

North Macedonia: New Labour Law underway to regulate telework

ESPN Flash Report 2021/49

MAJA GEROVSKA MITEV – EUROPEAN SOCIAL POLICY NETWORK

JULY 2021

A new Law on Labour Relations is being negotiated between the Government and the social partners, which will regulate, among other aspects of work relationships, telework. The draft Law stipulates specific rights and obligations for teleworkers. However, it fails to regulate on some specific situations, including accidents occurring while performing telework.



Description

The current Law on Labour Relations (Official Gazette No.27/2016) stipulates the employment contracts for work from home (Article 50), but does not specifically regulate working activities that imply the use of ICT technologies in the usual work process (telework). The changes in working conditions caused by the pandemic in 2020 and 2021 have brought about a need for explicit regulation of telework. For this purpose, the new draft Law on Labour Relations, which has been in an internal consultation process between the social partners for two years, introduces telework as a separate category of work. The draft law regulates many aspects of the work relationship and not only telework.

In the new (draft) Law, telework is defined as: “a form of organising and performing work using information technologies, which could be performed on the premises of the employer, but is regularly performed outside the premises of the employer” (Article 3, paragraph 14).

More detailed provisions on employment contracts for teleworking (Article 16) regulate the following elements: i) the equipment and means for performing the work, which should be provided, installed and maintained by the employer, as well as that provided by the employee, including the compensation that the employer has to pay for work-related use of this equipment; ii) reimbursement of other employee expenses related to the performance of work tasks; iii) vocational training for the employee;

and iv) cooperation and communication with other employees working for the same employer, as well as access to information on, for example, other employees at the employer’s premises.

Additionally, the new (draft) Law regulates specific teleworker rights, including the same collective rights as workers working on the employer’s premises and equal access to workers’ representatives. Also, the new (draft) Law entitles the teleworker to compensation for his/her use of his/her personal equipment for telework.



Outlook and commentary

According to a recent survey of companies, carried out among 0.4% of all companies in North Macedonia (Mojsoska-Blazeski, 2021), some 67% used telework during the pandemic closures (April-May 2020). However, among the 83% that resumed their operations in the fourth quarter of 2020, 44% reported the inability to organise telework. These data indicate that while telework is becoming more common, there is still a need for specific regulation on this form of work, to remove some of the obstacles that companies face in terms of its organisation.

Hence, the introduction of the legal provision regulating telework into the draft Law on Labour Relations is a positive step ahead. The contents of paragraph 16 on telework are aligned with the European Framework Agreement on Telework (2002).

However, a number of open aspects remain in the current draft Law on Labour Relations, which, if not

LEGAL NOTICE

This document has been prepared for the European Commission. However, it reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.

incorporated or dealt with in more detail, will lead to implementation issues. For example, the draft Law does not define in more detail the conditions related to the fee that the employer has to pay for the worker's use of his/her personal equipment for telework, nor does it set out details regarding the reimbursement of other employee expenses in connection with the performance of work tasks. Such a generic stipulation might make it difficult to enforce these rights. Also, there are no rules on liability for damage to equipment during teleworking.

Most importantly, the current draft Law does not mention accidents occurring while performing telework. The Law only sets out general criteria regarding health and safety at work, indicating that "the employer is obliged to provide the employee with safe working conditions, and the employee is obliged to comply with all provided safety and health measures in accordance with a special law" (Article 16, paragraph 3). As rightly indicated by Ristovski and Mihes (2020), the draft Law "fails to regulate the area of conditions and rules for access in the premises used by the teleworker, which arises from the need to check and control the implementation and compliance with the occupational safety and health rules" (p. 29). Also, accidents during telework are not explicitly mentioned. Accidents at

work are mentioned with reference to the rights from the Health Insurance Law.

The consultation of all relevant stakeholders for the purposes of drafting a new Law on Labour Relations is a rare national example of a comprehensive and all-encompassing process. This has provided a good platform for incorporating different stakeholder opinions on regulating telework. As the Law itself further regulates many other aspects, such as temporary contracts, seasonal work, maternity leave, etc., the Federation of Trade Unions in North Macedonia have been more vocal in advocating improvements in the aforementioned worker rights.

The Union of Employers in the information and communications technology sector in North Macedonia have indicated that 80% of their workforce has worked remotely during the pandemic. They have been the most active in advocating the regulation of telework in the new (draft) Law on labour relations.

The draft Law on Labour Relations is expected to be open for public debate in the following months. This period should be used more vigorously by the trade unions for more explicit calls for enhancement of teleworker rights in the current draft Law on Labour Relations.

Further reading

Draft Law on Labour Relations: <https://sskc.mk/>

European Trade Union Confederation (2002) Framework Agreement on Telework.

Federation of Trade Unions in North Macedonia, High level conference – new Labour Law, harmonization of national with European labour legislation:

<https://ssm.org.mk/en/high-level-conference-new-labor-law-harmonization-national-european-labor-legislation>

Law on Labour Relations (Official Gazette No.27/2016)

MASIT (2020) 80% of ICT employees work from home:

<https://masit.org.mk/news/masit-80-od-vrabotenite-vo-ikt-sektorot-rabotat-od-doma/>

Mojososka-Blazhevski, N. (2021) Evolving challenges and expectations facing Macedonian enterprises during the COVID-19 pandemic (second edition), Skopje: International Labour Organisation and Organisation of Employers of North Macedonia.

Ristovski, A. and Mihes, C. (2020) Legal analysis on regulation and implementation of "telework" in the Macedonian labour legal context, Skopje: International Labour Organisation.

Author

[Maja Gerovska Mitev](#) (Faculty of Philosophy, Ss. Cyril and Methodius University in Skopje)

The Flash Reports are produced by the European Social Policy Network (ESPN) established in 2014 to provide the European Commission with independent information, analysis and expertise on social policies in 35 European countries. The topics covered are identified by ESPN experts in the light of significant developments in their countries, or in some cases suggested by the Commission or the Flash Reports' editorial team (Eric Marlier and Slavina Spasova). The ESPN is managed by LISER (Luxembourg Institute of Socio-Economic Research), APPLICA and the OSE (European Social Observatory). More information on the ESPN: <http://ec.europa.eu/social/main.jsp?catId=1135&langId=en>.

Quoting this report: Mitev Gerovska, M. (2021). North Macedonia: New Labour Law underway to regulate telework, ESPN Flash Report 2021/49, European Social Policy Network (ESPN), Brussels: European Commission.