

# Portuguese legislation on telework and the right to disconnect: Towards a balanced promote-protect approach

- **2003 Labour Code (Law 99/2003)**
- **2009 Labour Code (Law 7/2009)**
- **Law 120/2015 introduced an amendment to the Labour Code**
- **March 2020 - Covid-19 Pandemic**

## **June 2021**

Portuguese Government in coordination with Academia, thinkers, civil society and the social partners (namely the Permanent Commission for Social Concertation), presented the

## **Green Paper on the Future of Work**

## **Law 83/2021**

*In force since 01/01/2022*

*Telework is the rendering of work under the regime of legal subordination of the worker to an employer, in a place not determined by the latter, through the use of information and communication technologies*

- Written form
- Initial contract or alteration of the form of work provision (for teleworking)
- Regime of permanence or alternation of periods of distance work and presence work
- Basic principle of agreement between employer and worker is safeguarded

## Place of work

- Written agreement
- Not determined by the employer
- Important due to accidents at work  
responsibility

## More situations in which the worker is entitled to telework

- promotion of conciliation (*worker with a child up to 3 years of age, or up to 8 years old; worker with non-primary informal carer status*)
- worker victim of domestic violence

## **Equipment and systems**

The aim is to ensure that teleworking does not involve increased costs for workers

- installation
- maintenance
- payment of expenses related to the working tools used



# Work organization, direction and control

- respect for working hours
- compulsory attendance at company premises
- through the equipment, communication and information systems assigned to the worker's activity

- it is forbidden to impose a permanent connection, during working hours, by means of image or sound

**Equal rights and duties**  
**Worker's privacy**  
**Health and safety at work**  
**Enforcement**  
**Public Administration (*DGERT*)**

## **Special duties *Employer***

- Reduce worker isolation
- Guarantee/pay for the maintenance and correction of breakdowns of equipment and systems used in teleworking, regardless of their ownership
- Avoid contacting the employee during rest time

## **Duty to abstain from contact**

A mechanism is created that contributes to preventing the prolongation of effective working hours, or an excessive connection to work, promoting the effective realisation of the right to professional detachment and to disconnection during rest times.

- The employer has a duty to avoid contacting the worker during the rest period, except in cases of force majeure
- Any less favorable treatment given to a worker, particularly as regards working conditions and career progress, on the grounds that he is exercising his right to a rest period constitutes discriminatory action

- Enshrined in the framework of Duration and Organisation of Working Time
- Not exclusive on the provision of telework
- PT – mandatory registration of working times
- Teleworking and the right to disconnect are provided for in only seven of 169 collective agreements published in 2020



*Conference on the right to disconnect and telework*

*15 March 2022*



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**Thank you**