours that gradually deviated from the conventional working week. This ultimately resulted in an expectation to be available anytime, in addition to usual office work hours.

4.1.2. Interpretation and enforcement of current regulations in the context of work-related communications and work requests outside working time

The EU acquis, particularly **the Working Time Directive (Directive 2003/88/EC)** and its interpretation by the CJEU, **are of particular importance to and already offer workers protection against the 'always-on' work culture.**

[29] There are currently 13 Member States with legislation on the right to disconnect: Belgium, Bulgaria, Croatia, Cyprus, Greece, France, Ireland, Italy, Luxembourg, Portugal, Slovakia, Slovenia, and Spain. The report includes, in particular, examples of collective agreements from Belgium, France, Spain, and Greece.
[30] 3rd Joint implementation report of EU cross-industry social partners.
[31] Social norms refer to situations where people influence, and are influenced by, what others do.
[32] In an ideal worker culture, managers, supervisors and co-workers expect workers to prioritize work over private life, including working overtime, attending work requests outside working hours, etc. (Acker, 1990; Kossek et al., 2010; Williams et al. 2013).
[33] Autonomy of working time is one aspect of the autonomy of work, referring to the degree of control workers have over the distribution of their working hours. Autonomy of working time is sometimes referred to in English as 'self-management' of working time.
[34] Eurofound Living, working and COVID-19, COVID-19 series, 2021, available online.

The Working Time Directive lays down, among others, the right to a limitation on maximum working hours, to daily and weekly rest periods, and to an annual period of paid leave. The Directive applies to all workers in both the public and private sectors and introduces minimum requirements for the organisation of working time. The Directive itself caters for situations where the minimum rest time[35] may be reduced to satisfy the needs of certain activities.

Under the Working Time Directive, in principle, workers are not required to respond to such communications and requests during their rest time. As referred to in the section on behavioural biases above, however, complex work cultures that expect, value, and reward availability could, in practice, tacitly encourage workers to engage in such work-related communications and requests during their rest time, making it more difficult for them to disconnect and exercise their right to rest. Workers may also fear retaliation from the employer if they choose not to respond to work-related requests during rest time.

The accompanying Analytical Document provides further details on the provisions of working time and rest time, and their implications in the context of an emerging 'always-on' work culture.

When it comes to differentiating between working time and rest time in practice, working time regulations at both EU and national level are based on the **two mutually exclusive concepts of working time and rest time. However, the boundaries between the two concepts may not always be clear in practice, making it difficult to differentiate among them**. For part of the workforce, this is increasingly the case with the expansion of flexible working time patterns that move beyond the 'traditional 9-to-5' work schedule. In such cases the worker enjoys a certain level of autonomy and flexibility over managing their own working time. While this arrangement largely contributes to a better balance between private and professional life of the worker, it may also result in difficulties both to workers and employers to track working time and ensure sufficient rest time.

The accompanying Analytical Document provides an overview of the criteria to differentiate between working time and rest time, particularly through the case law on **'standby' and 'on-call' time as well as the issues related to these in the context of work-related contacts by the employer.**

In practice, questions may arise as when the employer reaches out to contact the worker during their rest time, in particular through communication via digital tools. Under certain circumstances, dealing with work-related communications, whichever form they might take, may count as an **interruption of the minimum rest period of 11 hours between working days**. While this might be apparent in cases when a worker has been asked to respond to an employer's request during rest period under a stand-by arrangement, broader expectations to be constantly available, as explained above under the section on behavioural biases, can also contribute to the worker's decision to engage in work related activities during rest time, even if not explicitly requested.

A common understanding between workers and employers regarding individual working time arrangements supports a clear distinction between working and rest time.
In this regard, **Directive (EU) 2019/1152 on Transparent and Predictable Working Conditions** stipulates that the employer must inform the worker of the length of a standard working day or week and any arrangements for overtime and its remuneration, or, if the work pattern is entirely or mostly unpredictable, the employer must inform the worker about the

[35] 11 consecutive hours daily rest and 35 uninterrupted hours of weekly rest.

reference hours and days within which the worker may be required to work and must inform the worker about a work assignment within a reasonable notice period.

The Working Time Directive does not explicitly contain provisions obliging to record the working time. However, in its case law interpreting the Directive, the CJEU has ruled[36] that there is an obligation to record the time worked each day by each worker. While the Working Time Directive does not establish the specific nature of the arrangements to be adopted by each Member State, it requires Member States to take necessary measures to ensure that every worker is entitled to the limitations on working time guaranteed by the Directive[37].

A common understanding between workers and employers regarding individual working time arrangements is particularly important in the context of telework, given their physical separation from the employer's premises. Recording of working time could help avoid or mitigate risks of the worker both working unpaid overtime and excessive working beyond the maximum weekly working time, which, could have serious effects on their physical and mental health. It also enables a better monitoring of existing disconnection policies.

4.2. The challenges related to fair and quality telework and their drivers

Telework can prove beneficial to both workers and businesses. The possibility to work away from the employer's premises can lead to a better reconciliation of work with private life and individual needs, providing incentives for increased labour market participation. Employers may also benefit from improved workforce well-being and an expanded talent pool, potentially leading to better work performance and productivity. In addition, working remotely holds great potential for contributing to **territorial and socio-economic cohesion and** could help **counter-balance demographic challenges**, such as the depopulation of rural, peripheral, outermost areas and regions affected by the industrial transition and **contribute to the development and attractiveness of such areas.**

At the same time, workers can face challenges with regard to their working conditions while teleworking, in contrast to those that apply at the employer's premises. This was reflected in the employee survey carried out in the context of the Commission's 2022 exploratory study, where 13% of respondents agree with the statement that they often feel discriminated in their current telework arrangement. At the same time, **29% of workers and 25% of employers identify the protection of teleworkers from discriminatory treatment as one of the main areas of improvement**. In addition, according to the same study, **both employees and employers consider that there is a need for improved clarity regarding various aspects related to working conditions in telework.** Furthermore, workers with disabilities experience additional barriers to telework when the technology is not accessible[38] or when their assistive technology would not interoperate with mainstream digital tools, in addition to other barriers related to inadequate accommodation or remote support from home. When the ICT tools are not accessible to persons with disabilities, they can contribute to their labour exclusion, segregation and unfair and unequal treatment.

[36] Case C-55/18, *Federación de Servicios de Comisiones Obreras (CCOO) v Deutsche Bank SAE*.
[37] Case C-484/04, *Commission v United Kingdom*, para. 37.
[38] For the purpose of this document accessibility is to be understood as accessibility requirements for persons with disabilities as those set in Annex i and III of Directive 2019/882, on accessibility requirements for products and services, the so called European Accessibility Act and in line with article 9 of the UN Convention on the Rights of Persons with Disabilities which is part of the EU legal order of which the EU and MS are a party to..

