



SARA Law Research Center

International Journal of Legal and Social Order, <https://www.ccdsara.ro/ijlso>

ISSN 2821 – 4161 (Online), ISSN 2810-4188 (Print), ISSN-L 2810-4188

Nº. 1 (2023), pp. 471-476

TELEWORK AND WORKERS RIGHTS IN ALBANIA

E. TIRI

Received 05.11.2023; accepted 04.12.2023

<https://doi.org/10.55516/ijlso.v3i1.158>

Edvana TIRI

PhD. Lecturer, University “Aleksander Moisiu”, Durres, Albania

E-mail: eda_tiri@yahoo.com

ORCID ID: <https://orcid.org/0009-0004-2399-0710>

Abstract

According to Albanian legislation, the definition of working at home and teleworking is almost identical. Both jobs are done from home and the only difference relies on the fact that telework requires the use of information technology. The Albanian law, as well as the definitions of international organizations and various researchers, state that the difference is in the use of instruments of information and communication technology. Basically, if the definitions of the above issues and the definitions of the Albanian legislation are summarized, it can be said that telework is the work performed outside the premises of the organization using information technology.

Key words: telework, legislation, rights, technology.

INTRODUCTION

On March 11, 2020, the World Health Organization (WHO) declared a Pandemic as a result of the worldwide outbreak of the Covid-19 virus. What would actually be the factor with the strongest impact on social-economic life throughout the world would be the blocking of movement and the restriction of social-economic activities for a period of almost two years. The speed with which the Covid-19 virus spread found the vast majority of countries in the world, including Albania.

In addition to the difficulties that this massive and forced form of working from home brought, it revealed benefits and challenges for the future. In fact, working from home and especially telework have been a growing practice in the years before the Pandemic. Many European countries and beyond are making rapid improvements in legislation to regulate this form of employment and at the same time in the direction of encouraging an ever wider use of work from home and specifically telework. In Albania, some institutions, mainly financial, have

seen the benefits of telework and are expanding the use of this practice of carrying out work processes. This phenomenon is still not accompanied by state intervention in legislation in order to regulate this new work relationship, always in the direction of facilitating and encouraging its extension to as many professions and institutions as possible, where it brings benefits.

Essentially telework is a form of working from home. But, in contrast to work performed from home, which is a broader concept, telework refers to a new concept of developing work at home using information technology instruments to carry out work processes that are pushed to a new dimension the fourth stage of industrial development otherwise called "Industry 4.0 - digitalization".¹ There are many definitions related to telework which basically have little differences from each other. Some of them are presented below. According to the International Trade Union Confederation (ITUC)² "Telework is work performed with Information and Communication Technology (ICT) from outside the employer's premises. This may include traditional forms, such as working from home, or working from various alternative locations outside the employer's head office". According to the ITUC an essential element to classify a work process as telework is the use of information and communication technology (ICT). This means that a work process carried out from home under the direction of an employer or intermediary without the use of ICT will not be classified as telework.

The telework is currently not covered by any international statistical standards. Countries have used slightly different operational definitions, which are typically based on two different components:

I. The work is fully or partly carried out at an alternative location other than the default place of work. This criterion is based on the previous definition of remote work.

II. The use of personal electronic devices such as a computer, tablet or telephone (mobile or landline) to perform the work.

The different devices or tools can be used for communicating with colleagues, clients and so on, as well for carrying out specific job-related tasks without being directly in contact with other persons. Telework, as defined above, is a subcategory of the broader concept of remote work. It includes workers who use information and communications technology (ICT) or landline telephones to carry out the work remotely. Similar to remote work, telework can be carried out in different locations outside the default place of work. What makes telework a unique category is that the work carried out remotely includes the use of personal electronic devices.³

¹ A. Kotorri , Puna dhe drejtësia sociale telepuna si produkt i digjitalizimit Tetor 2022 <https://library.fes.de/pdf-files/bueros/albanien/19655.pdf>

² ITUC LEGAL GUIDE – TELEWORK [HTTPS://WWW.ITUC-CSI.ORG/ITUC-LEGAL-GUIDE-TELEWORK](https://www.ituc-csi.org/ituc-legal-guide-telework)

³ https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/publication/wcms_747075.pdf

TELEWORK AND WORKERS RIGHTS IN ALBANIA

Eurofound published a new report on telework during the Covid-19 pandemic in 2020 and 2021. It analyses changes in working conditions experienced by employees and regulations, addressing issues related to this working arrangement, shaping the future of remote working, and identifying challenges and opportunities for the future.

