



Deloitte Legal Newsflash

Employment, Pensions and Benefits

New Collective Bargaining Agreement requires companies to establish a COVID-telework framework

On 26 January 2021, the National Works Council concluded collective bargaining agreement no. 149 (hereafter CBA no. 149), which imposes obligations for compulsory or recommended teleworking in the context of the COVID-19 crisis, in the absence of any other arrangement within the company.

According to CBA no. 149, employers have an obligation to (i) inform and (ii) produce written agreements on certain aspects of mandatory telework. This means that companies that do not have any arrangements on telework need to take good note of these new obligations and act accordingly.

Obligation to inform

Employers must inform their employees of:

- Additional or alternative working conditions that apply during telework;
- The company's policy on well-being in relation to telework, which may relate to adjustments to the workplace, the proper use of computer screens, and available technical and IT support. Prevention measures should be based on a multidisciplinary risk analysis that also takes the psychosocial dimension and health aspects of teleworking into account;
- The possibility of an informal or formal psychosocial intervention and spontaneous consultation with the prevention advisor or company doctor, as well as the names, contact details and support provided by the supervisors and prevention advisors from the internal or external health and safety service, and if applicable, the persons of trust;

- The "*modalities and specificities*" of telework. Trainings on this subject must be organised if needed.

Written agreements requirement

Written arrangements on telework must be made regarding:

- Provision of the necessary equipment and technical support, or - if employees use their own equipment – the employers' reimbursement of costs;
- Additional connection costs;
- The rules concerning the applicable working schedule, if necessary. In the absence of specific arrangements, the teleworker must in principle respect the applicable working schedule as if they worked in the company's office premises;
- The detailed rules for monitoring results and/or the evaluation criteria; and
- The extent to which the teleworker is reachable. Furthermore, it is also possible to specify the means by which the teleworker should remain reachable.

These arrangements can be included in a collective bargaining agreement, the work rules, an individual agreement with the employee, or in a policy. In any case, the rules on social dialogue must be respected. For example, if there is a works council, the framework must be discussed within this consultative body. Social partners also point out that the agreed arrangement must be communicated explicitly by e-mail or through other internal communication channels.

In deviation of the rules regarding structural telework, CBA no. 149 does not impose an *obligation* to contribute to connection or equipment costs. However, if no such reimbursement is paid, the parties must explicitly agree in this regard, so as to avoid an employee claiming an expense allowance afterwards.

Finally, it should be noted that the company arrangement may consider the general cost policy or compensation that an employer already provides to the teleworker during the current pandemic.

Concrete action?

Employers without *any* telework policy in place should act now and without delay. Otherwise, they risk (i) claims for contributions in telework costs, (ii) discussions with the occupational accident insurer - in case of an occupational accident - and (iii) a penalty for not complying with a generally binding collective bargaining agreement.

Contacts

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