



Проект виконується
Міжнародною організацією праці

EU-ILO Project

“Towards safe, healthy and declared work in Ukraine”



Project is funded by European Union

Telework

Online training series
International and EU Labour Standards

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www.ilo.org.shd4Ukraine

<https://www.facebook.com/shd4Ukraine>

Date: Thursday / 16 / July / 2020

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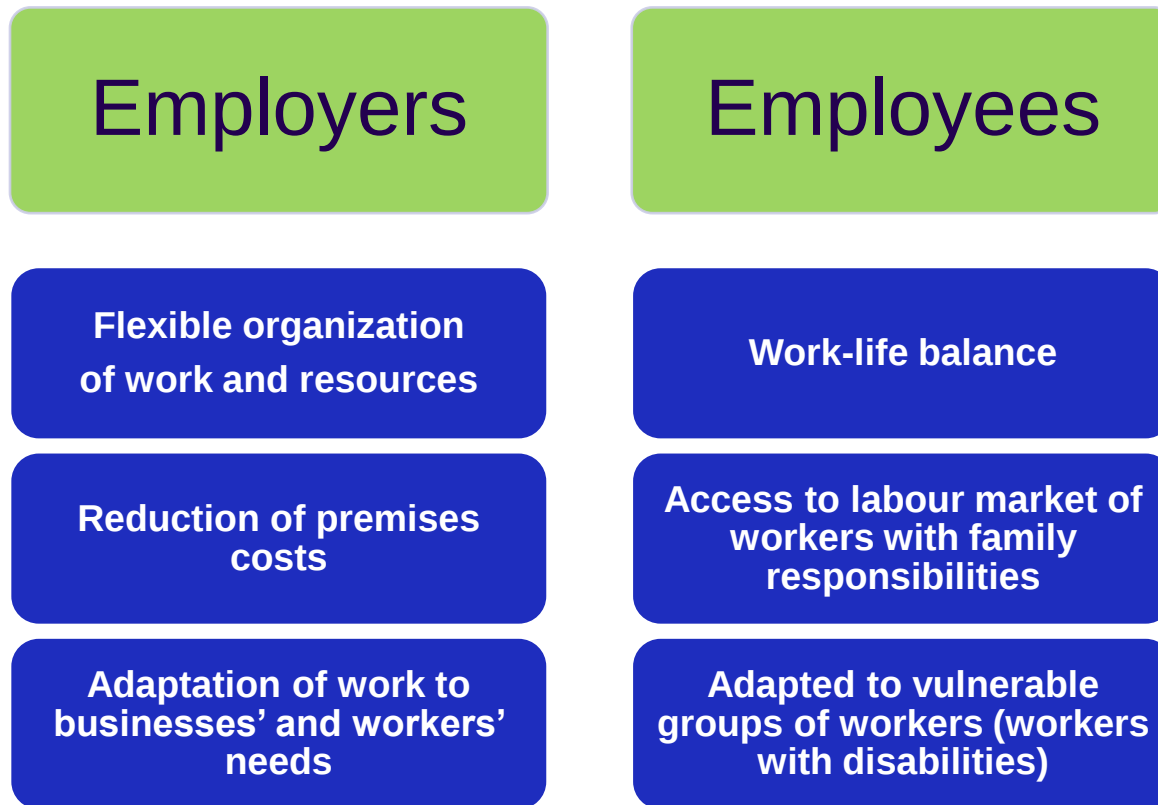
- ▶ Notion of telework
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► Notion of telework

Form of organising and/or performing work, using information technology, in the context of an employment contract/relationship, where work, which could also be performed at the employer's premises, is carried out away from those premises on a regular basis.

