

TELEWORKING AND INTERNATIONAL LEGAL AND ECONOMIC FRAMEWORK FOR BUILDING RESILIENCE

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ABSTRACT

The main goal of the paper is to provide an overview of the international framework for doing business from home, SWOT analysis of remote work, working hours, advantages and disadvantages of remote work and overcoming the problems they face. The paper provides an overview of the international and European framework for remote work with a tabular overview of telework in the European Union and outside the European Union, presents the strengths, weaknesses, opportunities and threats of remote work through SWOT analysis, presents the advantages and disadvantages of remote work, as well as the impact on working hours. The presented international framework for doing business from home and working remotely is the basis and incentive for creating and developing a framework for doing business and working remotely in Serbia as well. The authors analysed whether working from home can be a new reality for the majority of the population in the future, the problems that companies and employees face with the introduction of work and business from home, as well as the possibility of obtaining institutional and financial support and incentive that will contribute to

the development and perspective of working and doing business from home.

Key words: *working from home, teleworking, resilience*

JEL classification: *M2*

INTRODUCTION

On June 20, 1996, the General Assembly of the International Labour Organization adopted a convention entitled "*Convention on Home Work*" from 1996. [7]

Under the Convention, home work is defined as work performed by a person identified as a worker from home (in his own home) or elsewhere at the employee's choice, other than the employer's workspace for remuneration resulting in a product or service, determined by the employer, regardless of who provides the equipment, materials or other means of production, unless this person possesses the degree of autonomy and economic independence necessary to be considered an independent worker in accordance with national laws, regulations or court decisions.

According to the Convention, persons with the status of an employee cannot be a home worker within the meaning of this Convention, because as employees they occasionally perform work from home, and not in the usual workplace.

Each Member that has ratified this Convention must adopt, implement and periodically review national home work policies in order to improve the situation of home workers, in consultation with the most representative employers 'and workers' organizations and, where they exist, with organizations that care for workers from home as well as organizations that take care of employers of home workers.

The ILO General Assembly adopted the 1996 [8]. "*Home Work Recommendation*", according to which each member should, in accordance with national legislation and practice, designate a body or bodies entrusted with formulating and implementing a national policy on working from home. As far as possible, tripartite bodies or organizations of employers and workers should be involved in shaping and implementing national policy.

Regarding the protection of workers at home from work, the Recommendation indicates that the competent body should ensure the implementation of guidelines on safety and health regulations and precautionary measures. The employer should inform the worker about all the dangers, point out the measures to be taken and provide appropriate training.

EUROPEAN LEGAL FRAMEWORK FOR REMOTE WORK

In order to modernize and improve labour relations, the European Commission called on the social partners to start negotiations on remote work.

ETUC (European Trade Union Confederation and Liaison Committee EUROCADRES/Commission of the European Communities), UNICE (Association of Employers and Industrial Confederations of Europe)/UEAPME (the European Association of Craft, Small and Medium-sized Enterprises) and CEEP (the European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest), announced on 20 September 2001, their intention to start negotiations aimed at reaching the Framework Agreement on Telework (adopted in Brussels on 16 July 2002), to be implemented by the members of the signatory states in the Member States and in the countries of the European Economic Area. [13]

Teleworking is a form of organization and/or performance of work with the use of information and communication technology, within the employment contract, in which work that could be performed in the employer's premises is regularly performed outside those premises. This agreement covers teleworkers.

The teleworker:

- is any person who performs remote work that is voluntary. Teleworking may be included in the employee's original job description or may be subsequently initiated on a voluntary basis;
- have the same right to education and promotion opportunities as workers working at the employer's premises and are subject to the same appraisal policies as those workers;
- enjoys the same rights (guaranteed by applicable regulations and collective agreements) as a worker working at the employer's premises;
- is obliged to take care of the equipment given to him for use by the employer;
- is obliged to adhere to the occupational safety policy;
- has the same collective rights as workers who work at the employer's premises.

