

Joint report by

**Bundesvereinigung der Deutschen Arbeitgeberverbände (BDA),
Zentralverband des Deutschen Handwerks (ZDH),
Vereinigung der kommunalen Arbeitgeberverbände (VKA) and
Deutscher Gewerkschaftsbund (DGB)**

on implementation of the European framework agreement on telework

In July 2002 the European social partners concluded the framework agreement on telework. Point 12 of the social partners' agreement on telework provides that, in the context of article 139 of the Treaty, this European framework agreement shall be implemented by the members of UNICE/UEAPME, CEEP and ETUC in accordance with the procedures and practices specific to management and labour in the Member States. This implementation had to be carried out within three years after the date of signature of this agreement.

To that end, the member organisations of the signatory social partners submit the following joint report on national implementation of the European framework agreement on telework in Germany:

1. First political implementation measures

Telework in Germany is completely covered by the protective mechanisms of German labour law. This means that the provisions on workers' protection apply, private life and home are protected by the Basic Law, working time legislation sets maximum time limits, data protection is in place, co-determination within the company applies as it does in all work relationships, as does the principle of the voluntary nature on both sides. In Germany, great value is placed on integration of teleworkers. There is a general understanding that teleworkers constitute active members of the organisation and are represented actively, as are all other workers, via works council or staff committee.

Employers and trade unions pursue shared interests in the area of telework: Both sides want to achieve protection and social standards. They also want to ensure that telework is voluntary on both sides and that privacy is protected. This was articulated in the joint statement by DGB Chairman Michael Sommer and BDA President Dr Dieter Hundt issued on 16 July 2002: DGB and BDA welcomed the framework agreement on telework as a good example of successful social dialogue between employers and trade unions at European level. With the likely prospect of the number of teleworker jobs rising from 4.5 million now to 17 million within the next ten years, DGB and BDA have made it clear that the social partners in Europe have shown that they can successfully come to grips with an important issue of the future in autonomous negotiations. Michael Sommer and Dr Dieter Hundt have publicly called for and encouraged initiatives to be taken between social partners and in companies to implement the principles of the framework agreement on telework.

2. Cross-sectoral implementation measures

The social partners in Germany were completely positive in their reception of the European framework agreement on telework and have taken it as the basis for specific initiatives and arrangements in establishments and companies.

In 2003, BDA (in tandem with ZDH) jointly with DGB, the French employers' and industrial federation (MEDEF), the Danish employers' federation (DA) and the Austrian industrial federation (IV) and with the support of the European Commission organised the **transnational conference on telework and the practical application of voluntary European framework agreements.**

The conference had the objective of offering the participating companies a platform on which they could use good practice examples to exchange their experiences with telework, in particular in relation to the issues addressed in the European framework agreement. In addition, the participants were to be given the opportunity to learn about the different underlying political and social situations in the four participating countries. In this regard, the examples of implementation of telework in different companies presented served as a source of ideas for practice in other participating companies.

During the conference the following themes were presented and analysed on the basis of the framework agreement on telework:

- telework as an instrument for shaping personnel policy
- organising telework and integration of teleworkers
- telework for managers
- telework in small and medium-sized enterprises.

More than seventy participants from Germany, France, Denmark and Austria representing companies, politics, business federations and trade unions as well as various institutions discussed the wide range of initiatives and measures for implementing the framework agreement and exchanged their experiences with telework.

In Germany the number of teleworkers has grown continuously over the last decade. In the period from 1994 to 1999 alone, the number of teleworkers in Germany increased more than tenfold from 150,000 to above 1.5 million. This places Germany in a leading position.

Important results of telework are greater compatibility of work and family life, an increase in worker satisfaction thanks to the greater flexibility brought about by a better match with the needs of the worker, who is given more individual responsibility and autonomy, as well as an increase in productivity.

Over and above the conference on telework, the German social partners have informed their members comprehensively via member newsletters, circulars and information material and the associated advisory services. In Germany there are a whole range of telework arrangements at company and establishment level, some of which were in place before the European framework agreement was concluded and are in line with it, whereas others have been prompted by the European framework agreement. Regimes for telework at establishment or company level are usually enshrined in works agreements, group agreements or company agreements. These agreements are often more specific than the European framework agreement and go beyond its social standards. This wide range of agreements exists across all sectors, from banks, the chemicals industry, the metal industry, the telecommunications sector, skilled crafts through to the public sector.

3. Sector-specific examples of implementation

a. Metal industry

For instance, a company in the **metal industry** has concluded a **works agreement** whereby, under the definition of **telework** and within the framework of their work contracts, employees perform some of their work tasks outside the company's workshops using equipment and communication tools. This definition corresponds to the definition in *point 2 of the framework agreement on telework*.

