
COVID-19: Telework and the right to disconnect

In this crisis situation, telework is an appropriate instrument which enables employees to carry out their work from their home.

If, before the crisis, the use of telework was very limited, in particular because certain tax aspects did not allow cross-border workers to use it, it has been possible to reach an agreement between Luxembourg, Belgium, France, and finally Germany as well, in order to remedy this problem.

Thus telework has become an essential tool for managing the crisis and for at least partially ensuring that the country's economy does not collapse.

It is therefore very important to follow certain rules in order to avoid abuse and to guarantee the safety and health of all employees.

1. Recognize the importance of the right to disconnect, while stressing aspects of health and safety at work

The right to disconnect is a major aspect of telework. It ensures a certain balance between work and professional life.

It is important to prevent anxiety, depression and burnout, especially in the times of confinement that we currently experience.

2. Define the working hours

It is not always possible to stick to a fixed schedule when working from home. Clear communication and the definition of transparent rules concerning the

regulation of working time are therefore essential. Employees must be able to distinguish between connection time and disconnection time.

As a reminder:

- ◆ The full wage and the terms of the employees' employment contract are maintained throughout this period.
- ◆ As a teleworker you must respect your normal working time as defined in your employment contract. In principle 8 hours per day and 40 hours per week.
- ◆ You are not allowed to work more than 10 hours a day and 48 hours a week.
- ◆ You are entitled to an uninterrupted daily rest period of 11 hours between two working days and 44 hours of uninterrupted weekly rest.
- ◆ If you work outside the normal working hours fixed in your employment contract, you perform a service for your employer and are entitled to the payment of overtime and/or a supplement for work performed on Sunday or a public holiday (as appropriate). The time during which you are at the disposal of your employer is to be considered as working time.
- ◆ You cannot be penalized because you could not be contacted outside of your working hours (rest time, paid holidays, weekends, evenings, non-worked statutory holidays, etc.). >>

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- ◆ The right not to connect to professional digital tools, allowing to be contacted in a professional context outside of working time, must be guaranteed.
 - ◆ Clear rules concerning the definition and taking into account of working time in the event of telework must be set in order to guarantee a balance between private and professional life.

3. Meal vouchers

As in practice, meal vouchers (chèques-repas) can be used for the purchase of a wide range of convenience goods, which is not limited exclusively to food products or the services of a catering service, they are considered to be a benefit in kind like all the others. This advantage is part of the employee's remuneration package and must therefore be considered as a vested salary right, which cannot be linked to the employee's presence in the company.

Some companies have a canteen at their headquarters, and only give meal vouchers to their staff working outside. As, during the period of confinement, these people continue to receive meal vouchers, while their colleagues, who work at the headquarters, cannot benefit from the canteen, for the latter their acquired rights are violated in comparison to their colleagues. In the interests of non-discrimination, it is desirable that the employer provides compensation to the injured parties.

4. Tax implications for cross-border workers

Agreements have been signed with the French, Belgian and German governments, which allow cross-border workers to work from their home during the crisis without the related remuneration to be taxed in their country of residence.

Belgian and French cross-border workers: from Saturday 14 March 2020, the days of teleworking are not taken into account in the calculation of the 24-day threshold for Belgium and 29 days for France.

German cross-border workers: an agreement has been reached between the Luxembourgish and the German government to exempt telework days due to COVID-19 of the 19-day countdown. The exact conditions for the application of this decision will be specified later.

5. IT security

Considering the risks in terms of IT security, for the employer, it is his responsibility to set the conditions, under which he authorizes one or more employees to work at home. These risks are largely linked to access rights, in particular with regard to the duration of these accesses and the sensitivity of the data to which the employee has access.

The employer must therefore ensure that the IT hardware installed in the employees' homes allows them to do their job in accordance with the company's internal security procedures.

Employees cannot be penalized in any way because the unsuitable technical means at their home, do not allow them to work in accordance with the security procedures.

6. Communication and training

In order to guarantee continuous training for employees, it is important that the employer also communicates distance training offers to all teleworkers.