The employer:

- is responsible for taking appropriate measures, in particular with regard to software, to ensure the protection of data which the worker remotely uses and processes for professional purposes. The employer informs the teleworker about all applicable laws and rules of the company on data protection, all restrictions on the use of IT equipment or tools, such as the Internet, penalties for non-compliance with the restrictions;
- is obliged to respect the privacy of remote workers;
- is obliged to apply the rules for the protection of health and safety at work of teleworkers in accordance with Directive 89/391 and applicable (derived from it), directives, national legislation and collective agreements;
- is responsible for providing, installing and maintaining the equipment needed for regular remote work, except when the teleworker uses his own equipment. If teleworking is performed regularly, the employer pays compensation or covers the costs incurred in performing the work, especially those related to communication;

- is obliged to provide appropriate technical support to the worker and is responsible for the costs of loss and damage to equipment and data used by the worker remotely;
- is obliged to inform the worker who performs remote work about the company's policy on health and safety at work, especially about the requirements related to the equipment;
- is obliged to ensure the implementation of measures that prevent the isolation of workers at a distance from the rest of the working community in the company (e.g., enabling contact with colleagues, ensuring access to information in the company);
- is obliged to ensure the implementation of measures that prevent the isolation of workers at a distance from the rest of the working community in the company, such as providing opportunities for regular meetings with colleagues or ensuring access to information in the company.

Within the current legislation, collective agreements and company rules, the remote worker manages the organization of his/her working hours.

The quantity of work and the norms of the quality of the work of teleworkers are equal to those set for workers who perform work in the premises of the employer.

A teleworker may refuse to switch to teleworking, which will not be the basis and lead to termination of employment or change of employment conditions of that same worker.

In the event that teleworking is not included in the original job description, the decision to switch to teleworking may be changed by individual and/or collective agreement. The change may mean a return to work at the employer's premises at the request of the employee or employer, as determined by individual and/or collective agreements.

The Framework Agreement on Telework is implemented by members of UNICE / UEAPME, CEEP and ETUC (and the EUROCADRES/CEC Liaison Committee) in accordance with the procedures and practices applied by the social partners in the Member States. The agreement must be implemented within 3 years from the date of its signing.

It can be seen from the table that there is a trend of annual growth of telework, which has been particularly pronounced since 2010. Over a period of 15 years, that percentage has quadrupled, with a tendency for further intensive growth.

Teleworking and flexible working hours were introduced in the European Commission in 2007 as part of the modernization of the institution. In this way, it is possible for employees to have greater freedom in the organization of working hours thanks to the application of new information technologies.

Table 1: *Teleworking in European countries in the period from 2000 to 2015: [14]*

	Year	2015	2010	2005	2000
	Country	Percentage of out-of-office employees	Percentage of out-of-office employees	Percentage of out-of-office employees	Percentage of out-of-office employees
1.	Austria	30%	26%	9%	6%
2.	Belgium	34%	24%	13%	6%
3.	Bulgaria	23%	30%	2%	
4.	Cyprus	27%	23%	6%	7%
5.	Montenegro	30%	30%		
6.	Czech Republic	35%	25%	15%	7%
7.	Denmark	41%	19%	14%	6%
8.	Estonia	31%	25%	12%	
9.	Finland	46%	24%	11%	8%
10.	France	36%	27%	6%	4%
11.	Greece	33%	33%	7%	2%
12.	Croatia	34%	25%		
13.	Ireland	29%	24%	4%	4%
14.	Italy	21%	26%	2%	2%
15.	Latvia	27%	26%	12%	
16.	Lithuania	29%	25%	7%	
17.	Luxembourg	38%	19%	5%	9%
18.	Hungary	29%	24%	3%	
19.	Macedonia	30%	33%		
20.	Malta	32%	21%	0%	
21.	Netherlands	39%	25%	12%	7%
22.	Norway	43%	18%	10%	
23.	Germany	25%	23%	7%	4%
24.	Poland	25%	29%	10%	8%
25.	Portugal	23%	33%	2%	2%
26.	Romania	32%	44%	3%	
27.	Slovakia	23%	27%	7%	
28.	Slovenia	34%	20%	7%	6%
29.	Spain	28%	31%	7%	4%
30.	Sweden	44%	23%	9%	5%
31.	Turkey	17%	35%		
32.	United Kingdom	35%	25%	8%	10%
Total percentage of employees working outside the office		31%	26%	7%	6%

Teleworking or remote work has to be based on trust, respect, dialogue and results. [9] At the European level, the issue of teleworking is regulated by a series of Council directives implemented in the Member States and the Framework Agreement on Teleworking signed on 16 July 2002. [1]

According to Council Directive 1991/533/EC, the employer should inform the employee of the conditions that may apply to the contract or employment relationship of each paid employee, including those working from home on important aspects of the contractual relationship, i.e., identity of parties, place of work, start date of work, length of notice period, salary amount and the like.