Further, in line with *point 3 of the framework agreement on telework*, it is stipulated that taking part in telework is **voluntary** for all employees.

In line with *point 5 of the framework agreement on telework*, it is specified that the interests of **data and information protection** is ensured via the relevant legislation and company rules.

In line with *point 7 of the framework agreement on telework*, it is stipulated that the necessary **equipment and communication tools** are made available to the employee free of charge. In addition, the company pays for installation and maintenance.

In line with *point 8 of the framework agreement on telework*, it is specified that the telework place must meet proven ergonomic requirements and health and safety standards. Representatives of the employer or works council have access to the telework place subject to prior notification and the employee's consent.

In line with *point 9 of the framework agreement on telework*, it is also stipulated that statutory, collectively negotiated and establishment-level rules regarding **working hours** apply. The employee's working time is not changed by telework. Contact with the company and participation in company events must not be restricted.

In line with *point 10 of the framework agreement on telework*, it is specified that **career development and training measures** must continue unaffected.

Lastly, in line with *point 11 of the framework agreement on telework*, it is stipulated that the right to take part in **establishment-level and departmental meetings** must not be restricted by telework. The **works council** continues to have full competence for its statutory tasks. It is provided with information and its views are heard prior to the start of telework.

b. Chemicals industry

Another example from the field is the **recommendation** on telework concluded by the social partners in the **chemicals industry**. In this case, in line with *point 2 of the framework agreement on telework*, telework is **defined** as any activity supported by information and communication technology, including transmission of the results of that activity, which is performed alternately or exclusively at a place that is physically removed from the premises of the establishment as customarily understood and which is linked to the central place of work via electronic means of communication, provided that this activity is not performed only on an ad hoc basis.

In line with *point 3 of the framework agreement on telework*, the recommendation also provides that telework can only take place on a **voluntary basis**.

Regarding **data protection** and in line with *point 5 of the framework agreement on telework*, the recommendation makes it clear that teleworkers enjoy the same rights and are subject to the same obligations as other workers.

On the issue of **equipment** and in line with *point 7 of the framework agreement on telework*, the recommendation provides that the costs for organising the telework place will regularly be paid by the employer. The extent to which this also applies to the upkeep of a domestic work place is to be agreed on a case-by-case basis. In this regard, it is to be borne in mind that telework reduces costs for companies and employees.

In line with *point 8 of the framework agreement on telework*, the recommendation provides that, in terms of **working conditions**, the telework place will be treated like a work place within the establishment, insofar the nature of the telework does not dictate otherwise. This includes a right of access for superiors, works councils and supervisory authorities.

In accord with *point 9 of the framework agreement on telework*, the recommendation provides that the effectiveness of using new information technologies is inextricably linked with flexibility. It states that this requires employees to be granted a maximum degree of **independence in the timing and organisation of their work**, insofar as the tasks to be performed so permit. In regard to time and technic work organisation must be to an large

extent self determined. Ensuring social contacts between teleworkers and the company and their co-workers is described as an important pre-condition.

Corresponding to *point 4 of the framework agreement on telework*, the recommendation provides that teleworkers essentially have the **same rights and obligations** as other workers.

In accord with *point 10 of the framework agreement on telework*, the recommendation also makes it clear that this **equal treatment** also applies for career development, access to vacancies and occupational training.

With regard to **collective rights** and in line with *point 11 of the framework agreement on telework*, it is stipulated that teleworkers have the same rights and obligations as other workers.

c. Telecommunications sector

A third example is a **collective regime** from the **telecommunications sector**: here, in line with *point 2 of the framework agreement on telework*, telework is **defined** as follows: in the case of alternating telework, some of the work activity previously performed on the premises of the establishment is transferred to the teleworker's home where it is then performed with the support of equipment and installations operated through decentralised information processing or communication technology. In the case of mobile telework, the work activity is performed at variable places, which may also include the establishment and/or teleworker's home to a limited extent, similarly supported by equipment and installations operated through decentralised information processing or communication technology.

Regarding the **voluntary nature of telework** and in line with *point 3 of the framework agreement on telework*, it is specified that alternating telework follows the principle that it is voluntary for both sides. There is no legal right to telework. It is possible to revoke telework arrangements in the case of both alternating and mobile telework.

Regarding **data protection** and in line with *point 5 of the framework agreement on telework*, it is stipulated that particular attention is to be paid to protection of data and information vis-à-vis third parties. Confidential data and information must be protected in such a way that third parties have no access. Statutory data protection provisions apply, as do the company's central rules for ensuring data protection and data security. The employee is informed in an appropriate manner about statutory and in-house rules governing data protection and data security.