While the principle of equal treatment of teleworkers is well established at national level, implementation and enforcement in the context of telework can be challenging, also due to the physical separation from the employer's premises[39].

The gendered aspect of telework is related to its potential to support the reconciliation of professional life and domestic and care responsibilities, which still tend to be carried predominantly by women. At the same time, gender inequalities stemming from the reinforcement of traditional gender roles and workplace culture persist as underlying factors.

The accompanying Analytical Document studies in detail the overall challenge and the drivers related to fair and quality telework. These encompass a number of issues related to the access to telework, occupational safety and health, equipment and related costs, monitoring and data protection, work organisation and access to training.

4.2.1. Access to telework

Beyond an employer's capacity to offer telework arrangements and the type of occupation and sector, access to telework largely depends on the applicable policies and rules in each sector and/or company, where these exist. Eurofound's report on the fifth round of its 'Living, working and COVID-19' survey[40] shows that up to 31% of the respondents did not have a telework policy agreed at organisational level, between managers and workers bilaterally, nor one implemented through a cross-sectoral or sectoral social partner agreement. Sectoral collective agreements were the least reported sources of telework policies (only 6%), while 24% of the employers surveyed reported that telework arrangements rely exclusively on informal agreements between supervisors and workers (the same indicator for worker respondents was 15%).

In most cases, national law regulates the request process for specific categories of workers, such as those with care responsibilities. In a few Member States, all workers have the right to request telework and to receive a justification from their employer where the latter refuses such a request. At EU level, the **Directive (EU) 2019/1158 on work-life balance for parents and carers** provides for, among others, the right to request flexible working arrangements for caring purposes, including remote working arrangements. Employers are also required to respond to such requests within a reasonable period of time and provide reasons for any refusal. The purpose of the Directive is to achieve equality between men and women with regard to labour market opportunities and treatment at work by facilitating the work-life balance of parents and carers and to improve gender equality in care responsibilities. The right to request flexible working arrangements applies to workers with children up to a specific age and carers. Reversibility, as well as the rules on the process for the request for any change to the telework arrangement or in case of a request to return to the original working arrangement, apply to parents and carers.

As a result of the implementation of the Work-life balance Directive, national law regulates the request process for specific categories of workers, such as those with care responsibilities. In a few Member States, all workers have the right to request telework and to receive a justification from their employer where the latter refuses such a request. In some Member States, national regulations also specifically refer to the possibility of teleworkers and

[39] These issues are explored in more detail in section 4.3.1 of the Analytical Document.

[40] https://www.eurofound.europa.eu/en/publications/2022/fifth-round-living-working-and-covid-19-e-survey-living-new-era-uncertainty

employers to request a return to the employer's premises. The Analytical Document offers a detailed description of relevant EU and national measures.

There are certain groups of workers who face additional barriers to accessing telework. For example, persons with disabilities may require additional accommodations to be able to telework, including organisational and infrastructural changes (work equipment/setup) allowing them to participate remotely. , Directive 2000/78 makes compulsory the provision of reasonable accommodation to ensure the equal treatment of persons with disabilities in employment.

Finally, a survey of employers conducted as part of the Commission's 2022 exploratory study identified barriers to cross-border telework. It found that nearly 20% of employers with workers teleworking from other countries reported experiencing related administrative difficulties[41]. Of those who said they have experienced difficulties, 70% noted difficulties related to taxation, followed by difficulties related to social security (63%)[42]. Additionally, 73% of employers noted difficulties with other (unspecified) contractual issues.

The social security rights of mobile workers, including workers that perform cross-border telework, are regulated by Regulation 883/2004. As a general rule, workers are covered by the social security regulations of the country in which they perform their work activities (regardless of where they live, as in the case of frontier workers). In cases where an employed person pursues a working activity in two or more Member States, the legislation of the Member State of residence applies, if the person pursues a **substantial part of his/her activity** in that Member State. If this is not the case, the 'legislation of the Member State in which the registered office or place of business of the undertaking or employer' is situated applies. Article 14(8) of Regulation (EC) No 987/2009 defines a **threshold of 25% of working time** for the determination of the Member State whose social security legislation applies.

In light of the increase in cross-border telework during the COVID-19 pandemic[43], temporary arrangements were put in place to prevent that persons that performed more than 25% but less than 50% cross-border telework from home would fall under a different national social security regime. After the COVID-pandemic, these arrangements have been laid down in the so-called multilateral Framework Agreement, which has been signed by 22 Member States[44] under Article 16(1) of Regulation 883/2004. According to the agreement, a person who carries out habitual cross-border telework will be subject to the national social security legislation of the Member State in which the employer has their registered office or place of business, provided that the **cross-border telework in the Member State of residence is less than 50%** of the total working time.

4.2.2. Occupational safety and health (OSH)

Occupational safety and health is one of the main areas of concern in relation to telework and the use of digital tools. Increased autonomy in terms of work location and schedule may

[41] Commission's 2022 exploratory study

[42] Currently at EU level, according to Regulation (EC) 883/2004, workers are covered by the social security regulations of the country in which they perform their work activities. In addition, the Administrative Commission for the Coordination of Social Security System adopted a Guidance Note on cross-border telework, applicable from 1 July 2023. Subsequently, 22 Member States have signed a multilateral Framework Agreement on the application of Article 16 (1) of Regulation (EC) No. 883/2004 in cases of habitual cross-border telework.

[43] Estimates of cross-border telework shares in the post-COVID-19 era on the basis of EU-LFS

[44] Cross-border telework in the EU, the EEA and Switzerland | Federal Public Service - Social Security (belgium.be)

lead to a better work-life balance thus contributing to workers' good mental health. However, it can also be linked to potential psychosocial and physical health risks.

According to the literature, as well as to the interviews with national stakeholders conducted in the context of the Commission's 2022 exploratory study, **psychosocial risks** are the most prevalent health risks in telework, which include anxiety, work-related stress and exhaustion, non-verbal information overload, as well as feelings of isolation and a lack of interaction with colleagues. However, psychosocial risks are not explicitly covered by the EU acquis. They concern all workers, not only those who telework.

Furthermore, teleworkers could be exposed to certain **ergonomic risks** which, in turn, can cause **physical health issues** such as musculoskeletal disorders (MSDs), headaches and eyestrain. Although such health issues are a direct result of ICT use and therefore are not restricted to telework arrangements, data nevertheless show that they are, in fact, more common among teleworkers (see also the section on an emerging 'always-on' work culture).

The above challenges can also be linked with **issues with enforcement of the existing regulatory framework in the area of occupational health and safety.**

Occupational Safety and Health Framework Directive

The Framework Directive lays down general principles for the prevention and protection of workers in both the public and private sectors from occupational risks, **and a general obligation of employers to ensure the safety and health of workers in every aspect related to the work**. This includes the obligation to carry out a risk assessment and to implement the resulting preventive and protective measures. Information and training are also considered an integral part of safety and health measures in the workplace. According to the Directive, measures related to safety, hygiene and health at work may in no circumstances involve a financial cost for workers.