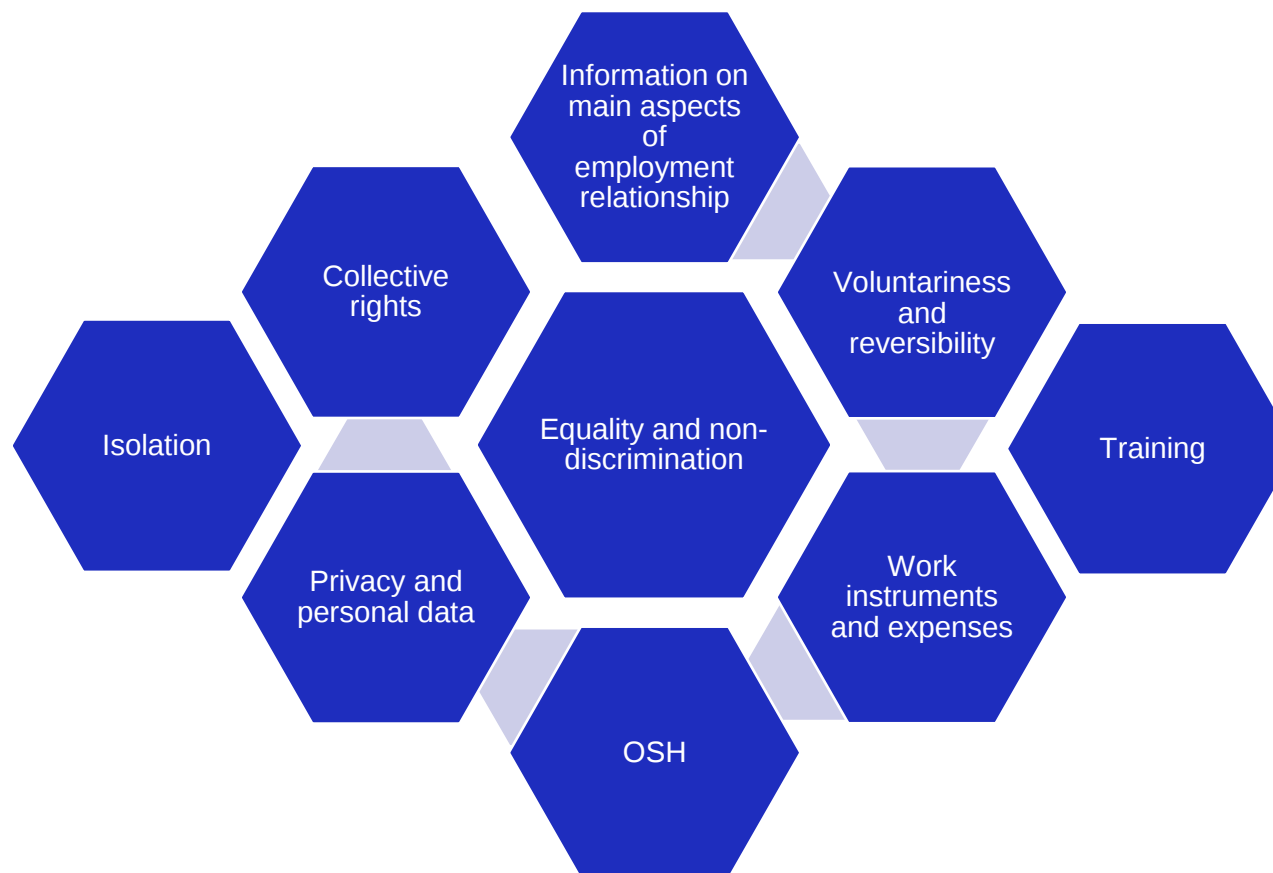
EU Social Partner's
Framework Agreement on Telework,
16 July 2002
(Article 2)

Advantages of telework regime



OSH
Avoid exposure of workers to risks to their safety and health at employers' workplaces

► Main concerns regarding telework



► Main International and EU Labour Standards on Telework

- Home Work Convention, 1996 (No. 177) – not yet ratified by Ukraine
- Home Work Recommendation, 1996 (No. 184)
- EU Social Partner's Framework Agreement on Telework, of 16 July 2002

