

The COVID-19 pandemic period saw the spread of teleworking on an unprecedented scale. A study of this phenomenon in Ireland was presented by **Mark Cullen**, Assistant Chief Executive Officer of the Health and Safety Authority in Dublin, in a presentation entitled 'Challenges facing regulators arising from the increase in hybrid (office /remote) working'. Thus, prior to the COVID-19 outbreak in Ireland, less than one in four employed respondents worked remotely (23%). During the pandemic, eight out of ten worked remotely at some point (80%). In contrast, after the pandemic, of those employed people who had the opportunity to work remotely, 88% said they would like to continue working in this way once all pandemic-related restrictions have been lifted, in contrast, 6 in 10 people (60%) said they would like to work remotely part of the time. Almost 3 in 10 employed people (29%) who have worked remotely at some point since the start of the pandemic would like to work remotely (Source: 'Our Lives Online' survey by CSO. Number of respondents: 10 979). Meanwhile, trends around the world also indicate that a significant proportion of the population continues to telework or remains in hybrid work delivery systems.

Sudden shift

The sudden shift of work from offices and factories to the home space due to the lockdown has been a new experience for workers, employers, as well as labour inspectors. The challenges faced by this occupational group were highlighted by **Fernanda Campos**, Inspector General of the Authority for Working Conditions in Portugal, in her presentation 'Teleworking – contribution to the reflection on the approaches of labour inspection and safety and health'. Questions then arose as to how to ensure that workers' rights

An international conference on 'Labour Inspection and the Challenges of the Future', organised by the State Labour Inspection, was held at the SLI Training Centre in Wrocław on 27 and 28 October 2022. The event was attended by labour inspection staff from EU Member States, as well as representatives from the International Association of Labour Inspection (IALI), the International Social Security Association (ISSA), the International Labour Organisation, the Senior Labour Inspectors' Committee (SLIC) and the European Agency for Safety and Health at Work (EU-OSHA). In a special series, we present the most interesting excerpts from the conference participants' speeches.

Remote work – the Portuguese and Irish experience

Fernanda Campos, General Inspector, Authority for Working Conditions (Portugal)

Mark Cullen, Assistant Chief Executive Officer, Health and Safety Authority (Ireland)

are respected during teleworking, how to control working conditions, how to assess risks during teleworking, using what methodology, instruments and tools. Controlling a private space is a very different experience from controlling a workplace. Campos pointed out that in Portugal, the inspection has to ask for the worker's permission to enter their home. It must be requested 48 hours before the planned inspection, and the employee can refuse it. In Ireland, on the other hand, the constitution states that a citizen's home is inviolable and cannot be forcibly entered except in accordance with the law (Article 40.5). This means that no one, including the police, can enter a residence without a warrant or other legal authority to enter.

Health and safety at home

Cullen also cited Irish legislation on health and safety issues and the employer's obligations, and regulations that may not apply to remote working. The question

is how to define a workplace in a home working situation. Is it the room where the work desk is located or is it also the social areas, such as the kitchen or the bathroom? And therefore, which areas are covered by the risk assessment? The home workplace is also a problem of the presence of third parties. Moreover, the worker may also be teleworking outside the home, for example in a café. In such situations, it seems reasonable to expect the worker to provide information on the subject, which may take the form of, for example, a declaration or a contract. Campos stressed that the question of developing certain standards of inspection is a challenge full of non-obvious issues. For example, cleaning – is it relevant to working conditions in terms of avoiding electrical hazards, risks of slips, trips and falls? This raises the question of whether cleaning-related housekeeping activities should be included in the inspection checklist and how, in practice, an inspector could approach enforcement. She also

pointed out that it is impossible to inspect thousands of workers in their homes. Hence, it is important to develop the technical possibilities that allow working conditions to be inspected by digital methods. Campos drew attention to the transnational nature of these problems, pointing out that they therefore require solutions at the same level. She also included among the future challenges of inspections: ensuring the quality and legislative harmonisation of labour law and occupational health and safety, the use of technology as a mechanism to support inspections, the exchange of information and ensuring that inspectors have the right digital skills.

Exchange of experience

Campos also admitted that people were reluctant to listen to what conditions they should work in. Meanwhile, there are many risks associated with doing work in domestic spaces. Some of them are important in terms of performing



tasks in a way safe for health, which involves the proper organisation of the workstation. But equally important is the psychological wellbeing of workers and the social consequences. Campos cited the classic model of a woman who works remotely and takes care of the home and children at the same time. Teleworking can increase the pressure on employees to be 'constantly' available or to provide work in their free time. Some employees may experience isolation and a work-life imbalance associated with blurred boundaries between the two spheres of life. She also highlighted the weakening structures of union representation in relation to working outside the office or workplace.

