FEDIL

Position

THE FUTURE OF TELEWORK IN THE AFTERMATH OF THE COVID-19 PANDEMIC

The impact of the COVID-19 pandemic on the world of work has been enormous. One obvious impact is that, following the declaration of a state of crisis by the Luxembourg government on 18 March 2020, a considerable number of employees in Luxembourg were forced to telework in order to slow down the spread of the virus. This working formula was often neglected or even refused in many companies in Luxembourg before the health crisis.

Our companies are convinced that telework, even when it is exercised on the basis of free choice, will certainly have advantages and benefits, but also challenges and limits to the organisation of staff and the efficiency of the tasks to be carried out by their employees.

This note does not limit itself to setting out the positive points of telework noted by our companies (reduction in the need for working space, less traffic jams on the roads, less environmental pollution, better work-life balance for the employee, limitation of noise pollution, gains in employee autonomy and responsibility, etc.), but also deals with the points likely to have negative effects on the functioning of companies.

The questioning of a group of members on the subject allowed us to note that the regular practice of telework would also require a change in management style. Thus, efficiency would have to be measured by objectives and no longer by employees' presenteeism alone. According to the feedback from companies, supervisors should be aware that a change in terms of controlling the tasks performed by the employee is necessary. To this end, the employer should set objectives and clearly communicate expectations and tasks to be performed. Thus, it would be up to the employee to prove that he or she has fulfilled his or her tasks during the telework days. The advantages of a management style which gives more responsibility to certain categories of employees could be exploited beyond the teleworker population.

Companies are unanimous that teleworking employees should have a right to disconnect outside working hours. This would mean that they would not have to be reachable outside working hours.

Whilst being aware of the changing work world and the significant opportunities that telework can present for the company and its employees, who have generally appreciated it, the majority of companies have noted certain limitations to this form of work during the health crisis. Indeed, notwithstanding the fact that the use of telework is likely to be intensified by companies after the health crisis and that it constitutes an important means in the framework of employee loyalty respectively in terms of attracting future employees, several warnings have been brought to our attention by our members, including in particular :

- telework will not be possible for employees carrying out functions whose nature would require a permanent physical presence in the workplace (e.g. production agent, logistics agent, etc.). The same is true for employees in administrative positions with tasks closely related to the production of the company, respectively those whose functions are so diversified that a concentration on a single task to be carried out by teleworking is not possible.

- According to our members' feedback, some of the employees would not be able to work independently (but would need direct supervision from their line manager in order to accomplish their tasks). Whether or not they can work independently depends on the personality of the employee concerned. It turned out that the more autonomous employees who were familiar with their tasks in the company had a rather good command of how to carry out tasks during telework.

- the transmission of explanations and knowledge would be easier if the parties involved were face-to-face. The importance of human contact between co-workers for the personal and professional development of the employee should not be underestimated. Furthermore, telework constitutes a risk of fragmentation of the company which could lead to a loss of collective intelligence, creativity and the ability to collaborate and co-operate in the long term.

- A loss of efficiency of a number of employees has been observed as they are no longer directly supervised by a superior. There is a risk that some employees would engage in activities that are not related to their professional activity.

- The practice of teleworking is more suitable for employees who have been able to familiarise themselves with the workings of the company and the working methods of the service/department to which they belong. The majority of companies were of the opinion that employees should have a thorough knowledge of the internal processes of the company or department before being able to telework.

- the need for a new legal framework regulating telework has been confirmed by the majority of companies as the agreement on the legal regime of telework of 21 February 2006 no longer corresponds to the needs and expectations of today's companies and employees.

- in principle, the employer's coverage of the costs generated by telework should be limited to what is strictly necessary. However, the provision of

computer equipment (hardware, software and access) is recommended (also for cyber security reasons). According to the feedback from our members, it is necessary to keep in mind that telework is primarily a favour granted by the employer to the employee avoiding certain costs (e.g. travel, ...) and that the possibility of carrying out telework should be built on the principle of "give and take".

- Most companies point out that telework should rather be the exception and the performance of the employee's tasks on the employer's premises should remain the rule. In any case, the practice of telework should remain within the limits of reasonableness and avoid disconnection of the employee from his or her work and colleagues.

- respect for the confidentiality of the company's internal documents is more difficult to control by the employer, even if the employee has been made aware of the importance of this confidentiality beforehand. It should nevertheless be borne in mind that the leakage of sensitive data and information can, depending on the situation and the stakes involved, represent an enormous cost for the company (e.g. loss of customers, loss of a market, etc.).
- the risk that accidents, which occur at home in the context of private life, are covered by the Accident Insurance Association (AAA) as accidents at work is high, but the veracity of the origin of the incident is difficult to verify. A high number of accidents at work wrongly covered as such would also have consequences for companies in terms of the AAA's "bonus-malus" system, which would, if necessary, lead to increased costs for the company.

- a control of the various aspects of employee safety and health (e.g. workplace ergonomics) at the employee's home by the employer would prove impossible under the employee's right to privacy. However, it is in the employer's interest to make the teleworking employee aware of his or her responsibility in this matter. The employer could make recommendations on workstation ergonomics to all teleworking employees.

Despite the reservations expressed above, the experience of the health crisis has shown that this working formula can present an opportunity that could be better seized if the framework were more favourable. Therefore, FEDIL supports the idea of the promotion of telework of the Luxembourg government.

FEDIL welcomed the agreements reached between Luxembourg and neighbouring countries during the health crisis to derogate from Article 13.1 of Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, which stipulates that a person is subject to the legislation of the Member State of residence if he/she pursues a substantial part of his/her activity there. Thus, the days spent teleworking by frontier workers have not been included in the calculation of the tolerance threshold of 25% of the working time carried out in the State of residence. This has enabled teleworking to develop rapidly and without any consequences in terms of social security affiliation for a considerable number of frontier workers. Such agreements would also be necessary after the COVID-19 pandemic in order not to jeopardise a reasonable development of teleworking by frontier workers in Luxembourg and not to discriminate against the latter in comparison with resident workers.

FEDIL encourages the Luxembourg government to also negotiate more favourable tolerance thresholds with neighbouring countries in fiscal matters so as not to jeopardise the healthy and reasonable use of telework for the benefit of frontier workers.

Finally, it is still important that possible flexibilities for employees in the context of telework are not prevented by a rigid straitjacket. They should, as far as possible, take into account the specificities of each company and each sector of activity. Therefore, internal social dialogue should be developed and favoured over general provisions in order to allow companies and their employees to discuss the possibility of using telework according to their specific individual needs.