Regarding **equipment** and in line with *point 7 of the framework agreement on telework*, the collective regime provides that equipment will be made available free of charge and will remain the property of the employer. The employer takes charge of installation and removal together with any maintenance costs in the case of alternating telework. In the case of telework at the worker's home, private office furniture which meets health and safety requirements can be used with the worker assuming the costs and risks.

Regarding **health protection** and **safety** at the work place, and in line with *point 8 of the framework agreement on telework*, it is specified that a domestic work place must be suitable from the angle of general health and safety rules, whereby inspection must be possible in the case of alternating telework. Also in the case of alternating telework, information about the relevant health and safety rules will be provided in an appropriate manner.

Regarding **organisation of work** and in line with *point 9 of the framework agreement on telework*, the collective regime provides that, in the case of alternating telework, the agreed average working hours laid down in a collective agreement or individual work contract will be divided between the company's premises and the teleworker's home. Information about the

rules governing working time will be provided in an appropriate manner. In the case of mobile telework, working time and time records are regulated in accordance with the relevant collective and company-level rules. The share of work on the company's premises should be structured in such a way that social contact with the company is maintained.

Regarding **education and training** and in line with *point 10 of the framework agreement on telework*, it is specified that the employee may not be placed at a disadvantage in terms of professional advancement as a result of performing alternating telework.

Regarding **collective rights** and in line with *point 11 of the framework agreement on telework*, it is stipulated that the works council will be involved in accordance with the Betriebsverfassungsgesetz when there is a change to alternating telework. The use of trade union information offers will be compensated for by an electronic medium. Collective rights in accordance with the labour-management relations act remain unaffected.

d. Skilled crafts

Immediately after the framework agreement on telework was concluded, ZDH informed the entire skilled crafts sector (central confederations and chambers) about the text of the agreement. In addition, recipients of this information were invited to take account of the framework agreement on telework in their activities at regional and local level.

e. Local administrations and companies working in the public sector

In order to implement the framework agreement on telework, VKA made a **specimen service/company agreement** available via its member federations, which represent around 10,000 employers working in the public sector with approx. 2.1 million employees. The aim is to enable social partners in administrations and companies to make suitable arrangements for introducing and managing telework.

It proposes that the division of working time between the employer's premises and the teleworker's home should be agreed to meet individual needs. In individual agreements, a suitable range of times should be agreed when the alternating teleworker can be personally contacted.

In line with *point 3 of the framework agreement on telework*, it is specified that participation in telework is **voluntary** for employees.

The status of employees under labour law does not change due to inclusion in a telework scheme. Legal principles remain unaffected.

Furthermore, the specimen service/company agreement provides that the equipment and communication tools needed for telework will be made available to the employee free of charge. Installation, maintenance and repair of equipment will be paid for by the employer. This is in line with *point 7 of the framework agreement on telework*.

In line with *point 8 of the framework agreement on telework*, it is stipulated that the telework place must be in a room, freely chosen by the employee, which is available and earmarked for ongoing occupation, as well as being suitable for the tasks to be performed. The employer will verify that the general requirements for a work place are met, in consultation with the employee. In this respect, the employer has a duty of supervision and welfare. Access for personnel representatives is possible with the employee's consent.

In line with *point 9 of the framework agreement on telework*, **working hours** for teleworkers are the average regular working hours agreed in a collective agreement or individual work contract.

In line with *point 10 of the framework agreement on telework*, it is specified that the possibility to take part in **education and training measures** is unaffected by telework.

Teleworkers may not be placed at a disadvantage in their professional careers due to their participation in telework.

In line with *point 11 of the framework agreement on telework*, collective rights are ensured through the clarification that the status of employees under labour law does not change due to inclusion in a telework scheme.

Surveys have shown that local administrations and companies have overwhelmingly put in place telework arrangements via a service or company agreement. Individual contractual arrangements are only in place in the smallest organisations with little need for telework.

4. Social partners' conclusions

The principles set out in the European framework agreement on telework have been applied by the German social partners in practice at all levels, cross-sectoral and sector-specific, via a very wide range of initiatives. In comprehensive activities, the social partners have provided information about and disseminated the principles set out in the European framework agreement on telework. The social partners have an extensive collection of initiatives, establishment-level telework agreements and company agreements. The social partners are not aware of any obstacles to implementation.

At national level in Germany, the European framework agreement on telework therefore provides an excellent example of successful implementation of social partners' European framework agreements.

Berlin, 26 April 2006