Council Directive 97/81/EC on part-time work allows part-time teleworkers to seek protection of their rights, as can any traditional worker. [10]

Council Directive 93/104/EEC on essential aspects of the organization of working time, which requires the establishment of a normal weekly maximum of 48 hours per week, limitation of night work, mandatory rest periods and a minimum of four weeks of paid annual leave, is not limited to workers at the employer's premises. [11]

"The EU Framework Agreement on Telework" from 2002 was signed by the European social partners. It creates a contractual obligation for the signatories to implement the agreement at any level of the national system.

Under the Agreement, teleworking is defined as a form of organization and/or performance of work using information technology, in the context of an employment contract, in which work that could be performed at the employer's premises is regularly performed outside those premises.

The definition is set broadly to cover different forms of teleworking. [12]

Measures to implement the agreement vary between Member States depending on their national procedures. There are three ways of implementation: through a collective agreement; through common guidelines, regulations and recommendations on teleworking, which are non-binding and voluntary, and finally, through national legislation. [1].

SWOT ANALYSIS OF TELEWORK

The analysis of telework, advantages and disadvantages of such work from the perspective of the employer, the SWOT analysis of telework is given in Table 1.

Table 1. SWOT analysis of telework

<p>STRENGTHS</p>	<ul style="list-style-type: none"> ○ more satisfied employees due to a better balance of private and business life ○ more satisfied employees due to increased flexibility and autonomy ○ Increased productivity ○ greater job satisfaction, higher employee morale and productivity ○ better business culture within the firm ○ better communication with colleagues ○ better employee motivation ○ decrease of sick leave days ○ increased productivity due to reduced stress ○ increased employee productivity due to less disruption of concentration ○ increased energy and creativity in employees ○ increased quality of life for employees ○ faster reaction to changes in market conditions and increased competition ○ sharing knowledge and experience and thus more competitive and productive employees ○ better quality of work done ○ greater efficiency in decision making ○ reduced product launch time ○ improved business processes ○ increased customer satisfaction
<p>WEAKNESSES</p>	<ol style="list-style-type: none"> 1. Decreased employer productivity can be caused by: <ul style="list-style-type: none"> ○ the thin line between business and private life for employees, which is often crossed ○ social isolation of employees ○ more difficult career advancement of the employee ○ lack of self-discipline 2. envy of colleagues can lead to employee dissatisfaction 3. distrust of managers can lead to organizational problems 4. confidentiality and data security 5. lack of employee responsibility 6. difficult training of new employees and transfer of knowledge 7. negative impact on the culture of the organization 8. changes in the organization of the personnel service 9. the cost of investing in technology 10. negative impact on employees working from the office 11. difficult communication between employees in the office and those who work outside the office 12. difficult cooperation between employees in the office and those who work outside the office

OPPORTUNITIES	<ul style="list-style-type: none"> ○ reduction of office costs ○ reductions of travel time to work ○ positive environmental impact due to reduced travel and emissions ○ reducing travel costs for employees ○ positive impact on the management and employment of the best workers ○ ensured continuity of work in case of catastrophic events, such as natural disasters, terrorist acts, etc. ○ increased employment opportunities for people with disabilities ○ reduced cost of clothing and footwear for employees ○ reduction of traffic jams ○ providing opportunities for the development of underdeveloped regions
THREATS	<ul style="list-style-type: none"> ○ lack of support, inadequate equipment ○ the employee's feeling that he is constantly working and that he is constantly available