According ITUC, teleworking arrangements are expanding rapidly, but given the clear risks to working conditions outlined above, regulation through legislation and social dialogue needs to be developed urgently in order to ensure that these working arrangements improve access to decent work rather than deteriorate it. Regulatory approaches should therefore be guided by the following principles:

- Impact assessment and development of telework-place rules prior to the introduction and implementation of telework arrangements.
- Guarantee equal treatment of teleworkers.
- Respect for regular working hours and the right to disconnect.
- Work equipment and costs for remote workspace should be the employer's responsibility.
- Employers should remain responsible for the health and safety of workers.
- Equal access to training and career development. Teleworkers should receive equal treatment in career development opportunities and consideration for promotion to that of their workplace-based counterparts.
- The right to privacy must be safeguarded. Information and communication technologies can have a wide range of impacts on workers.
- Ensure respect for the rights to freedom of association and collective bargaining for teleworkers.⁴

In 2021, 2 out of 10 European employees were teleworking (a figure that would probably have reached in 2027 without the pandemic). According to report findings, 41.7 million employees teleworked across the EU in 2021, confirming the doubling of employees teleworking since 2019.⁵

I. LEGAL DEFINITION OF WORK FROM HOME AND TELEWORK IN ALBANIA

Telework and work from home are the types of employment contracts provided for in Article 15 of the Labour Code.⁶ The Labour Code, article 15 in its point 2, expressly states that: "With the telework contract, the employee performs his work at home, or in another place, defined in the agreement with the

⁴https://ituc_legal_guide_telework_en.pdf

⁵ Industrial Relation and Labour Law. Newsletter, January 2023

⁶ Ligj nr. 7961, datë 12.7.1995 "Kodi i punësi Republikës së Shqipërisë" (Ndryshuar me ligjet: nr. 8085, datë 13.3.1996; nr.9125, datë 29.7.2003; nr. 10 053, datë 29.12.2008; nr. 136/2015 ,datë 5.12.2015)

<https://qbz.gov.al/preview/c1c18a6c5f3e-457d-b931-de505b3c7ed0>

employer, use information technology, within working hours, determined by the employee, according to the conditions agreed by them in the employment contract. Thus, referring to article 15, paragraph 3 states that provisions of the code also apply to employment contracts with the exception of:

a) provisions for the regulation of weekly working time and rest, outside hours schedule, work on official holidays and night work;

b) the provisions regulating the right to compensation for work difficulties apply to the employee the same provisions that he has in his employment contract, in terms of weekly working time and rest, overtime hours as well as work on holidays.

With the telework contract, the employee is obliged to perform his work only at his home. The employee who works at home enjoys the same rights as the employee who works in the enterprise. The working conditions for telework employees cannot be less favourable, compared to other employees, who perform the same or comparable work.

For this reason, the employer must take measures:

a) to facilitate telework, by making available, installing and maintaining the necessary computer equipment for its performance, except when the employee, who performs telework, uses personal equipment;

b) to prevent the isolation of the employee, creating conditions for him to meet with other employees.

It shall not be considered that the employee performs "telework" if he works at a place of work other than the one agreed in the agreement with the employer or, in special circumstances, with his consent, or according to an agreement with him, performs a different type work, provided in the contract. Telework is potentially beneficial, but there are a number of issues to consider.

If one thing is clear when we talk about telework, it is that it avoids traveling to the workplace, either by car or public transport, and therefore definitely reduces greenhouse gas (GHG) emissions.

It seems logical to think that telework reduces commuting, but one has to consider what might happen if people stopped commuting to the office every day. If working people no longer need to live close to work, they may choose to live away from the office to avoid the high costs of rent and living in cities. Thus, the option to work remotely and avoid commuting to the office may lead them to accept a longer commute on days when face-to-face work is required.

Telework has negative effects because while commuting is compensated, it increases energy expenditure at home due to the need for workers to turn on the heat, air conditioner, turn on the lights, connect to the Internet. Another negative factor that telework can have is that travel can increase. For example, if a parent used to pick up their children from school on the way to work, they will now have to pick them up themselves and the same can happen when they go shopping at the supermarket. Finally, more remote work is also synonymous with greater use

TELEWORK AND WORKERS RIGHTS IN ALBANIA

of ICT devices (computers, screens, printers, etc.). Telework is a better option, but only if it is supported by specific measures such as, for example, allowing people to work from home as much as possible, to save energy and avoid heating or cooling unused offices, etc.