While the Framework Directive also applies to telework, working outside the employer's premises presents a practical challenge to employers in fulfilling their legal obligations. According to a 2019 EU-OSHA survey[45], **only 30% of European establishments carry out risk assessments on telework settings.** In addition, the OSH Workplace Directive only applies to employer's premises. Therefore, **the practical implementation and enforcement of OSH requirements in the context of telework show areas for improvement.**

Directive on the minimum safety and health requirements for work with display screen equipment requires employers to perform an analysis of workstations in order to evaluate the safety and health conditions to which they give rise for their workers, particularly as regards possible risks to eyesight, physical problems and problems of mental stress.

The Display Screen Directive can be relevant to teleworkers working with digital tools. It is unclear whether modern digital tools, including tablets and mobile phones, fall within the scope of the Directive.

The Directive on the minimum safety and health requirements for the workplace (Workplace Directive) includes a definition of workplace that does not include telework arrangements. The Workplace and Display Screen Equipment Directives are currently under review. In accordance with the well-established procedure in the area of health and safety at work, the tripartite Advisory Committee on Safety and Health at Work (ACSH) adopted in its

[45] EU-OSHA (2019), *European Survey of Enterprises on New and Emerging Risks* (2019).

plenary meeting on the 27 November 2024 two opinions on the review of these Directives.[46] The ACSH opinion regarding the Workplace Directive concerns, amongst others, an updated definition of the workplace so that it would cover not only employer's premises but also homeworking and off-employer's premises workplaces. The ACSH opinion on the Display Screen Equipment Directive includes a revised definition of the workstation, covering also the use of digital tools such as stationary and mobile devices used for work (such as laptops and tablets).

EU OSH legislation is transposed into Member States' national law. In addition, some of them have specific legislation on telework. This includes national rules on the responsibility of employers to ensure that the teleworking environment meets the minimum requirements for health and safety, that the work is adapted to the workers, as well as rules on the provision of the necessary work equipment. **In some Member States, employers are exempt from certain OSH-related obligations** outside employer's premises when it comes to telework[47], due to their lack of control of the workplace.

National provisions vary considerably when it comes to the employer's obligation to assess the risks present in telework. Some Member States place **obligations upon the teleworker, such as to ensure that the OSH requirements are applied correctly and to maintain the workplace in a condition that guarantees compliance with such rules**[48]. The accompanying analytical document provides a detailed overview of telework-related OSH measures at national level.

4.2.3. Monitoring, surveillance, and data protection

The issue of **monitoring and surveillance** is particularly relevant in the context of telework. Evidence from the surveys of employers and workers conducted as part of the Commission's 2022 exploratory study shows that 15% of workers felt that they were exposed to intrusive control or constant surveillance, while 10% of employers agreed/strongly agreed to having introduced new procedures of control and surveillance. What is more, in the same surveys, **33% and 35% of workers and employers respectively felt that there is a need for more future clarity on data protection and digital surveillance.**

Issues related to surveillance, the monitoring of work, and data protection, though common to all workers, are particularly relevant to teleworkers given the intensive use of ICT, as well as the constant use, exchange and combination of data from locations other than the employer's premises. Moreover, telework underlines the importance of discussions on how best to strike a balance between employers' managerial prerogatives and interests in overseeing the performance of work on the one hand, and workers' privacy and personal data protection on the other.

The drivers of issues related to surveillance, monitoring, and data protection are linked to the lack of clarity of key employment conditions relevant to this area. The provisions relevant to monitoring and data protection are **primarily laid down in the data protection legislation at Member States and Union level.** At EU level, the **General Data Protection Regulation (EU) 2016/679 (GDPR)** provides for a general legal framework for the processing of individuals' personal data applicable in all fields of life, including the employment context. .

[46]https://circabc.europa.eu/ui/group/cb9293be-4563-4f19-89cf-4c4588bd6541/library/43f88715-98b6-4441-acaf-89f734977f10?p=1&n=10&sort=modified_DESC
[47] Denmark, Sweden.
[48] Estonia, Greece, Hungary, Italy (*lavoro agile*), Luxembourg, and Poland.

At national level, **some Member States have adopted specific provisions on surveillance and monitoring in the context of telework,**[49] with variations ranging from provisions on employers expressly being allowed to monitor the performance of teleworkers[50] for certain purposes[51], to expressly prohibiting certain forms of monitoring such as the use of a web camera[52] or requirements for permanent connection by means of image or sound[53]. Seven Member States[54] have introduced provisions addressing the issue of responsibility and liability for data protection specifically in telework. All those national laws should comply with the GDPR.

Despite these existing measures at EU and national levels, **there are nonetheless certain challenges in telework that require special attention.** The fact that work is performed remotely, and often in the worker's private residence and with the use of personal equipment, underlines the intertwined issues of monitoring the performance of work with the worker's right to privacy, as well as the protection of the worker's personal and the employer's professional data.

4.2.4. Equipment and other teleworking costs

Effective telework requires that workers are equipped with the **necessary work equipment**, i.e., the devices that make it possible for workers to work from locations other than their employer's premises. In addition, for persons with disabilities it requires that digital tools and equipment are accessible (in line with the accessibility requirements set in annex I of Directive 2019/882) and that the assistive technology that they use interoperates well with mainstream technologies and tools. These tools, however, and their use give rise to certain costs. These can include costs related to the acquiring and maintenance of the equipment itself, as well as operational costs related to electricity and internet consumption.

The issue of **teleworking costs** is a major area of concern for both workers and employers. In the employee and employer surveys of the Commission's 2022 exploratory study, **62% of workers and 46% of employers believe that the compensation of costs related to working from home should be a main area of improvement in telework**. However, the majority of workers disagreed with the statement that their employer compensates them for additional costs incurred when working from home (46% strongly disagreed and 19% disagreed). The employers' survey under the same study revealed that about one in four respondents compensated workers for the costs incurred due to working from home (8% strongly agreed and 16% agreed to this statement), while 38% stated they did not provide such compensation[55].

The challenges related to equipment and cost in the context of telework are **driven by the general lack of clarity regarding employment conditions** relevant to this area.

[49] Bulgaria, Cyprus, Greece, Hungary, Malta, Poland, Portugal, Romania, and Spain.
[50] Bulgaria, Cyprus, Greece, Hungary, Poland, Romania, and Spain.
[51] Among other, supervision and evaluation of performance, as well as compliance with labour duties and tasks. Teleworkers, however, need to be informed of such monitoring.
[52] Greece, Cyprus.
[53] Portugal.
[54] Belgium, Bulgaria, Cyprus, France, Greece, Luxembourg, and Poland.
[55] 18% of employer respondents disagreed and 20% strongly disagreed with the statement of "We compensate employees for expenses due to working from home". Source: Commission's 2022 exploratory study, weighted employees and employer survey data (N=9637 and N= 1823 respectively).