► Implications for policy decision-makers and legal acts' drafting experts

Concepts:

► Telework:

- Telework is the provision of work, in the context of an employment relationship, carried out away from employer's premises on a regular basis through the use of information and communication technologies (ICT)

► Teleworker:

- Teleworker is any person who carries out telework

► Implications for policy decision-makers and legal acts' drafting experts

Information on the essential aspects of the telework employment relationship - telework employment agreement:

1.1. Identification, signatures and domicile or headquarters of the parties

1.2. Activity to be provided, with express mention of the telework scheme and remuneration (including the initial basic amount, other components indicated separately, if any, and frequency and method of payment)

1.3. Start date of telework employment relationship and, for fixed-term telework, its duration or end date

1.4. If the period foreseen for telework is less than the foreseeable duration of the employment contract, the activity to be provided after the end of that period

1.5. Duration and conditions of the probationary period, if any

1.6. Ownership of the working instruments as well as the person responsible for their installation and maintenance and the payment of the inherent consumption and use costs

1.7. Identification of the establishment or department of the undertaking in which the worker is integrated, as well as who he should contact in the context of the provision of work

► Implications for policy decision-makers and legal acts' drafting experts

Information on the essential aspects of the telework employment relationship - telework employment agreement:

1.8. If work pattern is predictable: weekly work schedule and, if any, overtime and shift arrangements

1.9. If work pattern is mostly unpredictable:

- No. of guaranteed paid hours and the remuneration for additional hours
- Reference hours and days when work may be required
- Minimum period of notice before the start of work and the deadline for cancellation

1.10. Entitlement to training

1.11. Amount of paid leave, or the way it is determined

1.12. Procedure for termination of the employment relationship, or reference to the applicable legal provisions.

1.13. Applicable collective agreements, if any

1.14. Social security institutions receiving contributions

► Implications for policy decision-makers and legal acts' drafting experts

Telework voluntariness and reversibility:

- In the case of a worker previously attached to the employer, the initial duration of the contract for subordinated provision of telework shall not exceed the period laid down in a collective agreement
- Either party may terminate the contract referred to in the preceding paragraph during an initial period of its execution which duration is laid down in a collective agreement
- Terminating the contract for the subordinate provision of telework, the worker resumes the provision of work, in accordance with the agreed terms or in those provided for in a collective agreement
- The teleworker may start working under the scheme of the other employees of the company, definitively or for a fixed period, by written agreement with the employer

► Implications for policy decision-makers and legal acts' drafting experts

Telework working instruments:

- In the absence of stipulation in the contract, it is presumed that the working instruments relating to ICT used by the employee belong to the employer, who shall ensure the respective installation and maintenance and payment of the inherent expenses, unless the teleworker uses his/her own equipment
- The worker shall comply with the rules for the use and operation of the working instruments made available by the employer
- Unless otherwise agreed, the worker may not give the work instruments made available by the employer different use than that inherent to the performance of his work

► Implications for policy decision-makers and legal acts' drafting experts

Equal treatment and non-discrimination of teleworkers:

- Teleworkers has the same rights and duties as other workers, including: vocational training and promotion or career; working time, rest periods and other working conditions; safety and health at work; protection against discrimination in employment and occupation; remuneration; statutory social security protection; minimum age for admission to employment or work; maternity protection; and reparation of damages arising from accidents at work or occupational disease
- In the context of vocational training, the employer shall, in case of need, provide teleworkers (and their managers and colleagues) with adequate training on the use of information and communication technologies inherent to the exercise of the activity
- The employer shall avoid the isolation of teleworkers, in particular through the promotion of regular contacts of the latter with the company and other workers

► Implications for policy decision-makers and legal acts' drafting experts

Privacy of teleworkers:

- The employer must respect the worker's privacy and rest times, as well as the rest of her/his family, and provide her/him with good working conditions, both physically and psychologically
- Where the telework is carried out at the worker's home, the visit to the workplace shall only have the purpose of controlling the work activity as well as the work instruments
- The possibility foreseen in the preceding paragraph, however, may only be carried out during the teleworker work schedule, shall not, in any case, disturb her/his family rest time and shall be subject to prior notification, teleworker's agreement and performed with the assistance of the teleworker or a person designated by her/him

► Implications for policy decision-makers and legal acts' drafting experts

Vulnerable groups of workers:

- The following workers, if they do so request to employer, are entitled to carry out their work activity on a telework basis, where it is compatible with the activity performed and the employer has resources and means to do so:
 - Worker with a child aged up to 3 years
 - Worker victim of domestic violence who presented competent criminal charges and
 - Worker with disability

► Implications for policy decision-makers and legal acts' drafting experts

Teleworkers' collective rights:

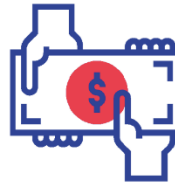
- Teleworkers integrate the number of employees of the company for all purposes relating to collective representation structures, and may apply for these structures
- Teleworkers may use the ICT allocated to the provision of work to participate in meetings promoted in the workplace by collective representation structure of workers
- Any collective representation structure of workers may use ICT to communicate with teleworkers in the course of their activity (for the dissemination of trade union information, calls, communications, information or other texts relating to trade union life and the socio-professional interests of workers)

Quid juris?



Marko

joined a software company
“I Soft” 2 years ago,
as a teleworker IT specialist



Income: 2,000\$/month



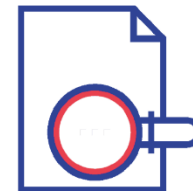
Work schedule: Mon-Fri,
9:00–13:00 and 14:00–18:00



His computer crashed
last week and is beyond
any repair



He asked employer to buy another
suitable computer, but employer
replied that it was Marko’s problem...



When he looked through his telework
contract, he realized that it does not
mention anything about work equipment
and instruments...

Resources on the EU-ILO Project site

ilo.org/shd4Ukraine

Background paper



International Labour Organization
Project implemented by International Labour Organization

MOVING FORWARD TOGETHER
Project funded by European Union

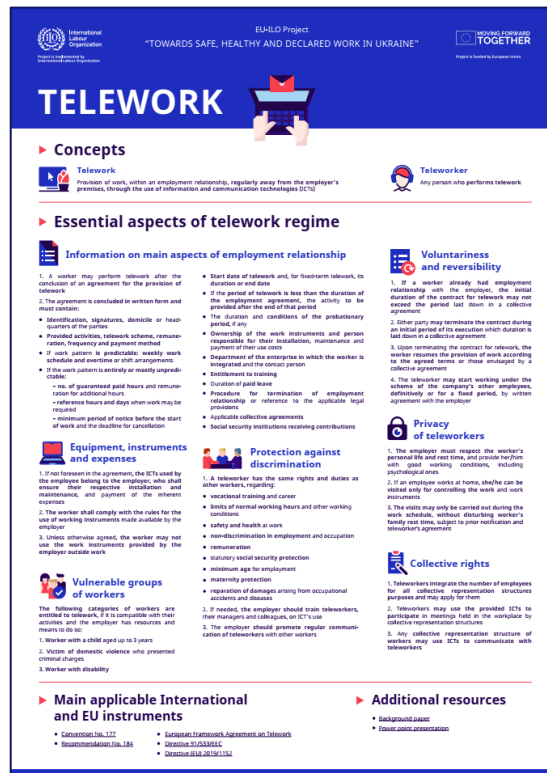
EU-ILO PROJECT
"TOWARDS SAFE, HEALTHY AND DECLARED WORK IN UKRAINE"

Telework

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International and EU Labour Standards
Background paper

July, 2020

Infographic



EU-ILO Project
"TOWARDS SAFE, HEALTHY AND DECLARED WORK IN UKRAINE"