ADVANTAGES AND DISADVANTAGES OF TELEWORKING

a) **The advantages** of working remotely, i.e., working from home (for the employer, employee, social environment) are: [4]

- contributes to *increasing the efficiency and productivity of employees*. The quality of work is crucially influenced by psychological factors, and that is primarily a comfortable working environment at home and the ability to schedule a working day, less disruption to work than in the office, no loss of time in coming and going to work which can be used for work and rest;
- *increases work motivation and job satisfaction, and reduces stress and fluctuation*. Given that there is no direct supervision of employees, teleworking encourages employee independence;
- *improved customer relationship*. Teleworking usually includes a flexible working time arrangement, which allows the employee to work at a time that suits him best. Such options, especially in customer relationship positions, allow firms to overcome geographical and time constraints and provide support to their clients at any time;
- *operating costs* are reduced, such as: electricity, water, premises lease, then transport costs, equipment, etc.;
- increases *employment opportunities for marginalized and vulnerable groups*: parents with young children, people with disabilities and people living in remote areas;

- helps *women or single parents with young children* to take on even leadership positions in organizations. Thus, women would not be absent from work and pay more attention to work would have higher incomes, and at the same time they could devote themselves to household chores;
- healthcare professionals and doctors can treat patients remotely, which is especially important in rural areas, during natural disasters or in times of war. Consultations of specialist doctors from different clinics in the same place - in the immediate vicinity of the patient, are increasingly being overcome by consultations via videoconferencing;
- *greater resilience of the employer* to unforeseen situations such as: carrier strikes, weather disasters, natural disasters, wars, terrorist attacks, pandemics and disease epidemics, geographical dispersion of the employer's business (gives him the opportunity to work remotely and better employment and selection of potential staff because it allows the employer the search for the best individuals in their area regardless of their location);
- reduces expenditure on footwear and clothing for work and increases the time that can be devoted to the family;
- employers hire quality professionals who live outside the company's headquarters without major additional investment;
- saving time that would otherwise be spent by employees traveling to and from work, as well as financial savings;
- increasing employee productivity is most often associated with greater job satisfaction and greater motivation. Employees who do not work in the office also have less interference from other employees, and thus higher productivity;
- better choice of job by the employee, they can choose companies that suit them better;
- forces managers to be more committed to performing specific tasks and managing results, and less to monitoring employees;
- leads to a reduction in traffic and exhaust gases (due to non-use of transport to and from work), which improves environmental protection.

b) The disadvantages of working remotely, i.e., working from home (for the employer, employee, social environment) are: [4]

- depersonalization of the work environment;
- lack of exchange of knowledge, advice and ideas;
- lack of competitive enthusiasm;
- insufficient separation of private and business life;
- disturbing family members due to working from home;
- is sometimes considered a “foreplay” of redundancies;
- occurrence of stress and insecurity due to lack of social contact;

- greater stress and more work if employees do not see their job as an obligation but as casual work;
- workers working remotely progress more slowly (June, 2012); employers cannot apply traditional control mechanisms, remote work means autonomous, responsible, well-organized workers who respect deadlines for work tasks; [6].
- is not applicable to all types of work, so work activities that can be performed "remotely" include data collection, processing and systematization, project planning and organization, consulting and the like; [1]
- potential data security issues (risk of data loss and integrity) about companies that employees have at home, especially if they do not use all software and physical protection measures;
- feeling of isolation, loss of special privileges, in some cases lower wages, lack of vision of the workplace, lack of socializing, danger of slower progress and that remote workers without some forms of "telepresence" are always in the shadows;
- difficulties in supervising work, training costs and the high cost of equipping and maintaining work rooms in employees' homes. The unions believe that telecommuting stands in the way of their strength and collective bargaining;
- *measuring productivity* is the biggest reason for management's concern in companies that have the ability to work remotely, they may have doubts about whether employees are productive outside of office work;
- influence on the development of a strong sense of team spirit within the company. There is a fear that due to the lack of physical contact with the employee it is more difficult to build team spirit within the firm;
- safety at work, liability of the company for injuries at work;
- remote access to the network and data is critical to ensure productivity, the employer must ensure secure data transmission for teleworkers;
- in order for a firm to take full advantage of teleworking, it is necessary to select workers who are disciplined and motivated for such work; [3]
- a sense of isolation of the employee from the seat;
- fear that they will not advance in their career due to absence from the office and that they will not be perceived as other employees who come to work physically;
- setting boundaries between private and business can be difficult for some employees and create additional stress.