In most Member States**, the employer is required to provide teleworkers with the equipment needed to telework[56],** and in almost half of the Member States, **the employer should also maintain and repair the work equipment in question.** In certain Member States, the provision of equipment is left to be determined based on an individual agreement between the employer and the worker[57]. **In most Member States, the employer is also required to cover the costs incurred by the employee from teleworking** (usually costs related to telecommunication, such as the internet connection but also, in some cases energy costs[58] such as electricity, costs related to damages to the work equipment[59] and to data losses[60]). In some countries, this obligation is linked to expenses that are 'demonstrably' or 'directly' incurred from teleworking[61], or to expenses that are necessary and justified[62].

What is usually less clear in national regulations is the method of compensation for teleworking costs. In most cases, the modalities and amounts of compensation are a matter to be determined between the parties in the telework agreement or employment contract, and/or through collective bargaining. In other Member States, the law also provides that remote workers are entitled to a lump sum for their teleworking costs.

The overall lack of clarity on the arrangements for compensation for telework costs can be challenging for both workers and employers. In addition, the fact that many aspects related to equipment and costs are/can be determined on an individual basis between the employer and the employee can also be problematic, given the unequal bargaining power that often exists in employment relationships,[63] especially in Member States with weak collective bargaining.

4.2.5. Work organisation and access to training

Telework requires the **development of new skills for workers and employers alike,** in terms of work organisation, team cooperation and knowledge transfer**, digital skills and tools, to access training and learning and to maintain workplace socialisation remotely**. The switch

[56] Austria, Belgium, Bulgaria, Cyprus, Czechia, Denmark, France, Germany, Greece, Hungary, Italy (for telelavoro), Luxembourg (regular telework), Latvia, Lithuania, Malta, Poland, Portugal, Slovakia, Slovenia, and Spain. In the case of Malta, Slovakia and Slovenia, the provision of equipment will also depend on the agreement between the parties in the employment contract.
[57] Croatia, Estonia, and Italy.
[58] Greece, Italy (telelavoro), Latvia, Poland, Portugal, and Slovenia.
[59] Belgium (structural telework), France, Cyprus, and Luxembourg.
[60] Belgium (structural telework), France and Luxembourg.
[61] Czechia, France, Luxembourg, Portugal, and Slovakia.
[62] Hungary.
[63] As recognised by the case-law of the CJEU. See, for example, C-397/01 to C-403/01, *Pfeiffer and Others*, para. 82: 'Those requirements are all the more important given that the worker must be regarded as the weaker party to the employment contract and it is therefore necessary to prevent the employer being in a position to disregard the intentions of the other party to the contract or to impose on that party a restriction of his rights without him having expressly given his consent in that regard'; C-585-19, *Academia de Studii Economice din Bucureşti*, where the CJEU notes that it would be easy for employers to put pressure on the weaker party (= the worker) to conclude multiple employment contracts in order to avoid working time limits, while the Working Time Directive is intended to protect the weaker party; C-531/23, *Loredas*, where the CJEU specified that, given the worker is the weaker party in the employment relationship, "it appears to be excessively difficult, if not impossible in practice, for workers to ensure compliance with the rights" conferred by the Charter.
The Article 29 Working Party and its precursor, the European Data Protection Board (EDPB), have also explored the limits of consent in situations where it cannot be freely given, as when the processing of data occurs in the employment context (Opinion 8/2001 and Opinion 15/2011), stating that the data subject (employee) is under the influence of the data controller (employer), thereby possibly in a situation of dependence on the data controller that could lead to fear of retaliation if the employee does not consent to the data processing. See also EDPB Guidelines 05/2020 on consent under Regulation 2016/679.

to telework may present new and unique challenges to employers, who are faced with the need to manage an increasingly dispersed and more autonomous workforce.

Working remotely can influence **access to training**. From a technical perspective, remote trainings have the capacity to increase participation and reach more workers.[64]. In addition, prior to the COVID-19 pandemic, Eurofound's 2015 European Working Conditions Survey[65] found that telework arrangements do not prevent workers from participating in employer-paid training or on-the-job training. Furthermore, teleworkers reported greater participation in formal training than workers who were always at their employer's premises[66] with some variations in participation among different categories of workers.

EU rules on information rights apply to all workers, regardless of whether or not they work remotely. **Directive (EU) 2019/1152 on Transparent and Predictable Working Conditions** requires employers to provide workers with essential information about their working conditions in writing, including aspects of work organisations, such as the place of work, the standard working day and week, and changes to the employment relationship. With regards to **access to training**, the Directive recognises that where an employer is required to provide training to workers, such training will be provided free of cost, count as working time and, where possible, take place during working hours. Similarly, the **Occupational Safety and Health Framework Directive 89/391/EEC** requires employers to ensure that workers receive adequate safety and health training, including in the event of the introduction of new work equipment or technology. The training shall account for changing risks, including e.g. new risks related to telework. **At national level, specific requirements for transparency and predictability of teleworkers' working conditions exist in different forms**. In some Member States[67], employers must inform teleworkers in writing on certain aspects of their working conditions. In others[68], certain aspects of the employment conditions ought to be included in the employment contract or telework agreement, or to be determined through collective agreement and/or company policy.

Where, due to a lack of specific rules, certain employment conditions related to telework are left to be determined on an individual basis between the employer and the employee, this can lead to imbalance given the unequal bargaining power that often exists in employment relationships.

Finally, with further regard to the relevance of the **role of social dialogue to both the emergence of an 'always-on' work culture and to fair and quality telework,** at EU level, a number of **sectoral social dialogue committees** (SSDCs) are currently addressing telework as part of their work priorities on digitalisation/future of work and/or quality of work.

[64] However, there are indications that high intensity telework may harm access to opportunities for professional training, particularly for workers in lower hierarchical positions, though research on this topic is scarce. Eurofound (2020), *Telework and ICT-based mobile work: Flexible working in the digital age*. Bjursell, C., Bergmo-Prvulovic, I., & Hedegaard, J. (2021), 'Telework and lifelong learning', *Frontiers in sociology*, 6, 642277.

[65] https://www.eurofound.europa.eu/en/surveys/european-working-conditions-surveys/sixth-european-working-conditions-survey-2015

[66] Eurofound (2020), *Telework and ICT-based mobile work: Flexible working in the digital age*. As for sector-specific prevalence of telework, the Eurofound study found that the following sectors had the highest proportions of workers with TICTM arrangements: information and communication (57% of workers in the sector), followed by professional and scientific activities (53%), financial services (43%), real estate (43%), and public administration (30%).

