

Telework: OSH risks and prevention policies. Preliminary results from desk research and fieldwork

European Agency for Safety and Health at Work Webinar
Telework in a global pandemic. Overview of risks and prevention policies in Europe
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Background

- Study launched by EU-OSHA (November 2020-June 2021)
- Objectives
 - Analyse workers' experience of prolonged telework in the context of pandemic with a special focus on OSH aspects – psychosocial risks and musculoskeletal disorders (MSDs)
 - Analyse policy framework in particular to OSH aspects –already established or introduced/modified as a consequence of the pandemic
 - Identify relevant policy areas and formulate recommendations
- Main tasks
 - Literature review
 - Analysis of EU-OSHA network of NFP consultation
 - Semi-structured interviews to workers and employers in three countries (France, Italy, Spain)

Telework and OSH risks – conceptual approach

- Telework as a form of work organisation. Potential psychosocial risks result from the interplay between job demands and job resources (how work is organised) and individual characteristics and resources
 - Work overload and time pressure
 - Information and communication overload
 - Constant availability
 - Role ambiguity; isolation
 - Work-life conflict
 - Working-home environment
- MSDs related to ergonomic environment and psychosocial stressors (work pressure, long and irregular hours, prolonged sitting)
- Organisational support and OSH regulation are key aspects for prevention

Preliminary findings - Literature & fieldwork

- Bulk of pre-COVID19 research has been carried out in a context where TW/WFH was mostly occasional and involving a small share of employees
- Two main determinant factors of well-being/health outcomes in the current context
 - Effort/performance
 - Work-life balance / conflict
- Effort/performance
 - Positive effects related to increased “focus on the job”, commuting savings, reduced interruptions and separation from workplace politics
 - Challenges to team collaboration and knowledge-transfer within organisations. Emerging risks involved with virtual communication patterns (Zoom fatigue, techno-stress, cognitive overload)
 - WFH and overtime, irregular working hours

Preliminary findings - Literature & fieldwork

- Work-life balance/conflict
 - Mixed feelings
 - WFH in the context of pandemic has exacerbated gender inequalities in paid and unpaid work
 - Boundary management strategies conditioned by the availability of a suitable space to work and worker-supervisor relationships
- Incidence of MSDs associated to the time of exposure to computer work and psychosocial stressors
- Crucial role of line-managers in organisational support with a limited role from OSH prevention units
- General preference to keep with occasional teleworking in the future

Pre-COVID19 regulation

- Role played by the state or the industrial relations' actors in the regulation of telework partly depends on national institutional configurations historical constituted
 - Countries with strong traditions of voluntarist regulation (mainly Nordic countries) have mainly addressed telework through collective bargaining
 - Statutory legislation has been more prominent in “state centred” and transition (Eastern) clusters of industrial relations models
 - Both sources of regulation are also in place in some countries and complement each other. Changes in the balance between both sources of regulation has also occurred (Spain, 2012)

Pre-COVID19 statutory legislation

- Statutory definition: similar approach to the European Framework Agreement in most of the countries
 - Work arrangement instead of labour contract
 - Circumscribed to dependent employment relationships
 - It only covers those jobs where mobility is ICT enabled
 - It usually covers telework which is carried out on a regular or “predominantly” basis (Belgium and Italy have statutory definition for occasional telework)
 - It includes several alternative workplaces to the employers’ premises
- Employment and working conditions of teleworkers
 - Common approach follows the principle of guaranteeing equal treatment of teleworkers
 - In some countries legislation establishes that working time schedule does not apply to teleworkers, i.e. teleworkers are provided more working time autonomy (BE, BG, CZ, HU, LT, SK)
 - Explicit non-discrimination clauses for some dimensions such as promotion or training (FR, MT, PT)
 - Right to disconnect (BE, ES, FR, IT)

