BUSINESSEUROPE

Consultation response

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

6 October 2025

In reply to **the 2nd phase consultation on a possible EU action in the area of telework and workers' right to disconnect** published on 25 July 2025 **BusinessEurope would like to reiterate some key elements that need to be taken into account when defining a way forward on the issues raised in the Commission document.**

General remarks

- **Working conditions in Europe are, in general, of high quality**. The body of EU applicable laws ensures extensive protection of workers' rights. National systems ensure strong labour protection standards too, as broadly recognised at the international level.
- **There is not sufficient data to prove what the Commission calls an "always-on" work culture.** The development is a societal phenomenon which leads to an increased use of ICT tools – in both private and professional settings. However, the effects are not always detrimental. Peer-reviewed research is lacking.
- **Doing business and modern labour markets' functioning evolve rapidly**. There have been many important changes induced by the Covid pandemic, notably the increase in the use of telework, but the process of change and continuous more nuanced adjustments has not stopped. Some companies are currently adjusting their approach to workplace presence. One static situation that can be used as a reference point for policy making does not exist : there is a variety of companies' practices that need to be adapted constantly. Employers do this in accordance with applicable EU and national legislation already in place.
- **Employers are responsible for running businesses and ensuring they are productive and sustainable.** Organisation of work is an employers' prerogative, which should always be respected.
- **Not all positions/job/tasks are teleworkable:** Employers are also best placed to assess which positions/jobs/tasks are teleworkable and which are not. In some cases, workers' expectations to perform telework cannot be met due to the nature of performed tasks/professional role as well as other numerous factors which determine whether an employee can telework including the employee's capacity to work autonomously.

- When properly organized, **telework can be beneficial both for workers and employers**. To ensure a positive outcome, there needs to be discretion to organise flexible working arrangements as regards the location and time in order to reconcile companies' needs with the wishes of employees. In any future policy initiative, it is imperative that a fair balance is found to achieve a reconciliation of professional and private life, sustain employment and enhance economic competitiveness.
- Practice shows that the **most effective solutions are tailor-made at the company level** as they reflect the specificities of the company's sector, and/or activity and the individual's role. These practices also take into consideration important managerial requirements of individual companies, such as the need to attend in person mentoring and/or development programs or crucial aspects, such as the maturity of the company or the need for a team to meet in person to stimulate creativity or to ensure coherence and synergy.
- **Telework is a way to perform work from a location different than the employers' premises**. It is not a new employment status or a new type of employment relationship. All relevant EU directives are applicable to telework. For example, the Working Time Directive, the OSH Framework Directive or the Work-Life Balance Directive are applicable.
- For BusinessEurope **additional EU legislation is not needed** and would add further burdens for companies. It could lead to employers' refraining from offering telework. There is already a comprehensive and complex set of requirements that employers have to implement. Adding new legislation would go against the principles of the recently published Competitiveness Compass, the EU simplification agenda and hamper innovation.
- **Telework is a very broad topic, while right to disconnect has clearer boundaries**. It is worth considering whether the Commission should not separate the two issues to ensure that the actions taken at EU level are relevant, targeted at issues that need to be settled at EU level and are not overburdensome.

Specific comments

- It is positive that the consultation document refers to employers' views as regards opportunities and difficulties offered by telework. However, regrettably it fails to strike the right balance in reflecting the views of both employers and workers on the potential solutions. For example, even though employers' difficulties concerning cross-border telework are mentioned in the document, the Commission fails to propose possible solutions. Furthermore, concerns expressed by employers are sometimes misused to seek to justify the need for additional legislation.
- The consultation document refers to the existing legislation that already sufficiently addresses concerns regarding potential negative effects of telework and what the Commission calls the "always-on" work culture (see Chapter 4) including:

  - Working Time Directive (Directive 2003/88/EC)
  - Occupational Safety and Health Framework Directive 89/391/EEC
  - Directive (EU) 2019/1152 on Transparent and Predictable Working Conditions
  - General Data Protection Regulation (EU) 2016/679 (GDPR)
  - The Directive on the minimum safety and health requirements for the workplace (Workplace Directive)
  - Directive on the minimum safety and health requirements for work with display screen equipment
  - Directive (EU) 2019/1158 on work-life balance for parents and carers

- The focus of EU actions should be on supporting rather than constraining. While new EU legislation on telework is clearly not necessary, there may be value in providing interpretative guidance, with a special focus on challenges for SMEs. For example, developing best practice guidelines on time management, hybrid work organisation and mental health, as well as training for managers and workers to strengthen telework governance could be useful.