[67] EL, FR, IT, CY, LT, and PL.

[68] BE, BG, ES, HR, LU, MT, PT, and SI.

At company level, the case studies[69] carried out under the Commission's 2022 exploratory study also identified company practices, where company-level social dialogue and collective agreements have played a role in the implementation of telework in a post-pandemic context.

5. Consequences of the identified challenges

The identified challenges, in the absence of EU action, affect workers, employers, public administrations and society at large.

For **workers,** the potential consequences of the challenges provisionally identified above relate to:

- **Impact of digitalisation on mental and physical health** of all workers, notably those who frequently telework, as a result of the 'always-on' work culture, intensification of work and unsocial hours, information overload, lack of socialisation and feelings of isolation, role ambiguity and stress.
- **Inadequate working conditions and deterioration of work-life balance**, in particular when telework is combined with extended availability ('always on' work culture). An increased risk of long working hours or the feeling of needing to be constantly available even during rest time, can encroach on personal/family life. Increased flexibility to work from home, under certain circumstances, has also been found to negatively affect existing gender inequalities. Research provides evidence of **overtime and gendered patterns** in telework and other flexible working arrangements.
- **Unclear telework arrangements may potentially lead to unequal treatment,** between teleworkers and non-teleworkers or even from one teleworker to another in the same or similar occupation. While introducing telework on a case-by-case basis may be beneficial to flexibility to adjust to business needs as well as the individual preferences of the worker, the lack of a uniform policy on telework within a company (but also within a sector) can also lead to unclarity and lack of transparency.
- **Consequences of digital monitoring** entail risks in terms of workers' right to privacy and the protection of their personal data, as well as to adequate working conditions and overall well-being.

For **employers** the potential consequences of the challenges provisionally identified are:

- **Sub-optimal cost savings/costs and reduced competitiveness** due to lack of clarity of applicable EU and national rules, e.g. on working time and OSH regulations, and cross-border telework. As a result, employers may not be able to leverage technological developments to benefit from increased flexibility to adapt to new working patterns and evolving organisational culture, nor to make the most out of possible cost-savings, such as on office rent and utility expenses or through workplace innovations including digital tools. Moreover, the diversity of approaches at company level when it comes to telework and right to disconnect policies and measures, may create an uneven level playing field between companies that provide such protections to their workers and those which do not, which in turn, could play out in the competition for talent.
- **Reduced productivity, employees' well-being and organisational performance** compared to a working environment that is more conducive to work-life balance and mental and physical wellbeing. As noted in the Draghi report on the future of the EU's competitiveness, working conditions play a key role in attracting and retaining talent, which in turn boosts productivity and competitiveness. In certain professions, health

[69] Available online

and safety risks are one of the factors that could aggravate existing labour shortages. These impacts tend to be more pronounced for occupations that involve higher levels of task interdependence and social interaction[70]. In cases of insufficient accessibility they will miss out on the potential of persons with disabilities. Moreover, the overall effects of telework on productivity remain uncertain. For example, as performance management in telework shifts from process to more output-based approaches, this allows for more flexibility. This, in turn, could have a positive association with job satisfaction, organisational commitment and contribute to organisations' retention strategies[71]. However, this will depend on companies having developed appropriate performance assessment procedures and trainings to adapt the work and the workers to telework. Digital monitoring and concerns over privacy may also have an effect on workers' performance by generating psychosocial risks, which will ultimately affect the employer's activity.

For **public administrations,** if the 'always-on' work culture were to persist, public healthcare costs related to specific psychosocial and physical illnesses could increase. In addition, issues with the enforcement of existing regulations in the context of telework, particularly those related to health and safety, could create additional costs for relevant inspection authorities.

For **society at large,** the challenges related to fair and quality telework may dampen the opportunity for economic development of rural, regional and local economies and hamper the opportunity to tap into underused labour force, in particular certain disadvantaged groups, and groups underrepresented in the labour market, including persons with disabilities. Furthermore, it would prevent tapping potential opportunities offered by telework for reduced greenhouse gas emissions, air pollution and resource use, traffic congestion, and potentially lower net energy use. However, the opportunities of telework depend on several factors (e.g., the frequency of telework, the source(s) of energy used, the efficiency of offices and home heating/cooling systems, the office/home spaces etc.).

Lastly, the persistence of the 'always-on' work culture and related trends of work intensity, work–life interference, working during leisure time, as well as declining quality family life could have a serious impact on the mental health of people. This, in turn, could affect the cohesion of families and societies at a larger scale.

6. EU added value

The various challenges related to mental health and work-life balance of workers as well as to the quality of telework arrangements affect all Member States and to varying degrees, all economic sectors.

With regards to the **'always-on' work culture**, currently, ensuring workers' right to rest may prove challenging in practice due to explicit or implicit expectations for them to engage with work during rest periods. To address these issues, some Member States have adopted legislation introducing a right to disconnect. Most often, it is limited to defining the right to disconnect and leaves sufficient room for the modalities and conditions to be further determined via sectoral collective agreements, company level agreements or individual agreements between the employer and the worker. Collective agreements regulating the right to disconnect, both at sectoral and company level, also exist in Member States without relevant

[70] Golden and Gajendran, 2019; Gibbs et al., 2021; Van der Lippe and Lippényi, 2019.

[71] Gajendran, R. S., Ponnapalli, A. R., Wang, C. and Javalagi, A. A. (2024), 'A dual pathway model of remote work intensity: A meta-analysis of its simultaneous positive and negative effects', *Personnel Psychology*, *77*(4), 1351-1386.

legislation. However, right to disconnect provisions in collective agreements tend to be more frequent in countries with legislation on the right to disconnect. Overall, the situation remains rather fragmented in terms of scope, content, impact and enforceability.[72]

With regard to **telework**, depending on the policy area covered, rules at national level can either be unclear and/or, in some cases, non-existent. Even where general principles of protection exist, both at EU and national level, as is the case for example in the area of OSH, their enforcement in the context of telework has proved inadequate and/or incomplete. Furthermore, when it comes to the working conditions applicable in telework, these are regulated to varying degrees across and within Member States.

As a result, the diversity of rules at national level, in combination with the fact that even where such rules exist, they can nonetheless be unclear as to the specific rights and obligations, or be poorly implemented, combined with a potential lack of awareness of possibilities to derogate from existing social security coordination rules for more than 25% cross-border telework from home, can lead to varying degrees of protection and to diverging working conditions for workers within the EU This, in turn, can also have an impact on the development of cross-border telework, discouraging employers to recruit talent from another Member State and offer telework arrangements across borders.