TELEWORK

Concepts
Telework: Provision of work, within an employment relationship, regularly away from the employer's premises, through the use of information and communication technologies (ICTs)
Teleworker: Any person who performs telework

Essential aspects of telework regime

Information on main aspects of employment relationship

- A worker may perform telework after the conclusion of an agreement for the provision of telework.
- The agreement is concluded in written form and must contain:
 - Identification, signatures, domicile or headquarters of the parties
 - Provided activities, telework scheme, remuneration, frequency and payment method
 - If work pattern is predictable: weekly work schedule and overtime or shift arrangements
 - If the work pattern is irregular or mostly unpredictable:
 - No. of guaranteed paid hours and remuneration for additional hours
 - Reference hours and days when work may be required
 - Minimum period of notice before the start of work and the deadline for cancellation
- Start date of telework and, for fixed-term telework, its duration or end date
- If the period of telework is less than the duration of the employment agreement, the activity to be provided after the end of that period
- The duration and conditions of the probationary period, if any
- Ownership of the work instruments and person responsible for their installation, maintenance and payment of their use costs
- Departments of the enterprise in which the worker is integrated and the contact person
- Continence to training
- Duration of paid leave
- Procedure for termination of employment relationship or reference to the applicable legal provision
- Applicable collective agreements
- Social security institutions receiving contributions

Voluntariness and reversibility

- If a worker already had employment relationship with the employer, the initial duration of the contract for telework may not exceed the period laid down in a collective agreement
- Other party may terminate the contract during an initial period of its execution which duration is laid down in a collective agreement
- Upon terminating the contract for telework, the worker resumes the provision of work according to the agreed terms or those envisaged by a collective agreement
- The teleworker may start working under the scheme of the company's other employees, definitively or for a fixed period, by written agreement with the employer

Privacy of teleworkers

- The employer must respect the worker's personal life and rest time, and provide for them with good working conditions, including psychological ones
- If an employee works at home, she/he can be visited only for controlling the work and work instruments
- The visits may only be carried out during the work schedule, without disturbing worker's family rest time, subject to prior notification and teleworker's agreement

Collective rights

- Teleworkers integrate the number of employees for all collective representation structures purposes and may apply for them
- Teleworkers may use the provided ICTs to participate in meetings held in the workplace by collective representation structures
- Any collective representation structure of workers may use ICTs to communicate with teleworkers

Equipment, instruments and expenses

- If not foreseen in the agreement, the ICTs used by the employees belong to the employer, who shall maintain them, and payment of the inherent expenses
- The worker shall comply with the rules for the use of working instruments made available by the employer
- Unless otherwise agreed, the worker may not use the work instruments provided by the employer outside work

Protection against discrimination

- A teleworker has the same rights and duties as other workers, regarding:
 - vocational training and career
 - limits of normal working hours and other working conditions
 - safety and health at work
- Non-discrimination in employment and occupation:
 - remuneration
 - statutory social security protection
 - minimum age for employment
 - maternity protection
 - reparation of damages arising from occupational accidents and disease
- If needed, the employer should train teleworkers, their managers and colleagues on ICT's use
- The employer should promote regular communication of teleworkers with other workers

Vulnerable groups of workers

The following categories of workers are entitled to telework. It is compatible with their activities, and the employer has resources and means to do so:

- Worker with a child aged up to 3 years
- Victim of domestic violence who presented criminal charges
- Worker with disability

Main applicable International and EU instruments

- Convention No. 177
- Recommendation No. 184
- European Framework Agreement on Telework
- Directive 91/533/EEC
- Directive 2019/1152

Additional resources

- Background paper
- Power point presentation

And more...

- Power point presentation
- ILO Convention No. 177
- Recommendation No. 184
- EU Social Partner's Framework Agreement on Telework
- Directive 91/533/EEC
- Directive 2019/1152

Q&A



Contacts

Дякую за увагу!

Thank you for your attention!





International
Labour
Organization

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