Pre-COVID19 statutory legislation

- Privacy and employers' surveillance
 - General principles of proportionality, legitimacy or balance between employers' control and privacy rights
 - In a few countries telework leg. requires employees' consent in writing prior to implementing any monitoring system (GR, MT) or forbids the use of remote monitoring systems for measuring employees' performance (PT)
- Employee's digital monitoring has been mainly regulated through data protection legislation
 - In some countries it prohibits email/internet monitoring (BG, PT), telephone/video surveillance (HR) or direct monitoring through installed devices (IT)
 - In some countries it limits digital surveillance to certain contexts professional activities or circumstances (BG, EE, FR, DE, GR, LV, NL, RO, SI, SK)
- Work-life balance
 - Right to telework for balancing work and family life (DE, LT, MT, PL, PT, RO)

Pre-COVID19 statutory legislation

- Occupational Health and Safety. General OHS rules are applicable to teleworkers. Specific OHS provisions concern:
 - Enforcement: labour inspectorate, employers (or health and safety expert) and/or workers' representatives access to teleworkers' workplaces to inspect workers' compliance with OHS
 - Some countries give access to teleworkers' place prior notification and consent of the employee (BE, BG, EE, GR, HU, NL, PL, RO, SI)
 - Some countries prevent or seriously restrict the inspection of teleworkers at home (HR, DE, IT, ES, PT)
 - Provisions that require employers to conduct a risk assessment of the place of telework (HR, DE, HU, SI) or to provide specific OHS training (LT)
 - Alternative subjects of work accident presumption for teleworkers (FR)
 - Provisions which strengthen employees' responsibility to comply with OHS rules (EE)

Post-COVID19 scenario

		Pre-COVID19	Post-Covid19
	EU MS	Statutory definition and specific legislation on teleworking	New specific legislation on teleworking
BE	Belgium	Yes	Under review
BG	Bulgaria	Yes	No
CZ	Czech Republic	Yes	No
DE	Germany	Yes	No
EE	Estonia	Yes	No
ES	Spain	Yes	Yes
FR	France	Yes	No
GR	Greece	Yes	No
HU	Hungary	Yes	Under review
HR	Croatia	Yes	Under review
IT	Italy	Yes	Yes
LT	Lithuania	Yes	No
MT	Malta	Yes	Under review
NL	Netherlands	Yes	No
PL	Poland	Yes	Under review
PT	Portugal	Yes	Under review
RO	Romania	Yes	No
SI	Slovenia	Yes	No
SK	Slovakia	Yes	Yes
AT	Austria	No	Under review
CY	Cyprus	No	Under review
DK	Denmark	No	No
FI	Finland	No	No
IE	Ireland	No	No
LU	Luxembourg	No	No
LV	Latvia	No	Yes
SE	Sweden	No	No

Post-COVID19 scenario

- Main debates
 - Right to disconnect. It has been introduced in Slovakia and further regulated in Spain; strong legislative debate in Portugal
 - Right to telework. Recurrent debate in Germany; increased relevance in other countries; in some countries (namely Poland) employers' discretionality is also at stake
 - Improved regulation of OHS provisions (psychosocial and ergonomic aspects). The extension of telework and the experience of prolonged telework has led to increased attention to OHS issues (policy makers, social partners, companies and workers)
 - Need of statutory legislation on telework. Adopted in Latvia; under review in Austria and Cyprus; strong demand in Ireland (from trade unions)

An example: Spanish case

- Right to disconnect established in the Organic Law of Personal Data Protection and Guarantee of Digital Rights (2018)
- New legislation of telework in 2020, partially as a response to COVID19. It is based on agreement between social partners. Specific OSH provisions
 - The employer has to carry out a risk assessment and inform the teleworker
 - Special attention to ergonomic, psychosocial and organizational aspects. In particular, the distribution of working time, limitation of availability and breaks
 - To obtain information about occupational risks, the company (or OSH related services) may visit the place of work chosen by the teleworker (only with the permission of the teleworker if he/she works from home). Risk assessment only refers to the space used for telework
 - If permission is not granted, risk assessment should be carried out on the basis of the information collected from the teleworker, in accordance with the operating instructions of prevention
 - The employer must also take protective measures against particularly sensitive employees, such as pregnant employees

Some final remarks

- “Telework has arrived to stay in”
- Large share of employers and employees with no former experience of telework have experienced their benefits and drawbacks
- Increased awareness of OSH risks, including psychosocial risks - and the need of preventive policies
- Different approaches across countries and potential for mutual learning