There is a risk of erosion of labour standards applying to new forms of work where the regulatory framework is weaker and patchier across Member States. National efforts to ensure minimum protection of workers, while admirable in their goals, could lead to increasingly divergent and even contradictory solutions, leading to inequality in the protection of workers and their working conditions. National action alone would not achieve the EU's Treaty-based core objectives of promoting sustainable economic growth and social progress, as Member States may go to unequal lengths in affording such protection to their workers. An EU initiative could set high-level common rules/expectations that would apply to all employers operating in the EU, while also preventing fragmentation in the fast-developing EU (and digital) Single Market. This would ensure a level playing field in the area of working conditions between employers operating in different Member States. Hence, the specific EU added value would lie in the establishment of minimum standards in these areas, which will foster upward convergence in employment and social outcomes across the Union. Eventually it could affect the quality of the workforce, the relative competitiveness of employers, companies and Member States, and the functioning of the EU Single Market. In light of the above, an EU initiative introducing measures to protect workers against the 'always-on' work culture as well as improving clarity and quality of telework could be appropriate given the issues set out in this document.

In particular, **EU-level action would help improve workers' mental and physical health and work-life balance, reducing absenteeism, extended online availability and burnout, as well as potentially increasing labour market participation and reducing inequalities in an increasingly connected and digital world of work**. Such action would also create an improved working environment and promote workplace innovations, potentially leading to competitiveness and productivity gains. The initiative would also support the implementation of the **European Pillar of Social Rights** and fulfil the Commission's commitment to follow-up on the European Parliament's 2021 resolution under Article 225 TFEU on the right to disconnect with a legislative act. In addition, telework that takes account of accessibility and accommodation of persons with disabilities supports the implementation of international

[72] Eurofound (2023), *Right to disconnect: Implementation and impact at company level*.

commitments undertaken by the EU in becoming a party to the UN Convention on the Rights of Persons with Disabilities.

In particular, EU action could contribute to levelling the playing field and reduce the current patchwork of national rules when it comes to the right of workers to rest and their possibilities to disconnect during their rest time as well as the quality of telework. . This, in turn, would bring added **value in terms of businesses' improved access to a wider segment of the workforce**, their capacity to navigate the rules and legislation relevant to the right to disconnect and telework, as well as their **capacity to innovate, productivity and competitiveness**.

For telework, in particular cross-border telework, EU action would bring clarity as regards teleworkers' applicable rights and protections, thus contributing to reducing regulatory uncertainty and administrative hurdles. Ultimately, it would encourage employers operating in the EU to tap into a wider pool of talents, as they could offer their workforce cross-border telework arrangements. Nevertheless, a number of key aspects related to the taxation of cross-border telework and the social security coordination in such cases would remain outside the scope of this initiative, which is focused on working conditions.

Finally, by acting at EU level there is a possibility to build on good practices developed in some Member States, and to create a momentum for Member States to advance together towards better outcomes. In addition, a coherent, adequate and complete framework at Union level would facilitate the development and growth of cross-border businesses and the mobility of EU workers, thereby contributing to the growth and consolidation of the internal market. However, EU action would **leave sufficient room for EU and national level social partners** to address the specificities of the right to disconnect and telework through social dialogue and collective bargaining.

7. Possible EU action

7.1. Proposed objectives of EU action

The **general objective** of the proposed action is to enable and empower workers and employers to reap the benefits of the digital transition and foster a work environment that supports a healthy and engaged workforce, ensuring long-term organisational success and employee well-being.

To reach this general objective, the **specific objectives** of the EU action would be as follows:

1. Reduce **the negative effects of the 'always-on' work culture, particularly fostered by digital tools,** on workers and organisations.
2. **Foster transparency** and **improve working conditions** for fair and quality telework

7.2. Avenues for EU action

This section presents the possible avenues for EU action under consideration. These could include **legislative or non-legislative options (or a combination of the two)** and would be refined as a result of the current consultation as well as the on-going evidence gathering activities. EU action would be developed without undermining the existing EU social and labour *acquis* and in accordance with the **legal boundaries set by the Treaties** and the **proportionality, subsidiarity and better law-making principles**. It would also fully take into account the **impact on the employers, job creation and competitiveness**, including in particular for **SMEs**. Moreover, any EU action would respect national competences, the diversity of national industrial relations, and the autonomy of social partners.

A range of EU instruments could be considered in preparing possible EU action to address the 'always-on' work culture, telework and OSH aspects.

Non-binding instruments could include a **Commission Communication** or **Guidance** which could focus on the application of existing EU legislation and/or other aspects of work organisation. Such guidance could further cover training, capacity building, information and awareness-raising actions and technical support or guidance on the use of existing financial instruments. .

EU action could further take the form of a **Council Recommendation(s),** based on Article 153(1) points (a) and/or (b) TFEU in conjunction with Article 292 TFEU. A Recommendation would provide for policy guidance and a common policy framework at EU level, while not setting specific requirements. The principles and criteria contained in a Recommendation would therefore provide a basis for action by all Member States.

In terms of **a binding instrument**, the initiative(s) could take the form of a **Directive** based on Article 153 TFEU. A Directive would give certainty about the legal obligations to be applied by Member States. To this end, EU action would lay down minimum requirements and procedural obligations to be complied with, while leaving room for Member States to decide on the way to implement them, including the possibility for them to delegate implementation to social partners.

Finally, a **package combining several instruments addressing the policy options outlined below could also be considered**. This would take into account the scope of the initiative, the wide variety of existing national legislation and practices, social partners' agreements, and the need to respect the principles of subsidiarity and proportionality enshrined in the Treaties.

Social partners have a significant role to play in the implementation of a potential EU action in these areas and social dialogue will be an indispensable tool for defining the modalities of any proposed measures at cross-sectoral, sectoral and/or company level.

7.2.1. Policy options addressing the emerging 'always-on work culture'

In order to address the risk of an emerging 'always-on' work culture, EU action could **introduce a right to disconnect through a legislative initiative.** Different options would be considered for the definition of the right to disconnect and its scope of application. For example, the scope could apply either only to employees performing telework, or only to employees in teleworkable jobs or to all employees in the public and the private sector. In addition to introducing the right, such initiative could potentially propose measures **protecting workers from any adverse treatment and consequences** for exercising this right and calling on the Member States to promote collective bargaining to address the 'always-on' work culture, while respecting the autonomy of the social partners. Different levels of detail could be considered for the implementation of the right to disconnect at EU level. For instance, an instrument could set out broad principles which are to be implemented by Member States or social partners, or it could set out **a list of minimum requirements which** could include, for example specific requirements for employers to enable the implementation of the right to disconnect and/or possible derogations for certain occupations/sectors etc**.** The requirements could further be differentiated by the extent of remote work. While setting a framework at EU level, the technical and organisational means for ensuring disconnection would be left to be addressed by national law, collective agreements, or practice. Such action would need to take account of activities and sectors such as essential services or flexible and unpredictable work arrangements, where it may be essential for the employer to be able to contact the worker

during rest periods. Any rules at EU level would be without prejudice to and aligned with already applicable rules in the Working Time Directive.