III. RIGHTS OF THE EMPLOYEES IN ALBANIA

Employees, when working from home, naturally have to use work tools and carry out the necessary expenses for the realization of the work process. Thus, computers, work environment, desks and other office tools are needed, when it comes to providing services, or work tools, when it comes to the production of products. Also, it is necessary to make expenses for electricity, internet, maintenance of the premises, etc. In the case when the employee who works from home is self-employed, he provides himself with all the necessary tools and bears the expenses he needs to carry out the work process. In the case when this employee is contracted as an employee of an organization, logically it should be the organization that should provide the instruments with which to carry out the work process and cover the expenses that need to be incurred for the realization of work process. According to the Labour Code in the Republic of Albania, it is determined that (Article 15 point 4) "working conditions for employees who work at home or telework cannot be less favourable, compared to other employees, who perform work same or comparable". For this reason, the Code mandates that the employer must make available and maintain the necessary computer equipment for the performance of the work process. This of course, only applies to cases where the employee does not own the work equipment himself. If the employee owns the work equipment himself, then by agreement or against a compensation from the organization, the employee performs the work process with his own equipment. All these would not constitute an additional cost for the organization, since they are the same expenses that the organization carries out even when the employee performs the work from the premises of the organization.

For organizations that allow the employee to partially perform work from home and partially from the organization's premises, this could naturally lead to a duplication of costs. In such cases, a cost-benefit analysis would have to be done, which the organization has from realizing some work processes from home.

The Albanian law also provides for the care that the organization must have for the social life of the employee. The organization is obliged to take measures and commit "to prevent the isolation of the employee, creating conditions for him to meet with other employees.", which means organizations that aim to maintain and increase the employee's job satisfaction, as well as maintain his connections with colleagues.

CONCLUSION

Many European countries and beyond are making improvements at a rapid pace in their respective legislation to regulate this form of employment and at the same time in the direction of encouraging an ever wider use of work from home and specifically telework. Several collective agreements, at different levels, and some national jurisdictions have introduced some principles, there remain clear gaps in national law that need to be addressed before telework arrangements become more widespread and permanent.

In Albania, several institutions, mainly financial, have seen the benefits of telework and are expanding the use of this practice. This phenomenon, is still not accompanied by state intervention in regards to the legislation in order to regulate this new way of working in order to facilitate and encourage its extension to as many professions and institutions as possible.

BIBLIOGRAPHY

1. A. Kotorri , Puna dhe drejtësia sociale telepuna si produkt i digjitalizimit Tetor 2022 <https://library.fes.de/pdf-files/bueros/albanien/19655.pdf>;
2. K. Çela, “Legjislacioni i punës përballë sfidave të integritimit evropian”, Tiranë, 2009;
3. K. Çela, “Rreth profilit evropian të kontratës kolektive të punës”, “Studime Juridike” Nr. 1/2009;
4. ITUC LEGAL GUIDE – TELEWORK [HTTPS://WWW.ITUC-CSI.ORG/ITUC-LEGAL-GUIDE-TELEWORK](https://www.ituc-csi.org/ituc-legal-guide-telework);
5. ILO, DEFINING AND MEASURING REMOTE WORK, TELEWORK, WORK AT HOME AND HOME-BASED WORK, JUNE 2020;
6. M. Dhuli, K. Çela “Projeksioni i së drejtës evropiane në të drejtën shqiptare të punës”, Tiranë 2012.
7. LIGJ NR. 7961, DATË 12.7.1995 “KODI I PUNËSI REPUBLIKËS SË SHQIPËRISË” (NDRYSHUAR ME LIGJET: NR. 8085, DATË 13.3.1996; NR.9125,DATË 29.7.2003; NR. 10 053, DATË 29.12.2008; NR. 136/2015 ,DATË 5.12.2015) [HTTPS://QBZ.GOV.AL/PREVIEW/C1C18A6C5F3E-457D-B931-DE505B3C7ED.](https://qbz.gov.al/preview/c1c18a6c5f3e-457d-b931-de505b3c7ed)



This work is licensed under the Creative Commons Attribution-NonCommercial 4.0 International License.