On telework

- There is no universal definition of telework. Telework covers quite a wide range of solutions: for example, working from home, working from satellite or flex offices, mobile work or hybrid models combining remote work and work at employers' premises.
- Introducing telework must be a voluntary decision by the employer. Practical aspects of telework in an ordinary situation, should be clarified between worker and employer before starting it. This is best done at a company level as one can then take into account any specificities of the role/tasks to be performed.
- Compulsory telework in times of crisis as occurred during the Covid pandemic is a very different situation. Lessons learnt from the Covid times are not representative and cannot be used as a basis for proposing solutions for an ordinary situation.
- Telework provides flexibility in managing one's working time (within the limits of the requirements related to worker's availability). Sometimes, when it is possible, workers opt for asynchronous work schedules to cope with private responsibilities, such as picking up children from school during official working hours. In such situations, it is likely that they will resume work later, e.g. in the evening. Such situations have nothing to do with work overload or overtime. A nuanced approach is necessary to ensure work-life balance for workers as well as maintain expected productivity levels and good quality work outcomes.
- As stated in the opinion of the Tripartite Advisory Committee of Safety and Health of November 2024, working from home has considerable limitations as regards the employer's responsibility for appropriate organisation of the workstation, notably because a physical assessment by anyone else than the

worker is problematic. The most effective approach is to support employers in their actions to provide workers with information as to how to organise the workstation and a checklist to perform a risk assessment.

On right to disconnect

- Workers are not expected to engage in work-related activities after working hours, which can be derived from the applicable working time laws. The right to disconnect is not a new right that needs to be created, but is about proper implementation of the existing relevant EU and national laws.
- What the European Commission calls an "always-on" culture is often linked to a wide-spread use of different ICTs tools. Responsible handling of connectivity is crucial both in private and professional settings. Simply indicating that one does not expect the addressee to answer outside working hours is an effective way to alleviate this phenomenon.
- Staying "off-line" requires self-awareness and discipline as very often individuals use professional equipment such as mobile phones, for private purposes. Employers cannot be held responsible for using professional equipment for private reasons outside working hours. Awareness raising and training is the best way to equip workers with relevant knowledge and tools to manage their connectivity responsibly.
- Arrangements shaping the practice of work connectivity should be flexible enough to ensure seamless functioning of enterprises. This is particularly relevant for those enterprises providing continuous services, with continuous production processes or operating in different time zones as well as to allow companies to deal with unexpected urgent situations. Once again, reconciliation of companies and workers' needs is best done at the company level as this is where appropriate solutions/practices can be designed.

On the OSH aspects

- We regret that the Commission includes the potential revision of two major and crucial directives in the field of occupational safety and health, namely the Workplace Directive and the Display Screen Equipment Directive, under the umbrella of this second stage social partner consultation related to telework and workers' right to disconnect.
- A deeper reflection related to psychosocial risks leads to the conclusion that this area is quite blurred between private and professional spheres. It is very difficult to assess potential additional strain related to telework without analysing individual worker's situation such as his/her proficiency in using ICT tools, proficiency in working autonomously, need for socializing, coping with "lone" working, physical suitability of home workstation etc. In our opinion this topic also merits separate consultations rather than being "squeezed" into the discussion on telework and right to disconnect.

The way forward

The European cross-industry social partners have been at the forefront of enabling telework and clarifying how to deal with telework through the autonomous framework agreement they negotiated in 2002 and in their more recent autonomous framework agreement on digitalisation. In our view these agreements remain a valid basis to design sector/company specific practices.

Nevertheless, in addition to briefly setting out its views on the objectives of possible EU actions and approach in general for addressing what the Commission calls the "always-on" work culture and for ensuring fair and quality telework, BusinessEurope would be eager to discuss possibilities of **entering into negotiations** with a view to concluding an agreement under Article 155 TFEU with regard to one or several the elements set out in this consultation document in the context of its ongoing discussions with the ETUC on the future Work Programme of the cross-sectoral European social dialogue.

*****