Alternatively or in addition to the above legislative option, the EU initiative could include **non-binding recommendations and/or guidance** on (1) the definition of the right to disconnect and (2) the implementation and interpretation of the relevant EU framework, including the case law of the CJEU, with a view to providing further clarity on the conditions and ability of workers to disconnect during their rest time and on the recording of working time, particularly in the digitalised world of work.

Guidance could also be provided on implementation aspects, including the recording of working time to support a clear distinction between working and rest time. Furthermore, guidance could focus on supporting Member States, social partners and employers with the application of the relevant OSH rules, to help improve compliance with existing regulations and to protect the health and safety of workers. Further non-legislative action, such as awareness-raising, could provide information, both to workers and employers, on the relevant risks for mental and physical health. Exchange of good practices could focus on the involvement of social partners in the establishment and implementation of disconnection policies.

Social dialogue and collective agreements would in any case play a key role in establishing the details of the right to disconnect, in line with the specific needs of sectors, organisations and occupations. Such engagement could be incentivised though technical and financial support for improving social partners' capacity for the implementation and monitoring of such policies (see Accompanying measures further below).

The ongoing national-level implementation of the 2020 Framework Agreement on Digitalisation, which includes specific projects aiming at ensuring disconnection and improving work-life balance of workers, could be largely complementary to the above policy options addressing the risks of an emerging 'always-on' work culture.

7.2.2. Policy options to improve working conditions in telework for fair and quality telework

In the area of telework, **EU action could address different aspects of the telework arrangement**, with a view to promoting fair and quality telework[73].

EU action could be proposed through a **Council Recommendation**, or through a **Communication or Guidance** (all non-binding instruments). Irrespective of the instrument chosen, such non-binding action, would aim at clarifying and supporting Member States, social partners, employers and employees in the application of existing EU rules on a number of issues identified by our analysis as hampering fair and quality telework.

The aspects that could be addressed under non-binding EU action include:

(a) Improving transparency in access to and organisation of fair and quality telework. EU action could (1) clarify the application of relevant existing EU rules and (2) provide guidance/good practices on the process and handling of requests for telework arrangements. EU action could also provide guidance in view of strengthening information to workers on key aspects of the telework arrangement, for example, (1)

[73] It is important to underline that the purpose of a possible initiative is not to increase (or decrease) the extent of telework in EU labour markets.

on the organisation and modalities of the telework arrangement (including the rights and obligations of both the worker and the employer); (2) the frequency and pattern of the telework arrangement; (3) the conditions for reversing a telework arrangement and (4) the rules on organisation of working time while teleworking (e.g. remote readiness) and the means of recording it. Finally, guidance/ good practices could be provided on the role and involvement of workers' representatives in the development and the implementation of telework-related policies.

(b) **Principle of equal treatment and non-discrimination in telework.** EU action could provide guidance and good practices to Member States and social partners on (1) the application of existing EU rules in this area, including on accessibility and reasonable accommodation for persons with disabilities to ensure access to telework on equal basis with others[74]; (2) the conditions for reporting cases of discrimination or unequal treatment and cases of justified differentiated treatment. It could also clarify that telework should not create an expectation for workers to telework while on sick leave.

(c) **Occupational Safety and Health**: EU action could aim to support employers, workers and relevant Member State authorities with the application of and compliance with the Workplace and Display Screen Equipment Directives. To this end, it could provide guidance to employers and workers covering clarifications concerning the applicable legislation, examples of how applicable legislation can be better complied with as well as guidance on frequently encountered issues when complying with the applicable legislation. For example, it could address certain risks specific to teleworkers' physical, mental health (e.g. isolation, digital information overload, fatigue and physical health issues) and in this regard, include complementary measures, such as training and information to workers, the modalities of which could also be laid down in line with national law, collective agreements and practice. Action in this area would also be aligned with any other measures that the Commission will put in place in this regard to accompany the above-mentioned revision.

(d) **Teleworkers' access to the necessary equipment.** EU action could complement the ongoing revision of the Workplaces and the Display screen equipment Directives by providing (1) guidance/good practices on the provision of adequate equipment/tools necessary for workers who telework; (2) good practices on ensuring that employers provide such equipment/tools and/or set conditions for the compensation for teleworking costs and/or (3) instructions and trainings on the use of telework equipment.

(e) **Data protection aspects and monitoring of teleworkers:** EU action could specify the processing of personal data in the context of telework, thereby providing for a high level of protection of the personal data of teleworkers. Further guidance and sharing of good practices on monitoring employees' performance, including on information provision, trainings and involving workers' representatives, could ensue. This area could also cover recommendations on the provision of information on the extent, the method and tools used, and the conditions for monitoring teleworkers' performance and their compliance with work obligations and duties, specifically in the context of work being performed in the private sphere of the worker and the involvement of workers' representatives.

[74] This can reflect obligations for the equal treatment in employment of persons with disabilities in Directive 2000/78 and obligations on accessibility set in the European Accessibility Act, namely Directive 2019/882/.

Legislative action in the area of telework could aim at ensuring better OSH protection in telework and better addressing psychosocial and ergonomic risks, taking into consideration, among others, the opinions of the Advisory Committee on Safety and Health at work. It could also include a reference to Directive 2000/78 and the European Accessibility Act, namely Directive 2019/882/.

In this regard, the **ongoing revision of the Directives on Workplace and Display Screen equipment,** would strive to reconcile the need for improving the workers' protection in light of the digital and green transition while reducing burden on companies and simplifying the acquis.

In the context of the revision, the scope of the Workplace Directive could be extended to cover off-premises workplaces including homeworking while ensuring that employers' responsibilities are proportionate and corresponding to their means of influence over the workplace. As regards the Display Screen Equipment Directive it could be updated to include laptops and tablets in its scope. In addition, the revisions could cover psychosocial and ergonomic risks, by requiring employers to assess such risks within the existing obligation of a risk assessment or by introducing minimum requirements.

Last, **EU action could also envisage outlining minimum requirements** through a legislative initiative to address **some of the challenged identified in the paragraphs above (a) – (e)**.

Both the binding and the non-binding instruments **could be complemented** by measures further supporting Member States, social partners, employees and employers in improving access to and conditions for fair and quality telework (see next section).

7.2.3. Accompanying measures

EU action could also propose accompanying provisions which would enhance the effectiveness of the proposed legislative and non-legislative policy options both on the right to disconnect and telework outlined above.