In order for an employee to establish a long-term employment relationship, he must also possess some of the qualifications: maturity, reliability, independence, self-discipline and a certain work experience.

The fact is that not everyone can work from home, even when the work he does is of such a nature that he could theoretically do it. A small living space, which is often shared with many family members, is certainly one of the most basic obstacles to working from home. Not only because the employee cannot concentrate on working in such conditions, but also because by moving the office to the space he shares with him, he takes away not only a part of privacy but also a precious part of the home to perform some other important activities. This must be thought about before the employee is sent to work from home and can in no way be considered the responsibility of the employee if, despite good will, he fails to create conditions at home in which he can be productive. [5]

Working from home also creates a special kind of alienation, which must also be taken into account. Employees who live alone or employees who work from home in regular circumstances when they are employed during working hours at work, at school, or simply somewhere outside the home, can fall into the trap of loneliness and alienation during work. A regular work process, whatever it may be and whatever it consists of, in the vast majority of cases presupposes interaction with other people. The social component of work is by no means negligible. Alienation that is created when working from home, on the other hand, can lead to complete antisocialization of the employee from the company, but also to antisocialization from the employer, i.e., colleagues whose existence the employee working from home does not state at all, or they become just names for him of the emails and messages he received, without exchanging experiences, feelings, opinions and events from his private life - in short, without socializing. This alienation leads to a loss of awareness of the collective as such, so other employees and the employer itself are viewed only as impersonal entities that form an abstract part of the employee's life. As a result, the sense of belonging to a larger whole, the sense of solidarity with others is lost and the enjoyment of collective rights is completely abandoned - the individual isolates himself in the process of work so efficiently that he no longer has any idea how to unite with other individuals which, after all, he neither knows nor sees some special purpose in that association. [5]

WORKING HOURS

Teleworking enables changes in the direction of overcoming strict working hours, i.e., clear division into working and free time. Strictly defined working hours are increasingly changing with flexible and sliding working hours. You do not have a fixed working time, but you can organize your working hours and work when you feel you are most productive, and when you feel you are not doing well, you simply forget about work, rest and return to work when you feel you can finish it. In that way, employees can do personal things during working hours and work compensation in

private time, thus reducing the absences of employees, smaller absences due to illness, personal obligations, children, etc. [5] Employees who have the ability to work remotely are more satisfied with their work, feel less pressure, have more control over balancing private and business time. Choosing the working hours that suit them increases satisfaction.

More and more people are switching to activities that take place throughout the day. The new flexibility makes the difference between working and free time disappear imperceptibly. There are more and more of those who are never completely free. Even when they are sick, they can answer e-mails and answer their mobile phones. Perhaps this is the biggest benefit of this type of work.

Doing work at home is much more casual, thanks to the atmosphere that can be created. Despite the obvious benefits of working from home, some people enjoy going to the office and personal contact with their colleagues, while others feel absent from work and find it easier to communicate live than through conference meetings.

CONCLUSIONS

The accelerated development of information and communication technologies has enabled work outside the traditional office space known as *teleworking*, *i.e.*, *working from home*. Today, more and more supporters are interested in teleworking, bearing in mind that, among other things, it reduces office costs, eliminates geographical limitations when it comes to hiring quality staff, and ensures a better balance between private and professional life.

In the last few years, especially with the development of e-commerce, and due to the presence of COVID-19, the so-called flexible model of employment or work outside the employer's premises (work from home, teleworking), as well as doing business from home is increasingly represented.

The question is increasingly being asked: Is our way of doing business optimal for the times we live in? Could working from home be a new reality, if not for the majority, at least for a part of the population?

It is understandable that contact between people cannot be completely eliminated, but it is possible to transform the way of doing business in a company in the spirit of digitalization. Technological solutions exist and make it possible.