Campos also discussed the legal solutions for teleworking introduced in Portugal, including payment of costs by the employer (compensation for internet and electricity) and the right to disconnect (supervisors are not allowed to contact their subordinates outside working time and employers face financial penalties for breaking the ban).

In Ireland, on the other hand, a law is being processed that will provide employees with the right to request remote working. According to Cullen, it is important for employers and those responsible for health and safety regulations to address the many emerging health and safety challenges for those working from home. 'While we would all like to think that adopting a sensible and pragmatic approach should solve most problems, when an accident occurs, sensibility and pragmatism mean little and attention quickly turns to regulations, duties, definitions and their legal interpretations - perhaps only to determine who may be liable,' he stressed.

Remote working in Poland

Wojciech Gonciarz,
Director of the Legal Department at the Chief Labour Inspectorate

The Act of 1 December 2022 amending the Labour Code Act and certain other acts (Journal of Laws 2023, item 240) introduced remote working and sobriety control into the Labour Code. The Act entered into force on 21 February 2023, with the exception of the provisions on remote working, which became effective on 7 April 2023. The regulations are the culmination of the work of the Ministry of Family and Social Policy, which was responsible for the law. The adopted solutions were socially expected by both the employer and employee communities. It is the parties to the employment relationship who are given

Definition

Remote working according to the Act consists in performing work wholly or partly at a location designated by the employee (including the employee's residence) and agreed with the employer in each case. The Act provides for both total remote work and hybrid (home/company) remote work.

Principles

The principles of remote work, according to the Act, are established in:

- an agreement concluded between the employer and the company trade union organisation(s), hereafter: TUO,
- regulations established by the employer – if no agreement with TUO is concluded and in the case where no TUO operates

the opportunity by the new regulations to work out the rules on remote working. The employer continues to be obliged to provide the employee with appropriate health and safety conditions (due to the nature of the work, some provisions have been excluded) and to prepare an occupational risk assessment for specific groups of remote work positions. Prior to being allowed to work remotely, the employee confirms in a paper or electronic declaration that they are familiar with the employer's occupational risk assessment and information containing health and safety rules and undertakes to comply with them.

at the place of work,

- in the absence of a relevant agreement or regulations specifying the principles of performance, remote work at the request of the interested employee (its principles are established in an individual agreement with the employee).

Obligations of the employer

- to provide the remote worker with the materials and working tools, including technical equipment, necessary for the remote work,
- to provide installation, servicing, maintenance of working tools, including technical equipment, or to cover the costs related thereto, as well as the costs of electricity and necessary

telecommunications services,

- to cover other costs directly related to the performance of remote work, if such an obligation is set forth in an agreement (concluded with trade unions) or in regulations (or, in the absence of an agreement or regulations, in an order issued or an agreement concluded with the employee),
- provide the remote worker with the necessary training and technical assistance to carry out this work,
- allow the remote employee to be on the premises of the workplace, to communicate with other employees and to use the employer's facilities and equipment, the company's social facilities and social activity carried out (under the rules adopted for all employees).

The Act also provides for the possibility for an employee to use private work tools (e.g. a computer) in the event that both parties to the employment relationship so agree, provided that the employee's private technical devices and other work tools used by the employee for work purposes ensure work safety. In such a case, the employee will be entitled to a cash allowance in the amount agreed with the employer.

Occupational risk assessments

Prior to allowing remote working, the employer is obliged to prepare a risk assessment for each group of remote working positions and, on the basis of this, to draw up information containing the principles of safe remote working and to familiarise the employee with it.

Based on: <https://www.gov.pl/web/rodzina/praca-zdalna>

OBLIGATION to provide remote work to, among others:*

1 | a pregnant woman

2 | a parent of a child under 4 years of age

3 | a carer of a disabled person (child/adult)

if the organisation or nature of the work allows it to be performed from home

Remote working COMMISSIONED by the employer in the event of:*

1 | a state of emergency**

2 | an epidemic/epidemic risk**

3 | force majeure (e.g. fire)

**up to 3 months after cancellation

OCCASIONAL remote work:*

1 | up to 24 days per calendar year

2 | at the employee's request

3 | does not depend on the number of hours worked

4 | the employer may refuse it

5 | the employer does not cover costs related to it

*details in the Act of 1 December 2022 amending the Act – Labour Code and certain other acts (Journal of Laws 2023 item 240).