- **Collective bargaining**: given the important role of collective bargaining in the areas of the right to disconnect and telework, EU action could **support capacity building** of social partners under the existing instruments and encourage, in accordance with national law and practice, the **effective involvement of the social partners and the promotion of social dialogue** with a view to implementing this initiative, in line with the Commission's Communication on Strengthening social dialogue in the European Union: harnessing its full potential for managing fair transitions and the Pact for European social dialogue.

Other accompanying measures could include:

- actions to **foster the exchange of good practices,**
- **information campaigns** on the risks of digital over-connectedness and an 'always-on' work culture and promoting work-life balance, as e.g. those organised by the European Agency for Safety and Health at work, also in the context of telework, including through the actions outlined in the Commission's Communication on a comprehensive approach to mental health. In addition, the EU Agencies could have a role in **monitoring trends** in this area and assessing the impact on productivity and health outcomes.
- **Financial support to employers**, under the existing financial instruments, for example to **improve workplace culture, management practices or to organise training for**

workers on specific issues related to telework, such as OSH or data protection. Training could also focus on **skills development** to ensure that all teleworkers have the digital skills necessary to benefit from this particular work arrangement.

- **Support** could also be provided to **national authorities** dealing with issues related to taxation and social security in the context of cross-border teleworking. .

Broader digital transformation efforts, including enhancing digital literacy, supporting the adoption of digital collaboration tools, and investing in digital infrastructure could also contribute to the effectiveness of the proposed measures.

7.3. Policy impacts

The accompanying Analytical Document provides and in-depth overview of the potential social, economic and environmental impacts of the proposed policy options.

In terms of **social impacts on individuals and the society**, the proposed options on introducing the right to disconnect are expected to contribute to improvements in job quality, working conditions and welfare through a better work-life balance and improved health and safety at work. In particular, the right to disconnect could help prevent the blurring of the boundaries between work and private life and alleviate physical and mental health risks associated the always-on work culture. The proposed policy options in the area of telework are also expected to result in improved working conditions as well as improved clarity and better information on workers' rights and the conditions of the telework arrangement, safe and healthy working conditions, as well as reduced inequalities and equal treatment. They may also lead to cost savings as well as the safeguarding the teleworker's right to privacy and the protection of their personal data.

Fair and quality telework also has the potential to contribute to **socio-economic and territorial**[75] **cohesion**, within a country and across Member States, bringing **social benefits to society as a whole**. Not being tied to a specific workplace gives workers living in less developed regions, regions in a talent development trap or at risk of falling into one, as well as rural and remote areas, **greater access to the labour market,** including for underrepresented groups, including persons with disabilities. In turn, it makes it easier for workers to benefit from the mental health and wellbeing advantages of those regions underrepresented groups such as better access to fresh air and green spaces. The latter, in turn, could help counter-balance demographic challenges, such as the depopulation of such areas and regions affected by the industrial transition and contribute to their **development and attractiveness**. Telework could consequently contribute to **territorial cohesion and to the economic development of non-metropolitan areas,** in particular when accompanied by a set of tailored reforms and investments.

The **economic impacts** of the adequate design and implementation of the right to disconnect and telework policies may be observed for employers in terms of **productivity and competitiveness gains**. The introduction of a **right to disconnect** would improve job quality and working conditions which are drivers for increased labour market participation and in turn for **productivity and competitiveness**. As a result of the right to disconnect, employers would benefit from a workforce which enjoys a better work-life balance and is less prone to the physical and psychosocial risks of the 'always-on' work culture and therefore a **workforce which is more productive and less subject to absenteeism.** This can also result in lower costs related to medical treatments. It can also result in increasing the overall attractiveness of the EU labour market and businesses, thus supporting employers' ability **to attract and retain**

[75] European Commission, Communication on Harnessing talent in Europe's regions (COM (2023) 32 final).

talent, reducing as such fluctuation of human resources and contributing to **addressing labour and skills shortages.** Additionally, the introduction of the right to disconnect could improve fair competition in terms of **improving the level playing field** among employers.

Organisational productivity and competitiveness gains for employers can also arise from fair and quality telework, depending on its intensity and organisational choices. Such economic benefits can be expected to arise due to improved working conditions, more motivated and productive workforce, workplace innovation, cost savings, a wider access to the labour market and improved attractiveness and capacity to retain talent, resulting in more sustainable workforce, while helping addressing labour and skills shortages. On the other hand, telework can also add communication and supervision challenges for employers and can reduce team cohesion and collaborative practices when poorly deployed. Under such circumstances, telework can have a negative effect on productivity.

Other economic benefits that are possible to arise as a result of this initiative include increased regulatory clarity and the application of common minimum standards which could also create **better conditions for businesses to operate** while it is likely to lead to clarity, and thus to **simplification** and reduced administrative costs for employers. At the same time, such policies may result in some **costs for the employers.** For example, adjustment costs may arise if employers are obliged to create conditions for employees to exercise their right to disconnect or if they have to respond to individual requests to telework or reverse telework or in case they will have to provide compensation for worker's additional costs of teleworking.

The **environmental impacts** of the proposed policy options will depend on a complex, multi-factorial context, including the increase or decrease in the prevalence of telework, which, however, is not the purpose of this initiative. Telework may reduce greenhouse gas emissions, air and noise pollution and traffic congestion due to less frequent commutes to work, as well as sustainable resource use and less demand for land sealing notably through office buildings and individual transport infrastructure. However, such reduction would depend on the frequency of telework, the mode(s) of transport used, the distance and duration of the commute. The extent of potential energy, resource and cost-savings may depend on the size and energy efficiency of the worker's home, as well as whether the employer revises their "desk policy" at the premises of the workplace, hence may be difficult to estimate.

Finally, it should be noted that, while this would not the objective of the initiative, the proposed policy options may have an impact on the uptake of telework. Such unintended impacts could go both ways. On the one hand, policy options entailing strict requirements related to telework, possibly leading to an increase in regulation and administration on employers and public authorities, could result in a decrease in the offering of telework arrangements. On the other hand, policy options easing the access to telework and ensuring the equal treatment of those workers who take up the right to disconnect and/or those who make use of telework arrangements may increase the demand for telework and possibly, as a consequence, the uptake of telework. As a further consequence, both the right to disconnect and telework arrangements could contribute to a reduction in presenteeism, which can be seen as a contributing factor of psychosocial risks at work related to digitalisation.

8. Next steps

In accordance with Article 154(3) TFEU, the Commission must consult management and labour on the content of the envisaged initiative. This initiative could address the specific challenges outlined above related to telework and the emerging 'always-on' culture in the EU.

For this second phase of the consultation, the Commission would welcome the views of social partners on the questions set out below:

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

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?

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?

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 Commission will take into account the results of this consultation for its further work on an EU initiative in the area of telework and workers' right to disconnect. In particular, if, as provided for under Article 154(4) TFEU, the social partners decide to negotiate between themselves on these matters, the Commission will suspend its work in relation to the preparation of an EU initiative.