The question is, is a company ready for that? If there is a desire for that, the question arises, whether the company has an adequate business infrastructure and business information system that is ready to enable remote work, whether established work processes and practices with which work flows smoothly, even when you are not physically present in the office? The answer to this question is different, and it depends on the country, on its development.

However, adapting and adopting new ways of working and digital ways of doing business are the only reasonable decisions that a country's economy should strive for.

In order to truly apply a culture of working from home, it is essential that individuals and businesses embrace this idea.

From a legal, economic, communication and technological point of view, two things need to be regulated structurally and comprehensively:

- 1) the existence of digital tools;
- 2) the desire to introduce work from home in as many companies as possible.

Work from home and teleworking is a mode of work in which employees perform work for the employer from their home, i.e., other places of their choice, which are not the premises of the employer. This way of doing business has obvious advantages for both employees and employers. Over time, teleworking has become increasingly popular, primarily due to the development of digital communication and new professions that can be performed "*remotely*", as well as the possibility of transferring some classic occupations and jobs in this form of work. Thus, from the former "packer" jobs, as work from home was usually called due to the dominance of this model of work, i.e., family work on farms that prevailed in Yugoslavia and Serbia during the 20th and early 21st century, formed a whole range of jobs that can be performed in any state, for any employer, from anywhere.

This type of work is attractive to employers because it can reduce the cost of renting office space, as well as equipment. Further, in the mode of work from home, the employer does not pay the employee the costs of transportation to and from work, as well as meals during work. Employees also have their reasons why they like to work from home, especially those related to saving time for getting ready and going to the office, as well as the possibility of using flexible working hours, i.e., easier organization of family and business obligations.

Work outside the employer's premises is most often used in performing IT services - programming, site maintenance, administration of social networks, as well as market research, data entry and creation of various databases, translation, design, bookkeeping, consulting services and the like.

From the employer's point of view, this employment model has important benefits in terms of reducing certain costs, such as the cost of office space and the cost of transporting employees. All of the above represents a reduction in operating costs to some extent.

Working outside the employer's premises is a much more comfortable form of work for employees and various professionals than everyday commuting. It also allows networking and working in desired companies even though they may be miles away, in another city.

Some of the benefits of this type of employment for the employer are:

- there is no cost for equipping a new workplace and increasing business space;
- the costs of office supplies, telephone, hot meals, etc. are reduced;
- the employee does not have to leave the house, travel by transport to the workplace, can organize the working day according to his rhythm.

With the development of Internet services and mobile telephony services, telecommuting is becoming more and more important and the range of jobs that can be done remotely is constantly expanding.

The social community benefits a lot from this type of employment, traffic jams are reduced, a parent can dedicate more time to children and home with work, it is enough that he does not waste time on the way to work and back.

Teleworking is not the best solution for employees who find motivation to work in contact with people in the office.

Promotion at work is an important item for the ambitious, and working at home can be an obstacle in achieving such goals. This can be an obstacle for those who perform managerial functions, unlike professionals who specialize in certain areas, such as engineers.

However, the main obstacle to the further development of telecommuting is considered to be employers who are reluctant to invest funds for equipping workspaces in employees' homes.

The development of technological infrastructure and favourable economic indicators will, over time, change the attitude of employers and the understanding that teleworking is inevitable and should be invested in.

The employer is also responsible for the application of safety measures at work, and in that sense he must conduct an inspection of the employee's house and assess possible risks.

The employer also faces the challenge of integrating those who work remotely into the life of the organization, which is extremely important because the potential isolation is the dark side of the coin, which is why many give up after a while.

When performing work outside the employer's office, the following areas should be taken into account and should be legally regulated: define the rights and obligations of the employer and persons working outside the employer's premises; tools, equipment, necessary materials and technology; organization of work from home, costs, compensation for employees; responsibility, building mutual trust; training, development and training of employees; manner of communication; data protection and security; manner of managing employees and possible abuse of home work arrangements; organization of working hours; safety at work; the issue of intellectual property; performance standards; emergencies and diseases.

By considering all the advantages and disadvantages of this type of work, those interested can assess the extent to which they are able to accept this way of working and whether the work they do is suitable for working at home or as a freelancer.

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